

have less training. To continue to improve the quality of education for all Americans, we should raise the standards in our schools. We need the administration to step forward on Leave No Child Behind, and do it by helping to fund the program mandated for schools all over America. Not to take care of unfunded mandates is wrong; the administration should fund those mandates.

Our Nation's efforts to recover from September 11 remind us that we become a stronger America by working together. So we must join together and continue fighting to make sure all Americans enjoy equal opportunities for justice, quality education, and economic prosperity.

In 2003, it is not enough to quote Dr. Martin Luther King, or to say the right thing, or avoid saying the wrong thing. Actions speak louder than words, even words as powerful as Dr. King's. We remember him as an articulate speaker. It was his actions, his nonviolent actions of organizing, educating, motivating, and demonstrating, that achieved results. If we are truly to honor Dr. King, and, more importantly, if we are fully motivated to improve race relations in our great country, if we want America to live up to its democratic ideals and all our people to have equal opportunity, freedom, justice, prosperity, and peace, we must pass civil rights legislation and fund programs that help level the playing field and appoint judges whose records show a commitment to tolerance and fairness.

The record of the Democratic Party is one we can be proud of. It shows a longstanding commitment to civil rights, to fairness. Democrats recognize we must take additional steps to advance civil rights for all Americans. That is why we Democrats in the Senate have a package of civil rights, known as Equal Rights and Equal Dignity for Americans. Our comprehensive legislation includes measures to expand hate crimes protections. Let the Republicans come forward and stop barring us from passing that. We have legislation to strengthen enforcement of existing civil rights laws. Let them move across the aisle and help.

We must support legislation giving legal representation to indigent Americans. We must stop racial profiling. That is what our legislation does. It addresses pay inequities between men and women, protecting individuals against discrimination; it prohibits employment discrimination based on sexual orientation; and our legislation prohibits military and civilian personnel from collecting information about U.S. citizens. We must fully fund election reforms that we passed last year. This is an agenda that is important, it is good, and it should pass.

We ask the Republicans to step forward and help repudiate, condemn, and oppose something as racially motivated, obviously, as that reported in Time magazine, the President's rein-

statement of something that his father stopped because it was wrong—laying a wreath at the Confederate Memorial. It is wrong. We need to speak out against it because it is wrong.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, Senator EDWARDS is here and has an amendment to offer. We told the majority leader on Friday we would be here at 10:30 to offer the amendment. Senator EDWARDS will not offer the amendment until we have someone who is here from the other side, but he is going to start talking about his amendment. We hope that is OK with everyone.

What is the business now before the Senate?

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.J. Res. 2, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 2) making further continuing appropriations for the fiscal year 2003, and for other purposes.

The PRESIDING OFFICER. The Senator from North Carolina.

#### AMENDMENT NO. 67

Mr. EDWARDS. Mr. President, this morning I will be offering an amendment, together with Senator LIEBERMAN, Senator JEFFORDS, Senator CLINTON, and Senator REID, all of whom have worked very hard on this amendment.

This amendment is about doing a very simple thing: it is about keeping our air clean so that kids won't have asthma attacks and so seniors won't have heart attacks and so Americans won't lose their lives before their time. For months the administration has talked about massive changes in clean air protections and for months Senators on both sides of the aisle have said to the administration: Before you go through with these changes, would you please tell us in detail how these changes are going to affect our families? In other words, would you please look before you leap?

We have been asking that question for months, and for months the administration has refused to answer. On November 22, they went ahead with their

massive changes without telling us how it was going to affect the health of the American people.

I believe the administration does not want to share these facts because they are afraid of what the facts will show. They are afraid people will see what their rule changes will do. When you study these rules, when you listen to the experts, you will see that they will make our air dirtier. These rules will add more soot to our cities and more smog to our national parks. At the end of the day, these rules will allow more kids to get asthma attacks, more seniors to have heart problems which land them in the emergency room, and more people will lose their lives prematurely.

This amendment is a very modest response to these proposed changes. It does not block the rules forever. It does not put them off for years. It just says let's put these rules off for about 6 months and use that time to determine how these changes will affect human health, how they will affect kids with asthma, senior citizens with cardio-respiratory problems. It seems to be a perfectly reasonable thing to do. I hope my colleagues will support the amendment.

We are saying let's get a study from the nonpartisan, completely respected National Academy of Sciences. That is all we are talking about: 6-month delay to look at these changes to see, before they go into effect, what effect they will have on the health of the American people.

The science of pollution is completely clear. Pollution causes heart and lung problems. It aggravates asthma. It causes the smog that ruins the view in our Nation's parks. It causes premature deaths.

According to Abt Associates, a nonpartisan research group, just 51 powerplants are responsible for more than 5,500 deaths every year, for over 106,000 asthma attacks, and for costs to our economy of between \$31 billion and \$49 billion. That is only 51 powerplants. If you did the same study of other industries, the numbers would go up dramatically.

North Carolina has some of the worst pollution in the country. According to Dr. Clay Ballantine, a physician in Asheville in western North Carolina, just living and breathing in western North Carolina costs 1 to 3 years off the average life of a person. The UNC School of Public Health, found that in many of our counties 3 in 10 kids have asthma, which is three times the national average.

Just walking in the Great Smoky Mountains is as bad for your lungs as breathing in many big cities. When the head of the EPA, Christie Todd Whitman, visited the Great Smokies last Fourth of July, she could barely see 15 miles at a place where you used to be able to see 75 to 100 miles. So clean air is a huge priority. It is important for our kids, for seniors, and for our parks.

This administration has made radical changes in the regulations under the

Clean Air Act. This is about a program called New Source Review or NSR. The basic idea of NSR is simple. Under the Clean Air Act, if someone builds a new factory, the new factory has to have state-of-the-art equipment to prevent pollution, but there is a special deal for factories that were built before 1977. Those factories don't need to install new pollution controls unless and until their toxic emissions go up by a significant amount. Only when that happens does the plant have to install these new controls that others have to meet instantly. This is what the New Source Review is all about.

There is no question—and all of us believe—that reforming NSR is a good idea. We ought to do two things: One, we ought to cut red tape, which is a problem; two, we ought to cut pollution.

Under Carol Browner, EPA Administrator in the Clinton administration, positive work was done in that direction. But the debate today is not about those kinds of reasonable and sensible reforms that are in the best interest of the American people. This debate is about this administration's package.

There are several glaring problems with that package. First, the administration developed these rules through a series of secret consultations with executives from power and oil companies. It would not have been so bad if the administration had also been talking secretly to regular patients and kids and doctors about what effect these changes in the rules would have on their lives and their health. But there is no evidence they did that. Instead, the administration focused on one side and favored that side in the changes they made in the rules.

The second problem is this administration has never explained in any serious way whether these changes will in fact harm human health, whether they will cause more pollution, more asthma, or more premature deaths. For months we have asked for a serious qualitative study, and for months we have not received that study.

Let me go through a short timetable. On July 16, 2002, at a joint hearing of the Environmental Committee and the Judiciary Committee, both Senator JEFFORDS and I asked Jeff Holmstead, the EPA's top clean air official, whether he could quantify the effects of this proposal on a human level. He could not do it then, and the best I can tell, he has not tried to do it since.

On August 1, 2002, 44 Senators signed a bipartisan letter to EPA which asks the EPA to conduct a rigorous analysis of the air pollution and public health impact of the proposed rule changes. Again, they didn't do it.

On September 3, 2002, I again asked Mr. Holmstead for an analysis of EPA's proposals. Mr. Holmstead had no new analysis. Instead, he pointed back to an analysis that had been done 6 years earlier during the Clinton administration—a different set of proposals, a different analysis.

The head of the EPA, 6 years ago, Carol Browner, who testified at the hearing, said the old study proved nothing. But when I asked Mr. Holmstead if EPA would simply hold off on the new rules until we had a real study on the effect that these new rules would have on the health of the American people, he said no.

On November 22, 2002, the administration just went ahead, finalized the rules without giving any credible evidence on what impact this would have on human health.

So what we are saying is not complicated. We are saying: Should we not look before we leap, before we change rules that can affect the most basic protection for our kids and our families and our parks? Should we not at least do an analysis of what impact it is going to have on kids and families and our environment and our parks?

The administration's answer is no. Let's go ahead. I believe that is their answer because they don't want to know the truth because they are afraid of what the truth will be.

If you look at these rules, which I have and others have, it is clear that they will hurt people. Time after time this administration has twisted proposals made under the Clinton administration to allow more pollution.

Here is what Ms. Browner said:

The current administration's recent announcement of final changes to the New Source Review Program abandons the promise of the Clean Air Act—steady air quality improvements. [These rules] will allow the air to become dirtier.

Let me repeat that: These rules “will allow the air to become dirtier.” And that means they will allow our kids and our seniors to get sicker, to die sooner. That is what we are talking about. It is very basic and fundamental.

Let me give two examples of what these rules will do:

First, the rules change the way pollution levels are calculated. Under the new source review, a factory has to clean up only if it increases its pollution level. It matters a lot how we measure the factory's initial pollution level, what's called the “baseline.”

Up to now, the rule has been that the baseline is the average for the last 2 years—that is the basis on which we determine whether there has been an increase in pollution—unless the company can prove another period is more representative of recent emissions. But the basic rule has been that you establish the baseline by looking at the last 2 years. That makes sense.

What this administration proposes doing makes no sense. What they are saying is instead of using the last 2 years, we let the factory choose any 2 years out of the last 10. So instead of looking at the last 2 years as a baseline to determine whether emissions have gone up, what they are saying is we are going to let the factory choose any 2 years in the previous 10 in order to determine whether emissions have gone up.

So even if the reality is that their pollution level is quite low right now, they get to go back a decade and say that pollution is high.

They can even take emissions from accidents and malfunctions and use those to inflate their baseline. And because they can make pollution 10 years ago look like pollution today, they can pollute even more without cleaning up.

You don't have to take my word for it. According to internal documents, career staff at the EPA said that this change would “significantly diminish the scope” of the New Source Review. A study by the Environmental Integrity Project found that at just two facilities, the new rules would allow over 120 tons of the pollution into the air. The National Association of State and Local Air Regulators says that this change “provides yet another opportunity for new emissions to avoid NSR.” So the bottom line is more pollution.

Here is a second example. The new rules contain something called a “Clean Unit” exemption. In theory, the exemption should give companies an incentive to clean up by giving them benefits if they install state-of-the-art technology. It is a perfectly good idea. But this administration has provided an exemption as long as the company installed new equipment anytime during the last 10 years. In other words, if a company did something good in 1994, they get a free pass to increase pollution in 2003, 9 years later.

Again, this makes no sense. Again, it will increase pollution. Again, here is what the State and local air commissioners said. This rule “would substantially weaken the environmental protections offered by the NSR program.”

Now, when it comes to the effects of these rules, it is true that the State administrators could be wrong. The career officials at EPA could be wrong. I could be wrong. We could all be wrong. The rules could be OK.

But even if we are all wrong—and I do not believe we are—shouldn't we get the whole story and get a real answer to the question before putting our kids and our seniors at risk?

Six months is not a long time to wait in order to get the whole story. It is far better to wait 6 months than to say to this administration, go ahead, roll the dice. It is OK. We are willing to put the lives of our children and seniors at risk, and we are willing to let this rule go into effect even though we do not know what effect it is going to have on the health of our seniors and children.

Let me talk for a minute about the broad opposition to these rules.

This administration likes to talk about State flexibility, but these regulations take flexibility away from the States and forces some States to lower their protections.

Again, this is the view of the State experts:

The revised requirements go beyond even what industry requested. . . . Because the reforms are mandatory, they will impede, or

even preclude, the ability of States and localities all across the country to protect the air.

Although our associations believe NSR can be improved. . . . We firmly believe the controversial reforms EPA is putting in place . . . will result in unchecked emission increases that will degrade our air quality and endanger public health.

That is the States. Now listen to the doctors. Over a thousand doctors from all across the country have urged this administration not to go ahead with these final rules. These doctors see the effects of air pollution every day in their practices and in the emergency rooms, and they warned that "it is irresponsible for the EPA to move forward in finalizing new regulations that could have a negative impact on human health."

This is not a partisan issue. The State air quality folks are not partisans. The local air quality folks are not partisans. And then there's Republicans for Environmental Protection, a group to which 12 past or present former Republican Members of Congress are connected. Republicans for Environmental Protection recently wrote a letter supporting my amendment.

They wrote that "a reasonable delay (of the rules) is necessary in order to allow independent researchers to investigate how the New Source Review revisions would affect emissions and the resulting impacts on public health." So Republicans support this amendment as well.

We will hear people say that protecting the air is too expensive. But at the 51 power plants I mentioned earlier, premature deaths and asthma attacks cost our country over \$30 billion each year. The costs of cleaning the air are a small fraction of that amount. So clean air not only saves lives; it also saves money.

Finally, I want to be very clear about what this amendment does and does not do. This amendment delays by 6 months the effective date for the final rules on the New Source Review that this administration has already announced. This amendment does not touch the proposed rules regarding so-called "routine maintenance."

Now, speaking for myself, Senator LIEBERMAN and Senator JEFFORDS, all of whom have worked very hard on this amendment, we understand the importance of new rulemaking on the definition of "routine maintenance." We understand that reform of this definition is underway to allow for greater certainty for the electric industry. It is a good idea. We are not doing anything in this amendment that affects in any way the proposed rulemaking on "routine maintenance." In fact, we believe it is appropriate to take public comment in the rulemaking in order to develop a rule that promotes energy efficiency, without—and I emphasize "without"—allowing the air to become dirtier. A bipartisan group in this chamber has expressed support for EPA proceeding with a rulemaking that

"protects human health and the environment while providing regulatory certainty for the electric utility industry and other industries." We respect their concerns on this issue.

This amendment is about final rules. It is a very modest amendment. It would delay these rules by about 6 months while we get an honest, non-partisan study of what these rules will do to our kids' health and the environment. It will protect our kids from asthma, our seniors from heart problems, our parks from smog. This amendment will make sure we look before we leap. I urge my colleagues on both sides of the aisle to support this amendment.

I ask unanimous consent that the following documents be printed in the RECORD following this statement:

Letter from 44 Senators, dated August 1, requesting an analysis of the new rules;

Letter from Physicians for Social Responsibility, dated September 27, opposing the rule changes;

Letter from the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officers, dated January 16 of this year, requesting a delay in the rule changes; and

Letter from the Republicans for Environmental Protection, dated January 17, 2003, requesting a delay in the rule changes.

There being no objection, the following letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
Washington, DC.

Hon. CHRISTINE WHITMAN,  
*Administrator, Environmental Protection Agency, Washington, DC.*

DEAR ADMINISTRATOR WHITMAN: The Clean Air Act is a vital tool for protecting the Nation's health and environment, including our National Parks. With mounting medical evidence that air pollution causes asthma attacks, cardiopulmonary disease, and premature death—particularly among children and the elderly—we need to strengthen clean air protections whenever possible.

Given our strong commitment to protecting Americans' health, we believe that the changes you announced on June 13, 2002 to the Clean Air Act's "New Source Review" are extremely troubling. On their face, many of these changes to NSR—for example, giving factories greater leeway to choose how their pollution is measured—appear likely to increase pollution levels. Unsurprisingly, the states' air pollution control administrators have expressed concerns that the new regulations will make it more difficult for the states to attain national clean air standards. Yet as Assistant Administrator Jeffrey Holmstead admitted at a recent hearing, EPA now plans to make these changes without having conducted a full analysis of their impact on air quality and public health, and without providing a full opportunity for public notice and comment on the changes EPA is now proposing.

While EPA should be free to pursue thoughtful changes to New Source Review that reduce regulatory burdens while strengthening public health protection, we see no reason to believe that the proposed changes adequately protect air quality. In fact, because the specific changes proposed have not been subject to careful study and

full public comment, we have serious concerns that the changes could allow more air pollution—causing more asthma, more heart and lung problems, and more premature deaths.

We therefore ask that, before finalizing any of these changes, EPA conduct a rigorous analysis of the air pollution and public health impacts of the proposed rule changes and give the public full opportunity to comment on these changes. As we are sure you agree, EPA should not finalize a rule that allows increased air pollution or undercuts the health of any of America's children or seniors. In the meantime, until the law is changed, we ask your continued commitment to enforce the Clean Air Act as it is written.

Sincerely,

John Edwards, Jim Jeffords, Joseph Lieberman, Tom Daschle, Susan Collins, Dick Durbin, Chris Dodd, Charles Schumer, Daniel K. Inouye, Joe Biden, John F. Kerry, Paul Wellstone, Tom Harkin, Russell D. Feingold, Hillary Rodham Clinton, Ted Kennedy, Jack Reed, Robert G. Torricelli, Max Baucus, Harry Reid, Patrick Leahy, Ron Wyden, Patty Murray, Daniel K. Akaka.

Fritz Hollings, Bill Nelson, Barbara Boxer, Maria Cantwell, Jean Carnahan, Debbie Stabenow, Mark Dayton, Barbara Mikulski, Paul S. Sarbanes, Bob Graham, Herb Kohl, Jon Corzine, Max Cleland, Jeff Bingaman, Carl Levin, Dianne Feinstein, Lincoln Chafee, Tim Johnson, Olympia Snowe, Tom Carper.

PHYSICIANS FOR

SOCIAL RESPONSIBILITY®,

Washington, DC, September 27, 2002.

Mr. JOHN GRAHAM,  
*Director, Office of Information and Regulatory Affairs, Office of Management and Budget, The White House, Washington, DC.*

DEAR MR. GRAHAM: As concerned doctors, nurses, and public health professionals, we view the health mission of the Clean Air Act as one of EPA's most important initiatives. We are therefore writing to express our concern about EPA's proposed changes to the New Source Review (NSR) program. This program regulates emissions from new and modified power plants, pulp and paper mills, refineries and other industrial plants.

For more than a decade, NSR has proved to be an effective tool in bringing polluting industrial facilities into compliance with the law and cleaning up the air that we breathe. The EPA has recently proposed changes to the NSR program that will likely cause the amount of pollution in our air to increase. EPA plans to move forward with these changes to NSR without first determining how they will impact health or the environment. Three separate Senate Committees as well as public health and environmental advocacy groups have requested these studies to no avail. Without evidence that the proposed changes will actually improve air quality, thereby doing no harm, it is irresponsible for the EPA to move forward in finalizing new regulations that could have a negative impact on human health.

Pollution from power plants and other plants regulated under NSR touches the lives of millions of Americans across the nation. This pollution is harmful to human health and sends thousands of individuals to hospital emergency rooms each month. Study after study shows a link between exposure to air pollution and health conditions such as respiratory diseases, asthma attacks, cardiopulmonary disease, cancer, and even death.

No changes to NSR should occur without the public being provided with a comprehensive analysis demonstrating that the proposed changes to NSR will improve air quality and human health. In addition the public, especially the public health community, must have the opportunity to comment on the analysis and the resulting changes to NSR before any changes are finalized. We urge you to put the health of Americans first by upholding NSR provisions that are protective of public health.

Sincerely,

Hans Tschersich, Kodiak, AK.  
 Helena Zimmerman, Juneau, AK.  
 Claude Baldwin, Jr., Hunstville, AL.  
 Anna-Laura Cook, Northport, AL.  
 David Reynolds, Birmingham, AL.  
 Bettina Bickel, Glendale, AZ.  
 Kenley Donaldson, Casa Grande, AZ.  
 Sara Gibson, Flagstaff, AZ.  
 William Martin, Tucson, AZ.  
 Ardyth Norem, Rio Verde, AZ.  
 Eric Ossowski, Scottsdale, AZ.  
 Jen Schaffer, Flagstaff, AZ.  
 Kamal Abu-Shamsieh, Pasadena, CA.  
 Sara Acree, Alhambra, CA.  
 David Adelson, Venice, CA.  
 Jacob Adelstone, Van Nuys, CA.  
 Felix Aguilar, Long Beach, CA.  
 Fereshteh Ajdari, Culver City, CA.  
 Wayne and Sonia Aller, Granada Hills, CA.  
 Rodolfo Alvarez, Santa Monica, CA.  
 Frances Amella, San Francisco, CA.  
 Selene Anema, San Luis Obispo, CA.  
 Ruben Aronin, Los Angeles, CA.  
 Misha Askren, Los Angeles, CA.  
 Annie Azzariti, Santa Monica, CA.  
 K. Bandell, Norwalk, CA.  
 Morris Barnert, Palos Verdes Estates, CA.  
 Barbara Beatty, Berkeley, CA.

STATE AND TERRITORIAL AIR POLLUTION PROGRAM ADMINISTRATORS,  
 ASSOCIATION OF LOCAL AIR POLLUTION CONTROL OFFICIALS,

Washington, DC, January 16, 2003.

Hon. CHRISTINE TODD WHITMAN,  
 Administrator, Environmental Protection Agency,  
 Washington, DC.

DEAR GOVERNOR WHITMAN: As you are aware, the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) have serious concerns with the U.S. Environmental Protection Agency's (EPA's) recently promulgated final rule affecting changes to the New Source Review (NSR) program (67 Federal Register 80186), and with the adverse impact these changes would likely have on the ability of states and localities to achieve and sustain clean, healthful air. These concerns are further compounded by the fact that, for a number of states across the country, the revised NSR program is scheduled to take effect on March 3, 2003. Accordingly, we write to you today, on behalf of STAPPA and ALAPCO, to request that EPA extend by one year the effective date of the final NSR rule revisions. We make this urgent request for several important reasons.

The regulatory changes to the NSR program are not only lengthy and far reaching, but also highly complex and controversial. States that implement the NSR program through their State Implementation Plan are allowed three years in which to revise their plans for the new program. However, in 13 states across the nation, EPA has delegated authority for the federal rules to state and local permitting authorities; in these "delegated" states, the revised NSR program, which was published by EPA on December 31, 2002, must be implemented by March 3, 2003. State and local air pollution control agencies have been working vigorously to study the new rule; however, gain-

ing full command of the many intricacies of the regulation, as well as a complete understanding of the impacts and implications, will take time and, we firmly believe, cannot be accomplished in the next 45 days.

Further, although the text of the rule revisions has been published in the Federal Register, EPA has not yet developed or made available to state and local agencies the complex text of the federal rule, as revised by the recent changes. Moreover, EPA has not yet provided, or even scheduled, training opportunities for states and localities, nor has the agency developed any guidance on key aspects of the revised rule. In fact, it is our understanding that EPA regional office staff—with whom states and localities must work to revise and update delegation agreements—has not yet received training on the new rules from EPA headquarters.

STAPPA and ALAPCO understand that EPA would like to make the final rule available to industry as soon as possible. We are deeply concerned, however, that a rush to implement the new rule will result in serious consequences that will disbenefit state and local implementing agencies, EPA, the regulated community and citizens alike.

The March 3, 2003 effective date simply does not allow sufficient time for delegated state and local agencies to prepare for and execute effective implementation of the new NSR rule. Accordingly, STAPPA and ALAPCO urge that you take immediate action to extend the effective date of this new program by one year, in order to allow time for EPA development of guidance and training and for the necessary state and local efforts involved in updating delegation. If you have any questions, please contact either of us or Bill Becker, Executive Director of STAPPA and ALAPCO, at (202) 624-7864.

Sincerely,

LLOYD L. EAGAN,  
 STAPPA President.  
 ELLEN GARVEY,  
 ALAPCO President.

JANUARY 17, 2003.

DEAR SENATOR: REP America, the national grassroots organization of Republicans for environmental protection, respectfully requests your vote in favor of Senator Edwards' amendment to the omnibus appropriations bill, which would delay implementation of New Source Review rule revisions and require the administration to conduct a National Academy of Sciences study of the rule revisions' health impacts.

We believe a reasonable delay is necessary in order to allow independent researchers to investigate how the New Source Review revisions would affect emissions and the resulting impacts on public health. We are greatly concerned that the administration is rushing to change the rules before the public and their elected representatives have had a chance to fully understand the impacts.

More than 170 million Americans live in areas with unhealthy air quality. Ozone pollution is a serious public health problem. The interests of children, senior citizens, and others who are particularly sensitive to air pollution deserve greater consideration before rule changes are implemented that could drive up unhealthy emissions.

Please vote for the Edwards amendment so that the federal government can make better informed decisions on a critical public health issue.

Thank you.

Sincerely,

MARTHA A. MARKS,  
 President.

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

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. EDWARDS], for himself, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. CLINTON, and Mr. REID, proposes an amendment numbered 67.

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

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

The amendment is as follows:

(Purpose: To require a study of the final rule relating to prevention of significant deterioration and nonattainment new source review to determine the effects of the final rule on air pollution and human health)

At the appropriate place, insert the following:

#### SEC. . NEW SOURCE REVIEW FINAL RULE.

(a) COOPERATIVE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall enter into a cooperative agreement with the National Academy of Sciences to determine, not later than September 1, 2003, whether and to what extent the final rule relating to prevention of significant deterioration and nonattainment new source review, published at 67 Fed. Reg. 80186 (December 31, 2002), would allow or could result in—

(1) any increase in air pollution (in the aggregate or at any specific site); or

(2) any adverse effect on human health.

(b) DELAYED EFFECTIVE DATE.—The final rule described in subsection (a) shall not take effect before September 15, 2003.

Mr. LIEBERMAN. Mr. President, I rise today to ask my colleagues to restore a little sanity to our Nation's clean air policy. For the past 2 years, I have joined my colleagues on the Environment and Public Works Committee in requesting an analysis of the health impacts of the administration's New Source Review rules. We have asked through letters, through committee questions, through oral questions at hearings. Yet our requests fell on deaf ears, or shall I say on dead air, and the EPA finalized the rules without conducting any careful analysis.

That is why today I join Senator EDWARDS in offering this amendment—one that I call the "look before you leap" amendment. All we do in this amendment is delay the effective date of the final rules for less than 7 months, during which time we commission a NAS study to evaluate the effects of the rules on air emissions and human health. In just 7 months, depending on the outcome of those objective, scientific studies, we could prevent serious potential damage to our environment and to public health.

What the Bush administration is proposing is not, as some in the administration might suggest, a nip-and-tuck. It's not a few technical rule changes. It is a significant change in our clean air policy. The administration is introducing new, more permissive rules for measuring whether a facility meets clean air requirements. In Congressional testimony, the EPA admitted that fully 50 percent of the facilities that are now subject to the Clean Air Act's technology requirements would fall out of those requirements under the rule changes.

When I hear that, I cannot believe there will be no health impacts. If literally half the sources are no longer subject to these provisions of the government's main clean air law, how can the air get anything but dirtier? Then I look at recent studies commissioned by the Rockefeller Family Fund and prepared by Abt Associates—the EPA's own consultant—that show emissions will increase as a result of the new regulations.

Based on the bulk of the evidence, it is counterintuitive and I think illogical for the EPA to claim—over and over again—that their new rules will do no damage to the environment. Then again, the EPA never offers any proof of this claim, so perhaps we are expected to accept in on faith.

This amendment will give us the answer. We no longer will have to argue back and forth—the study being commissioned by the National Academies will give us the facts. And we don't have to wait long. Less than 7 months, and then we can go forward with the rules knowing what their impacts will be. If the study shows significant environmental harm, and the majority of this body still wants them to be adopted, then so be it. But at least we made an informed choice.

Anyone in this Senate who has bought a house has toured the house before putting their money down. They've gotten an appraisal. They've conducted an inspection. Well, we're on the brink of buying a new set of rules here that we will have to live with for many, many years. I don't think we want to close our eyes, close our ears, cross our fingers and hope for the best. Ignorance is not bliss. Ignorance is remiss.

This amendment also brings a benefit for the states. Just last week, STAPPA-ALAPCO—the organization of state and local air regulators—wrote to Administrator Whitman asking for a 1-year delay in the rules. They had already written to complain about the air impacts of the rules, but this letter was different—it aimed at the administrative knots in which the states are being placed by the new regulations.

You see, these rules are not optional for States—they are being shoved down their throats. And for the 12 States and the District of Columbia that implement the New Source Review program on their own, they will have to incorporate the rule changes into their programs by March 3. So my colleagues are clear, let me name them: Washington, California, Nevada, South Dakota, Minnesota, Illinois, Indiana, Michigan, New York, New Hampshire, Massachusetts, New Jersey, and the District of Columbia. As the rules were only published on December 31, that only gives these states and the district 3 months to evaluate and implement a tremendously complicated area of law. Neither has EPA provided the training and guidance that all States will need to implement the rule. That is why the States wrote to EPA last week and

stated that: "The March 3 effective date simply does not allow sufficient time for delegated state and local agencies to prepare for and executive effective implementation of the new NSR rule."

By passing our amendment, we will be giving the state and local agencies the time that they desperately need. Call it breathing room—for our environment and for our State governments.

This is a controversial topic, and I know my colleagues have been pulled in many different directions on this vote. But we are not asking for anything here but smart, well-informed policymaking. Once a rule like this is put in place, it is hard to reverse; indeed, according to EPA, the whole point of this rule is to provide industry with long-term certainty. We asked EPA to look before they leapt, and they refused, ignoring this institution's right to oversee their rule-making at the same time.

We should understand the clean air impacts of these rule changes before they become the law of the land. We need to stop and take a breath before we change the law, so that we know that all Americans can breathe safely, easily, and freely in the future.

Mr. JEFFORDS. Mr. President, I rise in strong support of the Edwards amendment and I am pleased to be a cosponsor of that amendment.

Senators should know that I support making improvements to the New Source Review, NSR, program. I want NSR to fulfill its promise of developing ever better pollution control technology and cleaner air.

We can and should make it easier for owners of pollution sources to get answers from permitting authorities about whether or not NSR applies to their facility. They could benefit from an updated, more consistent and timely process. That's not really in question.

Unfortunately, every reliable sign indicates that EPA's recent final rules are not really improvements to the NSR process at all. Instead, in the name of "flexibility" these new rules appear designed to increase air pollution. At a minimum, they will certainly allow it.

EPA claims that there will be an environmental benefit from these rules. However, they have done no credible work to show that that is in fact true. And believe me, we have asked repeatedly and unsuccessfully for the administration's honest assessment of the impact of these rules since May 2001.

For example, the agency promised to deliver to the Environment and Public Works Committee a document log relating to these rules by October 24, 2002.

We hoped to find emissions information in those files, but the agency failed to keep the promise and failed to provide Congress its due. We're still waiting for the log.

I ask unanimous consent that a chart of the Committee's communications on NSR be printed in the RECORD.

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

(See exhibit 1.)

Mr. JEFFORDS. This administration's record in responding to legitimate oversight by Congress has been dismal on this matter. Though the agency will not respond honestly, independent analyses done by Abt Associates for the Environmental Integrity Project demonstrates that these new rules are likely to lead to significant increases in pollution at various types of facilities. These case studies can be found at [www.refund.org/eit/docs/abill-mobil.pdf](http://www.refund.org/eit/docs/abill-mobil.pdf) and [abtin-nucor2.pdf](http://abtin-nucor2.pdf).

The association of States' air administrators have expressed concerns about these rules and asked that their effective date be deferred until March 2004. Nine Attorneys General, from Vermont and other States, have filed suit against the Agency for violating the Clean Air Act and other statutes through these rules.

These rules allow sources to inflate their emissions baselines, or to be designated as so-called "clean units" for a decade or more. That way, even modifications that increase emissions will not trigger NSR and the use of better, more effective pollution controls.

As Assistant Administrator Jeff Holmstead has confirmed to Congress in testimony, these new revisions to major NSR applicability criteria would exclude an estimated 50 percent of sources that might otherwise be subject to major NSR.

An internal EPA memo from June 2001 estimated that the average annual health benefits in terms of avoided mortality from just one small part of the NSR program are, at a minimum, about \$400 million annually and up to \$3.8 billion.

Now, if we tell 50 percent of those sources that they don't have to worry about triggering NSR, then those health benefits are going to fly out the window along with more pollution. That means more people dying or increased lung disease and sickness.

This is just one small part of the NSR program. EPA steadfastly refuses to analyze the larger, nonattainment NSR program for its benefits.

The administration has conveniently ignored Executive Order 12866 on regulatory review. These revisions are obviously significant under that Order because of its hundreds of millions or billions of dollars in annual health benefits. So, before it goes forward, there must be a thorough and reliable consideration of its benefits and its costs.

That's why I'm supporting this amendment. I'm not a big fan of making environmental policy through the appropriations process, but these rules appear egregious to me.

It's time that we had the National Academy of Sciences review the situation, since the agency and the administration do not respond to Congress or the public. I hope that the Academy can give us a quick and impartial opinion on the impacts of these rules on

public health and the environment. To give them time to do that, the amendment defers the effective date of the rules for about six months.

Mr. President, this administration has a disturbing anti-environment agenda. These NSR changes are just

the tip of the iceberg. This group wants to deregulate without considering the public health and environmental effects. That's wrong.

There is no good reason to increase air pollution. Science tells us that time and time again. We have the tech-

nology to constantly improve our emission performance. This administration wants to take the whole country backward instead of forward.

I urge Senators to support the amendment.

## EXHIBIT 1

**New Source Review Correspondence – EPW and Other Information Requests and Administration Response**  
 As of January 16, 2003

Date	To	From	Request	Response (Date)
9/27/00	Robert Perciasepe, Asst. Admin. for Air & Radiation, EPA	Sen. Inhofe, Chairman, Clean Air Subcommittee	<ol style="list-style-type: none"> <li>1. that the Administration re-propose the entire NSR package at one time, before any elements are finalized, so that Congress and stakeholders fully understand how a new NSR program would work;</li> <li>2. written update/detailed outline on the 2000 PAL proposal and its provisions; and</li> <li>3. a list of NSR reform elements that EPA feels are “non-controversial” and that may be included in the final 2000 NSR rule.</li> </ol>	<ol style="list-style-type: none"> <li>1. Does not commit to fulfilling request. Mr. Perciasepe agrees to “consider” it, but says “these issues have been under discussion since 1992....”</li> <li>2. Does not provide requested information. EPA says it does not have a final approach for which it is comfortable providing more details.</li> <li>3. Does not provide requested information or acknowledge request. According to EPA, many elements, like PALs, could actually be considered controversial. (10/19/00)</li> </ol> <p>Staff indicates that after meeting with Mr. Perciasepe, Sen. Inhofe was comfortable with the response and did not request additional information.</p>
5/21/01	President Bush	Sens. Reid, Clinton, Boxer, Corzine, Lieberman, Wyden, Graham, Baucus, Carper	<p>Response requested by 6/7/01.</p> <ol style="list-style-type: none"> <li>1. details on the President’s energy plan and plan to pursue multi-pollutant legislation;</li> <li>2. details on the President’s recommendation to direct the Attorney General to review existing enforcement actions under NSR to ensure consistency with the CAA;</li> </ol>	No response.

Date	To	From	Request	Response (Date)
5/23/01	Christine Todd Whitman, Administrator, EPA; John Ashcroft, Attorney General, DOJ	Sens. Leahy, Reid, Kerry, Clinton, Lieberman	<p>2. details on the President's interest in: promoting permitting flexibility, directing EPA and DOE to streamline permitting for refineries, and directing the Sec. of the Interior to modify impediments to oil and gas leasing; and</p> <p>3. information concerning the impact of the President's plan on: electricity prices; oil, gas, nuclear, and renewable energy consumption; jobs and the economy; compliance with the UN climate change treaty; protection of endangered species and fragile ecosystems; and the number of new refineries and power plants to be built by 2006.</p>	
			<p>1. the impacts of the Administration-initiated review of the NSR program on ongoing and future enforcement actions and settlements;</p> <p>2. a description of projected NOx and SOx emissions reductions and public health benefits resulting from recent settlements and enforcement actions under the current NSR program;</p> <p>3. the status of information requests transmitted to potential NSR violators, including the name of each company, whether the company has submitted the requested information, and the company's NSR compliance record;</p> <p>4. information regarding the number and production capacity of utilities and refineries that have applied for or received NSR permits;</p> <p>5. the number of requests for applicability</p>	<p>1. Provides minimal response. "EPA has not changed its position during settlement negotiations as a result of the NSR review, and will continue to actively press forward with negotiations and investigations in the meantime."</p> <p>Note: In the NSR hearing on 7/16/02, Sen. Leahy asked Thomas Sansonetti, Assistant Attorney General of DOJ: "...[T]he press reports indicate that because of EPA's recent actions revising the NSR, defendants who were close to settlement are now walking away from the bargaining table.... Did you and your lawyers at DOJ see that coming?" Mr. Sansonetti replied that there were no cases where parties were close to settlement and then backed away. When asked whether defendants were using EPA documents to try to dismiss cases, Mr. Sansonetti replied that he knew of only one case</p>



Date	To	From	Request	Response (Date)
			<p>determinations concerning major NSR modifications from refineries and utilities;</p> <p>6. copies of Presidential or White House documents formally requesting EPA to review the NSR program;</p> <p>7. whether DOJ or EPA was asked to provide specific information about the review of enforcement cases to the National Energy Policy Development Group -- please provide copies of such materials; and</p> <p>8. whether the National Energy Policy Development Group received NSR-related information from outside sources.</p>	<p>– Niagra Mohawk – where that was true, but that the case was “not within my shop.”</p> <p>2. Does not provide requested data.</p> <p>Note: An EPA memo provides estimates of NO<sub>x</sub> and SO<sub>2</sub> emissions avoided and the associated mortality-related benefits (totaling \$3.6 billion) as a result of the current PSD program, which is only a small part of the larger NSR program. Also, this information does not address the issue of achieved reductions through enforcement activities.</p> <p>3. Incomplete information is provided. The names of companies receiving information requests are given, but no further information on the status of these requests is divulged.</p> <p>4. Does not provide requested information. EPA headquarters has requested the information from its regional offices.</p> <p>5. Does not provide requested information. EPA is reviewing available documents. A web-based database is recommended in the interim.</p> <p>6. “Neither the President nor White House staff has written an Executive Order or other correspondence to EPA formally directing the review of PSD/NSR actions.”</p> <p>7. According to Admin. Whitman, neither EPA nor DOJ was asked to provide information</p>

Date	To	From	Request	Response (Date)
				<p>concerning pending enforcement actions to the energy policy group.</p> <p>8. Does not provide requested information. According to Admin. Whitman, as a member of the energy policy group, EPA has received information from outside sources, but is not able to provide that information until it completes a GAO request for the same information. (EPA 7/25/01; DOJ 7/30/01)</p>
8/10/01	Christine Todd Whitman, Administrator, EPA	Sens. Jeffords and Smith	<p>Follow-up questions from Sen. Jeffords regarding the 7/26/01 hearing on the impacts of powerplant emissions on public health and the environment.</p> <p>1. a consolidated estimate of the public health and environmental benefits, including tons of pollution avoided, achieved through full implementation of all programs, including NSR, designated by Admin. Whitman during the hearing as potentially unnecessary under a new 3-pollutant reduction scenario.</p>	<p>1. Does not provide requested information, but indicates, "After it is complete, the Administration will provide it to the Congress." Since this response, the request has been only partially fulfilled by submission of information regarding the mortality-related benefits of the current PSD program (see #2 note, 5/23/01 letter). A consolidated estimate has not been provided. (9/10/01)</p>
10/1/01	Spencer Abraham, Secretary, DOE; Christine Todd Whitman, Admin., EPA	Congressman Frank Mascara	<p>1. that EPA reconsider the application of NSR so that it interferes as little as possible with plant repair and modification, keeping in mind the nation's energy needs.</p>	<p>Response from EPA:</p> <p>1. Assures Mr. Mascara that EPA's enforcement cases involve major modifications and not routine repairs. States that EPA has begun conducting a review of the NSR program in response to a National Energy Policy Development Group recommendation. The letter also states, "The NSR requirements are not triggered unless significant emission increases result from a proposed modification.... Some of the modifications at issue have</p>

Date	To	From	Request	Response (Date)
				increased emissions as much as 40,000 tons per year..." (11/9/01)
11/14/01	Jeffrey Holmstead, Assistant Administrator for Air & Radiation, EPA	Sens. Jeffords and Smith	Follow-up questions from Sen. Jeffords regarding the 11/1/01 hearing on multi-pollutant legislation, asking about the current status of the Administration's review of NSR requirements and enforcement actions.	Inadequate response. No specifics on the EPA review are given, other than it "is still underway" and that they "plan to release the results as soon as possible." Mr. Holmstead makes reference to DOJ's separate review of NSR enforcement actions, recently released. (2/5/02)
12/14/01	Christine Todd Whitman, Administrator, EPA	Sens. Jeffords, Lieberman, Corzine, Clinton, Carper, Wyden, Boxer	Response requested no later than the date final proposed NSR rules go to OMB. 1. docketing of all current and future documents concerning: a. EPA's NSR rulemaking; b. EPA's review of the NSR regulations; c. NSR enforcement actions that are pending or have been settled in the last 2 years; and 2. documents discussing the impact of proposed NSR program changes on attainment of National Ambient Air Quality Standards (NAAQS).	Responses from Ed Krenick, Associate Administrator of Congressional Relations, EPA.  1 <sup>st</sup> response: Does not provide requested documents. EPA has begun collecting documents and would like to meet with EPW staff later to clarify request. (12/20/01)  2 <sup>nd</sup> response: Does not provide requested documents. Clarification of narrowed request is made, after consultation with Committee staff. (1/31/02)  3 <sup>rd</sup> response: Incomplete information is provided. Over 700 pages of documents are submitted, all of which are marked "privileged" and many of which are left blank. Certain information regarding emissions and analysis of potential reductions are not submitted, including information from "confidential" settlement negotiations. No

Date	To	From	Request	Response (Date)
				<p>information on projected NAAQS attainment impact is submitted. Only documents dated before 1/23/02 are included thus far. (5/3/02)</p> <p>4<sup>th</sup> response: Does not provide any of the requested information. The Administration has "concerns about providing certain pre-decisional documents to Congress during the pendency of a rulemaking.... While this rulemaking continues, the Administration has particular confidentiality interests in these materials... [W]e have concerns that Congressional access to deliberative materials... will blur the separation of powers..." EPA offers to share 1996 rulemaking materials, which are already in the public docket. (6/27/02)</p> <p>5<sup>th</sup> response: Incomplete and largely unhelpful information provided. A copy of the NSR 90 Day Docket, which is already public information and unrelated to the rulemaking of concern, and other minor information is included. (7/3/02)</p> <p>6<sup>th</sup> response: Incomplete and largely unhelpful information is provided. Submits the 1996 NSR rulemaking docket, which is already public information. (7/10/02)</p>

Date	To	From	Request	Response (Date)
				<p>7<sup>th</sup> response: Incomplete information is provided. Some post-January 23<sup>rd</sup> information is submitted. (7/18/02)</p> <p>8<sup>th</sup> response: Incomplete information is provided. The original request remains largely unfulfilled. Additional documents analyzing potential reductions from filed utility cases are submitted. Emissions estimates concerning confidential settlement offers are withheld. EPA still opposes providing deliberative documents. (7/30/02)</p> <p>9<sup>th</sup> response: EPA still opposes providing "pre-decisional" documents. Agrees with EPW to provide a log of documents that relate to the upcoming rules by 10/24/02. (9/25/02)</p> <p>Note: As of 12/18/02, the log of documents has not yet been provided to EPW.</p> <p>10<sup>th</sup> response: The information provided is not a complete response to the original request. (10/24/02)</p>
12/19/01	Spencer Abraham, Secretary, DOE	Sens. Jeffords, Lieberman, Corzine, Clinton, Carper, Wyden.	Identical to 12/14/01 letter to EPA.	<p>1<sup>st</sup> response: Does not provide requested information or commit to fulfilling the request. "We anticipate being in a position to aid the Committee...in its</p>

Date	To	From	Request	Response (Date)
		Boxer		<p>examination of whatever policy decisions EPA ultimately may reach...." (3/1/02)</p> <p>Subsequent Committee staff contacts produce no meetings or documents. (5/02, 6/02, 7/02, 8/02)</p> <p>2<sup>nd</sup> response (2 letters): Incomplete information is provided. Considers a subpoena vote "premature and misdirected." Agrees with EPW to provide a log of documents and some information pertaining to the 1996 rulemaking -- which are already in the public docket -- by 10/24/02. (9/25/02)</p> <p>Note: As of 12/18/02, the log of documents has not yet been provided to EPW.</p> <p>3<sup>rd</sup> response: The information provided is not a complete response to the original request. (10/24/02)</p>
1/18/02	President Bush	12 Senators (Bipartisan): Reed, Collins, Leahy, Dodd, Clinton, Kerry, Torricelli, Corzine, Jeffords, Schumer, Lieberman,	Urges President to maintain and vigorously enforce current NSR requirements, and to work with Northeastern and Mid-Atlantic states to further reduce deadly air pollution.	No response.

Date	To	From	Request	Response (Date)
2/7/02	President Bush	Sen. Jeffords	1. urges care in suggesting amendments to the Clean Air Act (via a multi-pollutant proposal) that would relieve polluters of compliance, citing the lack of analytical information justifying clean air and health benefits of such relief.	No response.
3/1/02	Christine Todd Whitman, Administrator, EPA	11 Senators: Lieberman, Boxer, Cozine, Dodd, Clinton, Leahy, Kennedy, Reed, Jeffords, Baucus, Wyden, Torricelli	The 1996 and 1998 NSR proposals are based on outdated information regarding industry technology and impacts of pollution on public health and ecology, and cannot serve as an adequate basis for a final regulation in 2002.  The public should have an opportunity to comment on new proposed rules. No changes to NSR should be made until then.	According to Admin. Whitman, the 1996 proposed rule changes involved extensive public comment. (5/7/02)  Note: The new proposed changes are significantly different from those commented on in 1996. EPA has said that it will not disclose details of the new rule to Congress or the public until it is presented in final form to OMB.
3/20/02	Christine Todd Whitman, Administrator, EPA	Sen. Jeffords	In response to a request from the Administration that EPW hold a hearing on the Clear Skies proposal:  DOE and EPA must first submit a satisfactory response to the mid-December letters regarding NSR, among other pieces of information.	No response to this letter, and through previous correspondence, the original request remains largely unfulfilled. (See responses for 12/14/01 letter.)
7/3/02	Christine Todd Whitman, Administrator, EPA	Sens. Jeffords and Leahy	Questions regarding proposed changes to the NSR program, to be answered prior to joint EPW-Judiciary Committee hearing on 7/16/02.	Responses received in installments. Some responses provide inadequate or incomplete answers, or point to information that will not be released until finalization of the rule package (such as citing the legal authority to make the proposed changes). (7/15/02, 8/15/02, and 11/5/02)
7/16/02	Jeffrey	Sen. Jeffords	During the hearing question period, Sen. Jeffords	1. Does not provide requested information, and

Date	To	From	Request	Response (Date)
EPW-Judiciary Joint Hearing on NSR	Holmstead, Assistant Administrator for Air & Radiation, EPA		<p>asks Mr. Holmstead:</p> <ol style="list-style-type: none"> <li>1. to estimate the current industry noncompliance rate with the NSR program;</li> <li>2. when and by how much pollution will decrease as a result of the proposed changes;</li> <li>3. when EPA will submit to Congress a quantitative analysis of the new rule's impacts on environmental quality/emissions and public health (required by the Congressional Review Act and the E.O. on Regulatory Review); and</li> <li>4. docketing written comments from the informal interagency review that has begun on the proposal.</li> </ol>	<p>provides irrelevant response. Doesn't know, but makes reference to 100% compliance with the Acid Rain program.</p> <p>2. Does not provide requested information. The proposed changes would result in "greater reductions" than would be achieved otherwise, but no specific estimates are given. Mr. Holmstead promises to submit specific estimates to Sen. Jeffords, but does not commit to do so before the rules are finalized.</p> <p>3. Does not provide the requested information. Claims that such an analysis is not required because the regulation changes would not be "major" and because the 1996 rules did not require an RIA or cost-benefit analysis under 12866.</p> <p>4. Agrees to fulfill the request.</p>
		Sen. Voinovich	<p>Questions from Sen. Voinovich:</p> <ol style="list-style-type: none"> <li>1. to investigate what triggered the lawsuits filed in 1998-1999; and</li> <li>2. to show the difference between what was proposed in 1996 and in 2002, since EPA claims they are "quite close."</li> </ol>	<p>Responses to Sen. Voinovich:</p> <ol style="list-style-type: none"> <li>1. Agrees to fulfill the request. Will respond "in a couple of weeks." Status?</li> <li>2. Agrees to fulfill the request, but not until "we issue the final regulations." (After the fact and without Congressional comment.)</li> </ol>
		Sen. Edwards	<p>Question from Sen. Edwards:</p> <ol style="list-style-type: none"> <li>1. to quantify the human health impacts of the proposed rule changes.</li> </ol>	<p>Response to Sen. Edwards:</p> <ol style="list-style-type: none"> <li>1. Agrees to fulfill the request. Mr. Holmstead references agreeing to Sen. Jeffords' similar request (to which he did not clearly agree), and does not commit to responding prior to</li> </ol>



Date	To	From	Request	Response (Date)
		Sen. Clinton	<p>Question from Sen. Clinton:</p> <ol style="list-style-type: none"> <li>1. whether he would commit to allowing the opportunity for Congressional comment, before the rules are finalized;</li> <li>2. whether the rules will be prospective only; and</li> <li>3. whether the rule changes will have any effect on powerplant emissions.</li> </ol>	<p>finalizing the rule.</p> <p>Response to Sen. Clinton:</p> <ol style="list-style-type: none"> <li>1. Does not commit to fulfilling the request. Although Mr. Holmstead says, "...[W]e will satisfy all of the requirements under the Administrative Procedure Act to make sure that there has been a full and complete opportunity for the public to comment on all rules before they go final," he has also stated that Congress and the public will not see the entire package until the rules are finalized.</li> <li>2. He "believes so," but will double-check.</li> </ol> <p>Note: In an 8/23/02 letter to Sen. Jeffords, John Peter Suarez of EPA's OECA states, the 1996 reforms and the reforms being developed for notice and comment rulemaking "will be prospective in nature.... [They] are not intended to, nor should they have, a negative impact on the enforcement cases."</p> <ol style="list-style-type: none"> <li>3. According to Mr. Holmstead, the rule changes will not have an effect on SO<sub>2</sub> emissions from powerplants. Analysis of the effect on utility NO<sub>x</sub> emissions is not complete, but it will become public when completed.</li> </ol> <p>Response to Sen. Corzine:</p> <ol style="list-style-type: none"> <li>1. Does not commit to providing the requested information. "[I]f it is something that you have asked about, I am sure that that is something that we will look into further."</li> </ol>
		Sen. Corzine	<p>Question from Sen. Corzine:</p> <ol style="list-style-type: none"> <li>1. whether EPA is planning to conduct a review of possible NSR violations at PPL's Martin's Creek Powerplant in Pennsylvania (per an older,</li> </ol>	

Date	To	From	Request	Response (Date)
			<p>unanswered request from Sen. Torricelli); and</p> <p>2. a list of the cases referred to DOJ since Whitman took office (posed to Mr. Sansonetti).</p>	<p>2. No response. Status?</p>
7/17/02	Christine Todd Whitman, Administrator, EPA	Rep. John D. Dingell	<p>1. that EPA make changes to NSR public and provide an opportunity for informed comment on the specific new proposals; and</p> <p>2. that EPA reject any NSR changes that would result in worsening of air quality or the rollback of environmental protections.</p>	Response received.
7/25/02	Sylvia Lowrence, Acting Assistant Admin., Office of Enforcement & Compliance Assurance (OECA), EPA	Sens. Lieberman, Jeffords	<p>Response requested by 7/30/02.</p> <p>1. whether the OECA expressed concern to Jeffrey Holmstead or other political officials about the impact of the proposed changes on EPA and DOJ's ability to settle or litigate NSR cases successfully – please include the substance of such concerns;</p> <p>2. whether such concerns were expressed prior to public release of the routine repair and maintenance proposals – please provide copies of concerns submitted in writing; and</p> <p>3. whether the draft proposal was subsequently modified in a way that addressed OECA's concerns.</p>	<p>Response from John Peter Suarez, Assistant Administrator, OECA, EPA:</p> <p>1. According to Mr. Suarez, Mr. Holmstead discussed "these issues" extensively with OECA, and "the consensus position of the Agency is that neither the report nor recommendations are intended to, nor should, adversely impact the current enforcement cases."</p> <p>2. Does not provide requested documents. Mr. Suarez confirms that OECA discussed "these issues" with Mr. Holmstead prior to June 13. However, regarding the request for written communications, "It is my understanding that the Agency will provide the documents that are responsive to this question as part of its response to the broader document request."</p> <p>3. Seemingly in contradiction to response #1 (by suggesting OECA did have concerns),</p>

Date	To	From	Request	Response (Date)
				“Drafts of the report and recommendations were modified to address the issues regarding potential impacts on pending cases raised by OECA.” (8/23/02)
7/30/02	Jeffrey Holmstead, Assistant Admin. for Air & Radiation, EPA; Thomas Sansonetti, Assistant Attorney General, DOJ	Sen. Jeffords	Follow-up questions from Sens. Jeffords, Lieberman, Voinovich, Graham, and Wyden for the 7/16/01 EPW-Judiciary Committee joint hearing on New Source Review. (Judiciary Committee questions submitted under separate cover.)	No response.
7/30/02	David M. Walker, Comptroller General, GAO	Sens. Jeffords, Lieberman	Request letter asking GAO to provide additional information on NSR’s accomplishments and implementation, in light of the Administration’s review of the program and its promotion of a multi-pollutant bill (S.2815) that would effect NSR.	No formal response as of yet. GAO has been performing research in fulfillment of the request.
8/1/02	Christine Todd Whitman, Administrator, EPA	44 Senators (Bipartisan): Edwards, Lieberman, Jeffords, Daschle, Collins, and others	1. that before proposed NSR rule changes become finalized, EPA should conduct a rigorous analysis of air pollution and public health impacts and give the public full opportunity to comment; and  2. that EPA should not finalize a rule that allows increased air pollution or undercuts public health.	1 <sup>st</sup> response: 1. Does not respond directly to the request for an environmental and public health analysis. Instead, Admin. Whitman states, “All of the NSR changes will be finalized only after a full notice and comment process, and EPA will fully comply with all procedural requirements for Federal rulemaking,” and that the 1996 proposed rules involved extensive public comment.

Date	To	From	Request	Response (Date)
				<p>Note: Previous correspondence indicates that EPA does not commit to fulfilling the request and does not intend to share such an analysis with Congress or the public before the rules are presented in final form to OMB.</p> <p>2. Does not respond directly to this request. (8/28/02)</p> <p>Note: EPA has yet not demonstrated that the proposed rules will safeguard public health or improve air quality.</p> <p>2<sup>nd</sup> response:  1 &amp; 2. No rigorous environmental or health analysis has been conducted. A <i>Supplemental Environmental Analysis</i> summary is submitted, concluding that four of the five rule provisions finalized on November 22, 2002 will result in net benefits to the environment, with the last provision yielding no significant effect. However, no comprehensive quantitative environmental analysis was performed. For example, projected changes in overall emissions attributed to Plantwide Applicability Limits (PALs) have not been determined — the Administration has said it does not know how many industries will take advantage of PALs.</p> <p>Environmental analysis of the proposed change to the definition of "routine maintenance, repair and replacement" is not submitted.</p> <p>No health-related analysis has been conducted</p>

Date	To	From	Request	Response (Date)
				<p>for either the finalized or proposed rules. Furthermore, health benefits due to the current NSR program have not been taken into consideration when estimating the net benefits of the reform package.</p> <p>The public was given no opportunity to comment before the first set of rule changes were finalized on November 22. (11/27/02)</p>
9/3/02 HELP Com. Hrg on Health & Changes in the Clean Air Act (transcript notes)	Jeffrey Holmstead, Assistant Admin. for Air and Radiation, EPA	Sens. Edwards and Clinton	<p>Questions posed to Mr. Holmstead during the hearing, including:</p> <ol style="list-style-type: none"> <li>whether the EPA has done a rigorous analysis of the environmental and human health impacts of the proposed changes to NSR;</li> <li>whether the EPA will agree to provide such analyses to Congress before the rules are finalized; and</li> <li>whether the rule changes will result in emissions reductions or increases.</li> </ol>	<p>1 &amp; 2. Mr. Holmstead responded that "additional" analysis (over the original 1996 RIA) has been performed, but won't be available to Congress or the public until after the rules are published in the Federal Register.</p> <p>3. Mr. Holmstead stated that the 1996 RIA showed the 1996 proposal to be "environmentally neutral," and made the following statement: "What we can say is that there will be fewer emissions under these rules than there would otherwise have been." Proof that the new proposed changes to NSR — which are not identical to the 1996 proposal — will result in net environment and health benefits remains to be seen.</p>
9/18/02	All EPW Committee Members	Sen. Jeffords	Expresses concern with the way in which the EPA, DOE, and White House have handled EPW information requests regarding NSR. Offers to share copies of related correspondence. Seeks support for subpoena of documents.	<p>No response.</p> <p>Note: The subpoena vote, originally scheduled for 6/27/02 and rescheduled for 9/26/02, was postponed again after the EPA and DOE agreed to provide by 10/24/02 certain requested documents, including a log of documents and</p>

Date	To	From	Request	Response (Date)
				certain "sensitive" deliberative materials. As of 12/18/02, this information has not been submitted to the Committee.
9/26/02	John Graham, Director, Office of Information and Regulatory Affairs, OMB	Sens. Clinton, Edwards, Jeffords, Kennedy, Lieberman	<p>1. that EPA not issue final regulatory changes to the NSR program at this time, given recent evidence linking air pollution to severe health problems and premature death; and</p> <p>2. encourages EPA to conduct a rigorous analysis of the air pollution and public health impacts of the proposed changes.</p>	<p>No response.</p> <p>Note: EPA has since finalized one set of rules altering the New Source Review program, and it has not taken recent scientific evidence into consideration. The scientific basis for the new changes are based on a 1996 RIA that determined the 1996 set of proposed changes (which are not substantially similar to these new changes) were "environmentally neutral."</p>
10/17/02	John Graham, Administrator, Office of Information and Regulatory Affairs, OMB	Sens. Jeffords and Lieberman	1. that Mr. Graham remand the NSR rule to EPA to remedy deficiencies in the review process, which lacks adequate public input and risk analysis.	<p>Does not address the lack of risk analysis or public review for the <i>current</i> proposed rule. According to Mr. Graham, "EPA has a long and detailed record supporting the need for improvement of the NSR process....developed over the last 10 years through an open and far-reaching public rulemaking process." He states that EPA will provide the legal and policy basis for the final rule at completion of the rulemaking process. (11/21/02)</p>
12/20/02	Christine Todd Whitman, Administrator, EPA	Sens. Jeffords and Lieberman	1. to express disappointment that promised documents, such as responses to items I - V of the 12/14/01 letter (revised in 1/31/02 letter) and a log of documents, were not provided by the 10/24/02 deadline. Expects documents to be produced "forthwith."	No response.
			Note: December marks the one-year anniversary of	

Date	To	From	Request	Response (Date)
12/20/02	Jeffrey R. Holmstead, Assistant Admin. for Air & Radiation, EPA	Sens. Jeffords and Lieberman	the original, detailed request letter.  1. that Mr. Holmstead provide a direct, clear answer to the question: How many major NSR sources are likely to be excluded from regulation (i.e. will not trigger NSR) because of the recently finalized NSR rules?  2. that long-awaited fully responsive answers to questions posed before and after a 7/16/02 joint EPW-Judiciary Committee hearing on NSR be provided.	No response.
1/16/03	Christine Todd Whitman	Lloyd Eagan, STAPPA President; Ellen Garvey, ALAPCO President	1. that the EPA extend by one year the effective date of the final NSR rule revisions.	No response.

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. BOND. 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. BOND. Mr. President, we have before us, although not under lively debate, an amendment by the Senator from North Carolina with reference to the New Source Review air program. This is a very important program that we have debated extensively in the Environment and Public Works Committee. There have been many hearings on this issue and, frankly, the issue has been resolved. But unfortunately, it has become an example of the polarized, confrontational, contentious nature of the environmental debate. I wish it were not this way.

I believe the administration's New Source Review reforms are good for the environment, good for energy security, and good for the economy.

I will not go into all the details here because I know there are many other Senators wishing to speak. So I will await further discussions when they have had their say.

I think it is important—I want to lay down a marker—for my colleagues to understand that the EPA's New Source Review reforms—what we call the NSR reforms—will improve air quality and benefit the environment. EPA has already done the environmental analysis. It shows that four of the five provisions in the final rule will reduce air pollution. That is correct. I said “will reduce air pollution.” The other provision will have no significant effect on air quality.

NSR will no longer stand as a barrier to facilities installing state-of-the-art pollution control technology. Anybody who has been around Washington very long knows the law of unintended consequences. We do things we think are going to help, and they turn out to be a hindrance.

The New Source Review, as it has worked, has been a hindrance because companies cannot make routine improvements and upgrades to their facilities to make them operate more efficiently, take less energy, burn less fuel, emit less pollution or polluting substances, anywhere from volatile organic compounds to the other emissions from powerplants. They do that because the New Source Review says that anytime you want to do anything significant on a major plant, you have to go through the whole process. It takes a very long time, and you are required to make very significant upgrades beyond what the available dollars in the company would sustain.

The incremental continuing improvements, day by day or actually month by month or even year by year, cannot be made because of NSR. If you change it the way the EPA Administrator has

proposed, NSR will no longer stand as a barrier to facilities installing state-of-the-art pollution control technology.

The NSR reforms that EPA has proposed will actually cut emissions of tens of thousands of tons per year of volatile organic compounds. NSR reforms will reduce ground level ozone and smog. The NSR reforms will also cut hazardous air pollutants and ozone-depleting substances. Our families will suffer fewer cases of premature mortality, asthma, and other respiratory diseases.

I would say further that EPA's NSR reforms are good for the Nation's energy security. Why? Simply because they will allow facilities to install modern technologies which use energy more efficiently. We all ought to be able to agree on that. Using energy efficiently conserves energy and reduces the polluting byproducts of energy production. The facilities will be able to reduce their energy consumption, reduce their dependence on foreign energy sources, and reduce our Nation's dependence on foreign energy supplies.

What is wrong with that? In our current troubled times, we should not stand in the way of any proposal which reduces our dependence on foreign and Middle Eastern oil. I would also say that the EPA NSR reforms are good for the economy. Companies would now be able to make rapid changes to meet their changing business climates without getting bogged down in time-consuming Government redtape.

The reforms will continue to protect the environment while giving companies the flexibility they need to get new products to the market quickly. We have all of the elements that should go into a forward-looking environmental program. We have made great progress, but we have also developed glitches in our system, and anybody who has thought about the system knows that we need to make it more efficient. We need to rationalize it. We need to give it flexibility so environmental improvements can be made with the least hassle.

I am talking about environmental improvements. That is what this NSR proposal does. It allows not only energy conservation, improved economic performance, but environmental progress as well. What is wrong with that?

I have yet to hear what is the objection to providing better environmental performance in a way that is flexible, that encourages companies to move forward. This is such a good idea that the last administration supported it. Yes, Mr. President, you heard me right. The last administration supported it. This was one of their proposals. The reforms EPA finalized this winter were actually proposed in 1996 during the Clinton administration by EPA Administrator Carol Browner. I thought it was a good idea then; I think it is a good idea now. The only change is there is a new administration, with a different President.

I hope this is not the reason behind some of my colleagues seeking to raise the issue and challenge it. If it was a good idea in the Clinton administration, does it become a bad idea in the Bush administration? I don't think so.

I think we are on the right track with what the Clinton administration started. The NSR reforms are good for the environment, they are good for energy security, and they are good for the economy.

I urge my colleagues to reject the Edwards amendment. I look forward—if there is further debate—to responding so that we can deal with this amendment in a timely manner.

I yield the floor and, seeing none of my colleagues wishing to speak, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. BOND. 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. BOND. Mr. President, on behalf of the leader, I ask unanimous consent that the pending Edwards amendment be temporarily set aside to recur at the hour of 1:30 today, with the majority leader or his designee recognized when the Senate resumes consideration of the amendment; further, I ask that Senator DODD now be recognized in order to offer an amendment related to IDEA, and that no second-degree amendments be in order to the amendment until Senator GREGG or his designee is recognized.

Mr. REID. Reserving the right to object, Mr. President, with the Senator's permission—and I know he has the floor—I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, reserving the right to object, I think we are headed in the right direction. I wanted to state to my friend that Senator DODD is offering his amendment. He is going to speak for a while. We have Senator DAYTON coming at 1 o'clock. We hope we will get permission then to set aside the Dodd amendment so we can consider the Dayton amendment, which is on corporate expatriation. He should not take too long.

I hope the majority will give us consideration to set aside the Dodd amendment then because, if we are going to work through all of these amendments, we are going to have to have cooperation on both sides. I have no objection to the unanimous consent request.

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



Mr. BOND. Mr. President, I thank the minority whip for his explanation. I can assure the Senator that on this side we want to accommodate Senators from both sides of the aisle. We are here in a week when many Senators had other things to do and we need to move forward. It is critically important that we get these appropriations bills passed because we will be getting close to halfway through the year before these bills can be implemented. I know wherever we can make accommodations, we will do so, and the Senator from Nevada has been very gracious in working with us. I know the Senator from Kentucky will work with him.

With that, I thank my colleagues and I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 71

Mr. DODD. Mr. President, on behalf of myself, Senators KENNEDY, MIKULSKI, JEFFORDS, MURRAY, EDWARDS, DAYTON, CORZINE, and KERRY, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. KENNEDY, Ms. MIKULSKI, Mr. JEFFORDS, Mrs. MURRAY, Mr. EDWARDS, Mr. DAYTON, Mr. CORZINE, and Mr. KERRY, proposes an amendment numbered 71.

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

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

The amendment is as follows:

(Purpose: To provide additional funding for part B of the Individuals with Disabilities Education Act)

On page 1052, line 25, strike "budget)." and insert the following: "budget).

**TITLE —FUNDING EDUCATION FOR CHILDREN WITH DISABILITIES**

**SEC. \_\_\_\_ . HELPING CHILDREN SUCCEED BY FUNDING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA).**

Congress makes the following findings:

(1) All children deserve a quality education.

(2) In *Pennsylvania Association for Retarded Children vs. Commonwealth of Pennsylvania* (334 F. Supp. 1247)(E. Dist. Pa. 1971), and *Mills vs. Board of Education of the District of Columbia* (348 F. Supp. 866)(Dist. D.C. 1972), the courts found that children with disabilities are entitled to an equal opportunity to an education under the 14th amendment of the Constitution.

(3) In 1975, Congress passed what is now known as the Individuals with Disabilities Education Act (referred to in this section as "IDEA") (20 U.S.C. 1400 et seq.) to help States provide all children with disabilities a free, appropriate public education in the least restrictive environment. At full funding, Congress contributes 40 percent of the average per pupil expenditure for each child with a disability served.

(4) Before 1975, only 1/3 of the children with disabilities received a formal education. At that time, many States had laws that specifically excluded many children with disabilities, including children who were blind,

deaf, or emotionally disturbed, from receiving such an education.

(5) IDEA currently serves an estimated 200,000 infants and toddlers, 600,000 preschoolers, and 5,400,000 children 6 to 21 years of age.

(6) IDEA enables children with disabilities to be educated in their communities, and thus, has assisted in dramatically reducing the number of children with disabilities who must live in State institutions away from their families.

(7) The number of children with disabilities who complete high school has grown significantly since the enactment of IDEA.

(8) The number of children with disabilities who enroll in college as freshmen has more than tripled since the enactment of IDEA.

(9) The overall effectiveness of IDEA depends upon well trained special education and general education teachers, related services personnel, and other school personnel. Congress recognizes concerns about the nationwide shortage of personnel serving students with disabilities and the need for improvement in the qualifications of such personnel.

(10) IDEA has raised the Nation's awareness about the abilities and capabilities of children with disabilities.

(11) Improvements to IDEA in the 1997 amendments increased the academic achievement of children with disabilities and helped them to lead productive, independent lives.

(12) Changes made in 1997 also addressed the needs of those children whose behavior impedes learning by implementing behavioral assessments and intervention strategies to ensure that they receive appropriate supports in order to receive a quality education.

(13) IDEA requires a full partnership between parents of children with disabilities and education professionals in the design and implementation of the educational services provided to children with disabilities.

(14) While the Federal Government has more than doubled funding for part B of IDEA since 1995, the Federal Government has never provided more than 17 percent of the maximum State grant allocation for educating children with disabilities.

(15) By fully funding IDEA, Congress will strengthen the ability of States and localities to implement the requirements of IDEA.

**SEC. \_\_\_\_ . FUNDING FOR PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.**

(a) IN GENERAL.—Notwithstanding any other provision of this Act, in addition to any amounts otherwise appropriated under this Act for part B of the Individuals with Disabilities Education Act, other than section 619 of such part, the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for the fiscal year ending September 30, 2003, \$1,500,000,000 for carrying out such part, other than section 619 of such part, to remain available through September 30, 2004.

(b) ACROSS-THE-BOARD RESCISSION.—Notwithstanding any other provision of this Act, funds provided under subsection (a) shall not result in a further across-the-board rescission under section 601 of Division N."

Mr. DODD. Mr. President, for the benefit of my colleagues, this amendment will add \$1.5 billion to the appropriations omnibus bill for the Individuals with Disabilities Education Act, commonly known as IDEA. This is a matter with which all of my colleagues are very familiar. We have debated this matter on numerous occasions over the

years. A brief history about the Individuals with Disabilities Education Act may be in order.

It has been almost 30 years—28 years—since Congress passed this legislation in 1975. The promise made in 1975 was that we would provide the States with 40 percent of the funding to educate children with special education needs. We started out with a far lower commitment, and over the years the States have assumed the lion's share of this responsibility. But over the years, we have failed to meet the commitment we made to the States almost 30 years ago.

As a result of efforts by this body in the previous Congress, we came very close to achieving the full funding promise that was made many years ago. In fact, our distinguished colleagues and friends, Senator JEFFORDS, Senator HAGEL, and Senator HARKIN, offered an amendment in the previous Congress, which enjoyed unanimous support, to increase the funding over a series of years, that would reach the full funding level as required by the agreement reached in 1975.

Unfortunately, the President and the Republican leadership of the other body refused to agree to the Senate unanimous vote on full funding for special education. As a result of that opposition by the President and by the leadership of the other body, the bipartisan efforts of the Senate and the good work of Senator HAGEL, Senator JEFFORDS, Senator HARKIN, and many of us who have worked on this issue over the years failed. In fact, I recall some 15 years ago when I was a member of the Budget Committee and offered in the committee the language which required full funding of special education needs. My friend and colleague from Mississippi, Senator LOTT, was on that committee that year. I remember because he cast a vote with me in the Budget Committee, but we failed on a tie vote in the Budget Committee to get the increased funding.

Over the years, we have had good bipartisan support to do everything we could to fully fund IDEA, and every year, for one reason or another, Congress finds a way to avoid its responsibility.

I do not lay that on the shoulders of the Senate because recently we have met the promise we made. My colleagues here understand and know well how strongly the Governors, mayors, and county executives across this country feel about this issue. This is one of their major issues. When we ask them what are the important areas in which we can assist them, inevitably over the years they have listed special education as one of the most important areas in which we can assist them by meeting our obligations we made some 30 years ago.

When Congress passed the Individuals with Disabilities Education Act in 1975, it promised to help States meet their constitutional obligation to provide

children with disabilities a free appropriate education by paying for 40 percent of those costs.

The States came to us in 1975 and said: We need your help on this issue. As I said, some 30 years ago, we said we would step in and help, just as we have done with title I for children who have different kinds of needs. Those needs are economic because of the levels of poverty across the country. We said this also is an area where we think the Federal Government ought to step up and provide help to the States.

The cost of special education—and again, I am preaching to the choir when I talk to my colleagues about this issue because they know these issues as well as, if not better than, I do. Talk to any mayor, county executive, Governor, Democrat or Republican, liberal or conservative, and they will tell you that the cost of special education is very high. In fact, in some small towns—I know in my State and I am confident in the State of the Presiding Officer and the States of my good friends from Vermont or Rhode Island—two or three children with special education needs can so distort a local budget with the tremendous increase in cost that it becomes almost prohibitive for those smaller communities to meet the obligations. That is why we have heard so many loud voices over so many years calling on us to step up and meet our obligation.

We made a promise. In 1975, we said: As representatives of the Federal Government, we will come up with 40 percent of the cost of this program. That is our obligation. We will do that. Here we are almost 30 years later, and we have reached a 15-percent level. We are still short by some 25 percent of the costs of special education.

We have made great strides in going from zero to 15 percent, particularly in the last 4 or 5 years, but we are still way short.

The amendment I offer this afternoon provides for an additional \$1.5 billion in this omnibus appropriations bill for an additional 1 year. This is not a full-funding amendment. I am not asking in this amendment for full funding over the next several years. Since this bill only deals with 1 fiscal year, I am merely trying to add these additional dollars which will get us closer to the obligations.

Two years ago, a bipartisan group of 31 Members of this body introduced S. 466 to direct the appropriations of funds, to fully fund IDEA by 2007. That bill was the foundation of the Harkin-Hagel amendment to the No Child Left Behind Act. The amendment passed by the Senate on a unanimous vote would have increased Federal support for special education by \$2.5 billion per year until we reach full funding. Unfortunately, as I mentioned a few moments ago, because of strong opposition from the President of the United States and the Republican House leadership, the provision adopted unanimously by this body was not included in the final No

Child Left Behind Act. It made an oxymoron of the title of that bill, No Child Left Behind, when, in fact, we excluded the kids with special education needs from the legislation. So it was No Child Left Behind unless you have special education needs and disabilities.

Today's amendment will enable us once again as a bipartisan Senate to take the first step that we recommitted ourselves to in 2001 by increasing the funding for special education by \$2.5 billion for fiscal year 2002 to 2003. We are calling upon our colleagues to do just that.

In my State of Connecticut, in spite of spending hundreds of millions of dollars to fund special education programs, our school districts—as is true in almost every other State in the country—are struggling to meet the needs of their students with disabilities.

The costs borne by local communities and school districts are rising dramatically. From 1992 through 1997, for example, special education costs in Connecticut rose half again as much as did regular education costs. Our schools need our help, and this amendment is an opportunity, as we begin this 108th Congress, to do just that.

Of course, no one in my State—or any other State, for that matter, in our great Nation—questions the value of making sure the Individuals with Disabilities Education Act, which is both a landmark education law and a landmark civil rights law, be fully implemented. The only question is how best to do that, and a large part of the answer lies in this amendment.

This amendment will demonstrate that we intend to match our commitment to universal access to education with a commitment to do everything we can to help our States and schools provide that access. This amendment, further, will help not only our children in schools, but it will also help entire communities by easing their tax burden.

Our failure to fully fund IDEA does not make the issue go away. When we do not meet our obligation, then a mayor or county executive at the local level has no alternative; they have to, under their constitutions, meet these responsibilities. So when we duck our responsibility, we only increase the burdens locally. They can slash their budgets locally in other vitally needed areas or they can increase taxes.

As all of us know, there are not many options left at the local level. At the local level, that is where the rubber hits the road, where people need and require that certain obligations be met. Unfortunately, when we do not step to the plate and fulfill our promises on the national level, then we only increase tremendously the burden on our Governors, mayors, and county executives all across this great country.

Homeowners and businesspeople end up paying higher taxes or watch services they depend upon be slashed, not

only in my own State, but all around this country, because so much of education is paid for through local property taxes.

Again, I do not need to recite to my colleagues the tremendous burdens that are being felt by local and State budgets all across this country. The estimates are now that deficits running at the State level may hover around \$100 billion this year and only get worse next year and the year after. In my State alone, it is about half a billion this year. My Governor tells me it is going to be about \$1.3 billion next year. I do not know what it is in the State of Alabama, but I presume it might be like what Connecticut is. I think California is around \$34 billion.

I heard some of my colleagues say the other day, in Michigan it is \$4 billion or \$5 billion. I think someone said in Minnesota it was like \$4 billion or \$5 billion.

We have these mounting deficits at the State and local level. There is a need in special education. There was a promise made some 30 years ago by the Federal Government. What I am asking for in this amendment on the omnibus bill is that we take out the \$1.5 billion, if we could, and see if we cannot step in and provide some real relief for our States and localities in their hour of need and the need of families who have a child with special needs.

The President recently proposed another plan to cut taxes by hundreds of billions of dollars for some of the wealthiest Americans. I represent one of the most affluent States in the country. I probably have a higher percentage of my population who would benefit very directly as a result of the President's tax proposals. Without equivocation or hesitation, the overwhelming majority of the people in my State, including the most affluent, honestly believe the best use of resources is things such as special education. While they, as everyone else, would love to have a tax cut—there is nothing new about that—when asked to balance the priorities and needs of a nation, they understand providing tax relief for people in the top 1, 2 or 3 percent of income earners in the country at a moment such as this is not a wise or prudent use of the resources of this Nation when there are so many other demands that must be met.

I understand the Federal Government faces the same budget challenges in today's slumping economy as do our States and towns, but we cannot accept the argument that because our economy is faltering we cannot provide our children and their families with critical educational resources and otherwise help average Americans. We would and should not accept that argument if our homeland security or national defense were at stake, and we certainly cannot afford to do it here, either.

Investment in education is no less important now than it was when our economy was more healthy. It is essential to our long-term national economic security. So I ask my colleagues

to seize this opportunity and choose to help our schools but, more importantly, our families and young children who need these resources in order to maximize their potential.

I do not know of anyone, regardless of to which party they belong, Conservative, Liberal or moderate, whatever label one wants to put on themselves politically, that when they look in the eyes of a child who has special needs, can say, I am sorry right now but we cannot provide the resources to their town, county, local, or our State government because we have these other priorities that are making too many demands on us. That is not my America.

My America says, when there is a child with disabilities in need we step to the plate and provide them the kind of help they ought to have so they have a chance to become independent and maximize their potential to see to it that they can be productive citizens and add to the great strength and wealth of our Nation.

I can go down the list of the various States and what they will lose or gain. At the end of my statement, I ask unanimous consent to have printed in the RECORD a letter written on January 16, 2003, to the majority leader, Senator FRIST, and the minority leader, Senator DASCHLE, in which they specifically go down and list the importance of this amendment and the funding I am asking for, the \$1.5 billion, as one of their top priorities. In fact, they list it as the top priority.

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

(See exhibit 1.)

Mr. DODD. There are a whole list of organizations that support full funding for IDEA. I ask unanimous consent to have that list printed in the RECORD at the end of my statement.

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

(See exhibit 2.)

Mr. DODD. I am not asking for full funding with this amendment. I am asking for the \$1.5 billion in this omnibus appropriations bill. I am confident every one of these organizations would support this amendment, even though it is not full funding, but rather the additional amounts this year when we consider the pressures on our States.

Lastly, in looking at the differences in our States—the top State on the list is that of the Presiding Officer—the difference right away where there is a gap between what I am offering and the omnibus bill, it is a little less than \$30 million in the State of Alabama, and this amendment would make up the difference. Going down further, in my own State of Connecticut, the difference would be about \$18 million. In the State of Vermont, the difference would be about \$3 million. In the State of Rhode Island, the difference would be about \$5 million in this amendment. What a difference it would make.

I saw my colleague from Missouri in the Chamber recently. In the State of

Missouri, the difference would be about \$30 million.

I have all 50 States listed and the difference that this \$1.5 billion could make. That may not sound like much when a State is facing billions of dollars in deficits, but the fact that we might step up to the plate in Nevada—I apologize to my friend of Nevada, who is sitting right in front of me, but I did not see him—it is about \$10 million in his State.

I ask unanimous consent to have this list printed in the RECORD at the end of my statement. It is printed on both sides of one sheet of paper. Members can then have an idea of what the benefit of this small amendment could mean to them and their States.

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

(See exhibit 3.)

Mr. DODD. There are other Members who want to be heard on this issue. As we begin this debate in this Congress, this is one area on which we ought to find common ground. We will have our differences on other issues but every one of our States, Governors, mayors, and families with children with disabilities are asking us to step up and do what we can for them. As we start out in the year 2003, this modest amendment could make such a difference to people across this country and is something we ought to be able to join forces together on and adopt.

#### EXHIBIT 1

NATIONAL GOVERNORS ASSOCIATION,  
Washington, DC, January 16, 2003.

Hon. BILL FRIST,  
Majority Leader, U.S. Senate, the Capitol,  
Washington, DC.

Hon. TOM DASCHLE,  
Minority Leader, U.S. Senate, the Capitol,  
Washington, DC.

DEAR SENATOR FRIST AND SENATOR DASCHLE: On behalf of the nation's Governors, we are writing to express our support for several key provisions of the (FY) 2003 omnibus appropriations bill affecting state programs. First, we appreciate that the bill would maintain the FY 2003 highway program investment level at \$31.8 billion. With a sluggish economy and many states facing budgetary difficulties, now is not the time to cut federal highway investment. In addition, Governors strongly support the \$1.5 billion provided in the bill to implement the new election reform law. We also appreciate that the bill includes an extension of the Temporary Assistance for Needy Families (TANF) block grant and related programs through September 30, 2003. It is critical that states have reliability of funds in order to continue operating their welfare reform programs while Congress considers TANF reauthorization.

We would also like to express our support for the following amendments:

Dodd Amendment. The Governors support Senator Dodd's amendment calling for a \$1.5 billion increase in state grants for special education. We are committed to continuously improving the academic performance of all students, including students with disabilities. The nation's Governors support this amendment and urge Congress to continue to work toward enacting legislation that makes the Individuals with Disabilities Education Act (IDEA) funding a mandatory expenditure with incremental increases towards meeting the 40 percent federal requirement.

Murray amendment. The Governors support providing the necessary funding for Amtrak to support the continuation of a national passenger rail system as proposed by Senator Murray. Amtrak must be provided a sufficient level of funding to guarantee there will be no break or threat of a break in service. We must be certain that Amtrak will not encounter the rolling financial crises it experienced during the past year.

Chafee-Rockefeller amendment. The nation's Governors urge your support for quick action on a bipartisan compromise to protect resources in the State Children's Health Insurance Program (S-CHIP). Preserving the S-CHIP funds that have reverted to the federal treasury would keep \$1.2 billion of the FY 1998 and FY 1999 allocations within the program until 2004.

Harkin amendment. The Governors urge support for restoring current funding levels to the Edward Byrne block grant program for state and local law enforcement activities.

Finally, while Governors appreciate the inclusion of \$2 billion for first responder grants, we urge support for the President's original request of providing \$3.5 billion coordinated through the states. Just as Congress and the President have responded by acting on a far-reaching reorganization and consolidation of federal agencies, so too the President recognized the critical role of states—the first line of defense and the first line of coordination of response to any attack. Thus, this should be meaningful, new resources that respect the diversity, responsibilities, and capabilities of states and the immediate need for resources for national defense. Therefore, we encourage you to add an additional \$1.5 billion in first responder grant funds to the \$2 billion, so that we meet the President's recognition of the need to be prepared to respond to and recover from any terrorist attacks.

We greatly appreciate your consideration of our views.

Sincerely,

GOVERNOR PAUL E.  
PATTON,  
Chairman.

GOVERNOR DIRK  
KEMPTHORNE,  
Vice Chairman.

#### EXHIBIT 2

#### ORGANIZATIONS IN SUPPORT OF FULL FUNDING OF IDEA

American Academy of Child and Adolescent Psychiatry.

American Association of School Administrators.

American Council of the Blind.

American Federation of School Administrators.

American Federation of Teachers.

American Society of Deaf Children.

American Speech-Language Hearing Association.

The ARC of the United States.

Association of Educational Services Agencies.

Committee for Educational Funding.

Conference of Educational Administrators of Schools and Programs for the Deaf, Inc.

Consortium for Citizens with Disabilities.

Council of Chief State School Officers.

Council for Exceptional Children.

Council of the Great City Schools.

Easter Seals.

Helen Keller National Center.

Higher Education Consortium for Special Education.

IDEA Funding Coalition.

Learning Disabilities Association.

International Reading Association.

National Alliance of Black School Educators.

National Association of Developmental Disabilities Councils.

National Association of Elementary School Principals.

National Association of Federal Education Programs Administrators.

National Association of Federally Impacted Schools.

National Association of Protection and Advocacy Systems.

National Association of Secondary School Principals.

National Association of Social Workers.

National Association of State Boards of Education.

National Association of State Directors of Special Education, Inc.

National Association of State Legislators.

National Center for Learning Disabilities.

National Coalition on Deaf-Blindness.

National Conference of State Legislators.

National Education Association.

National Governors Association.

National Indian Education Association.

National Parent Network on Disabilities.

National Parent Teacher's Association.

National Rural Education Association.

National School Boards Association.

National Science Teachers Association.

New York City Board of Education.

School Work Association of America.

School Social Work Association of America.

#### EXHIBIT 3

#### ESTIMATED ALLOCATIONS FOR IDEA GRANTS TO STATES BASED ON FY02 APPROPRIATIONS, FY03 REQUEST (\$1 BILLION INCREASE OVER FY02), AND \$2.5 BILLION IN- CREASE OVER FY02

[Estimates are rounded to the nearest \$000; totals may not sum due to rounding; amounts are for policy analysis purposes only; dollars in thousands]

State	FY2002 preliminary allocations	Omnibus: FY2002 es- timates based on President's request	DODD amendment: FY2003 estimates based on FY 2002 appro- priation + \$2.5 billion
Alabama	\$119,994	\$135,572	\$160,598
Alaska	22,200	25,481	29,904
Arizona	111,046	127,461	149,586
Arkansas	71,962	82,600	96,938
California	781,663	897,214	1,052,954
Colorado	94,049	107,952	126,690
Connecticut	89,246	99,915	117,543
Delaware	20,346	23,354	27,407
District of Columbia	10,230	11,742	13,780
Florida	405,996	457,128	539,273
Georgia	195,217	224,075	262,971
Hawaii	25,660	29,453	34,566
Idaho	34,534	39,639	46,520
Illinois	336,545	379,984	449,770
Indiana	170,909	192,168	226,322
Iowa	82,527	92,393	108,694
Kansas	70,916	80,242	95,225
Kentucky	104,534	117,890	139,346
Louisiana	119,377	137,024	160,809
Maine	36,989	41,411	48,717
Maryland	131,489	148,070	174,709
Massachusetts	191,891	214,831	252,734
Michigan	260,223	295,771	350,539
Minnesota	128,322	143,662	169,425
Mississippi	77,199	87,876	103,993
Missouri	153,554	171,910	202,241
Montana	23,560	27,042	31,736
Nebraska	50,476	56,510	66,480
Nevada	41,761	47,934	56,255
New Hampshire	32,080	35,915	42,252
New Jersey	244,341	273,550	321,814
New Mexico	61,595	68,958	81,125
New York	509,444	573,817	677,232
North Carolina	202,782	229,818	273,162
North Dakota	16,521	18,963	22,254
Ohio	288,468	330,031	388,587
Oklahoma	98,503	112,024	132,690
Oregon	86,419	98,061	116,413
Pennsylvania	281,606	319,827	379,343
Puerto Rico	67,880	77,914	91,439
Rhode Island	29,561	33,095	38,934
South Carolina	115,464	129,822	152,889
South Dakota	19,680	22,590	26,511
Tennessee	154,805	175,401	208,004
Texas	608,103	697,998	819,157
Utah	68,595	78,736	92,403
Vermont	15,929	18,284	21,458
Virginia	181,316	204,243	241,077
Washington	142,623	162,181	192,123

#### ESTIMATED ALLOCATIONS FOR IDEA GRANTS TO STATES BASED ON FY02 APPROPRIATIONS, FY03 REQUEST (\$1 BILLION INCREASE OVER FY02), AND \$2.5 BILLION IN- CREASE OVER FY02—Continued

[Estimates are rounded to the nearest \$000; totals may not sum due to rounding; amounts are for policy analysis purposes only; dollars in thousands]

State	FY2002 preliminary allocations	Omnibus: FY2002 es- timates based on President's request	DODD amendment: FY2003 estimates based on FY 2002 appro- priation + \$2.5 billion
West Virginia	51,338	57,475	67,615
Wisconsin	140,643	159,051	188,623
Wyoming	16,711	19,181	22,511
Subtotal for States	7,396,822	8,393,339	9,893,341
Set Asides for Outlying Areas, BIA, and Evaluation	131,711	135,194	135,192
Total Appr/Request	7,528,533	8,528,533	10,028,533

Source: CRS analysis based on data from ED Budget Service.

Notice: These are estimated grants only. In addition to other limitations, much of the data which will be used to calculate final grants are not yet available. These estimates are provided solely to assist in comparisons of the relative impact of alternative formulas and funding levels in the legislative process. They are not intended to predict specific amounts which states (LEAs, etc.) will receive.

Mr. DODD. I yield back the remainder of my time.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. I ask unanimous consent that I be added as a cosponsor to this important amendment.

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

Mr. REID. I say to my friend from Connecticut, his speech said it all. In addition to the speech he gave today, he has been a vocal advocate for change for many years. He is to be complimented and applauded for his work.

I hope this amendment passes. Every amendment we have offered on this side has been very important. We have not done very well with the amendments because they have been straight party-line votes. In this instance, I hope the children Senator DODD has talked about would be taken into consideration.

As indicated, it would be so important to the State of Nevada. It is a modest increase but it would certainly take care of a lot of problems that the school districts have in Nevada.

Again, I congratulate my friend from Connecticut and hope very much this amendment will pass.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, like the Senator from Connecticut, I was here in 1975. This was an unusual year for Republicans. This was the Watergate year, and I was one of the very few who was enabled by the political process to represent the State of Vermont at that time. Because there were so few Republicans at that time, the day I walked on the floor, I ended up being the ranking member on the Select Education Committee which handled this issue in the House. Thus I have a personal understanding of the need and a personal responsibility. TED KENNEDY was on that conference committee with the Senate, Bob Stafford was another one, and John Brademas was the won-

derful leader of the Democrats at that time. We struggled over how much money would be needed. We came up with a solution and then agreed the Federal Government ought to come up with 45 percent of the burden that was placed upon the States.

I stand today somewhat sad in the sense we still have not reached that promise or anywhere near it. We are about half of that now. I look at severe cuts that have occurred and the lack of money for the States and see they are imperiled at this point to be able to give not only a good education, as required in the constitutional mandate, to young people with special needs but also of all children because of the dire circumstances we have.

I first thank my good friend, Senator DODD, for bringing this important amendment to the floor. This amendment is about making sure that all children have an opportunity to learn, and I want to urge my colleagues to support this very critical amendment.

We must recognize that we cannot provide all of our children with the opportunity to achieve unless we support our children with adequate resources. The level of funding for education in this omnibus appropriations bill is unconscionable.

When I first arrived in Congress in 1975, one of the first legislative initiatives I worked on was the Education for All Handicapped Children Act, now known as IDEA. We wrote the legislation to ensure that children with disabilities receive the special education and related services they need and deserve. This is expensive.

We also recognized, however, that educating children with disabilities would be very costly, and therefore promised that the Federal Government would pay 40 percent of the excess cost of educating children with disabilities.

At that time, nearly half of all disabled children, approximately 2 million children, were not receiving a public education. They were not even in school. Another 2 million children were placed in segregated, inadequate classrooms. It was brutal.

Today, IDEA serves approximately 6 million disabled children. IDEA has been very successful in providing the basic constitutional right of an education to our children with disabilities: dropout rates have decreased, graduation rates have increased, and the percentage of college freshmen with a disability has almost tripled.

IDEA has helped individuals with disabilities become independent, wage-earning, tax-paying contributors to this Nation.

The problem, however, is that we have not kept our promise of helping the States pay for the costs of educating children with disabilities. Although Congress has increased IDEA funding in recent years, it has woefully failed to meet its obligation to fully fund IDEA. Until we do that, we will not have done what we promised.

Rather than contributing the 40 percent as promised, currently, we only pay about 17 percent.

I would like to recognize Senators HARKIN and HAGEL, and, of course Senator DODD, for their unyielding commitment to our children and to our schools, and I look forward to continuing to work with them to fully fund IDEA.

The underlying appropriations bill only increases IDEA funding by \$1 billion. At that rate, we're on course to fully fund IDEA in the year 2035. I know that the children of Vermont, and the children across this country, cannot wait another 32 years.

And yet, as we continue to underfund IDEA, the costs associated with educating children with disabilities continue to rise and absorb increasingly larger portions of school districts' budgets.

For example, in my State of Vermont, the special education costs have increased by 150 percent over the past 10 years, and the Federal underfunding leads to the State and local districts to spend approximately \$20 million more from local sources than if Federal funding were provided at the maximum level. I know that these problems are not unique to Vermont; but rather, they are shared by States and school districts across the country.

And now State governments are battling the worst fiscal conditions since World War II. According to the National Governors Association, budget shortfalls will be as high as \$50 billion this year and \$60 to \$70 billion next year. Accordingly, State education budgets throughout the country are facing severe cuts, and schools must take drastic measures just to make ends meet, no less meet the burdensome mandates of the No Child Left Behind law.

This amendment represents a significant step forward providing some relief to our schools, and I emphasize the word "some." We must recognize that we cannot provide all of our children with the opportunity to achieve unless we support our children with adequate resources. We must provide our schools with those desperately needed resources and perhaps then we can ensure that, indeed, not one of our children is left behind. The President has made that promise, but I see nothing in the budget or anywhere else that indicates an attempt to bear that cost our States have shouldered for so long. This amendment brings us that little bit closer to our obligation to America's children. I urge my colleagues to support this amendment and vote yes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to lay aside the pending amendment and ask for immediate consideration of amendment No. 27, which is at the desk.

Mr. GREGG. Reserving the right to object, I regret I have to object to this

until we can clarify where we stand vis-a-vis this amendment.

Mr. REID. Will the Senator yield?

Mr. REED. I yield.

Mr. REID. It is my understanding you will offer an amendment in a different form than the Dodd amendment, and there would be two side-by-side amendments; is that right?

Mr. GREGG. That is correct.

Mr. REID. We are working on that. I spoke to Senator DODD and he feels we would have 30 minutes equally divided prior to the vote.

Mr. GREGG. That would be reasonable. Assuming all debate on the amendment of Senator DODD—that there is no further amendment, with debate going forward until that time.

Mr. DODD. If the minority whip will yield, my intention was to make a few additional comments, but I have spoken on the amendment. I would like some idea of when we might do this. I know the Senator from Rhode Island has an amendment.

Mr. GREGG. I suggest, if the Democrat assistant leader is so inclined, we now have a vote at 5:15. Why not begin at what time before that?

Mr. REID. The two leaders have to work out what the sequence of votes is going to be. We have the Dodd amendment which has been laid down. We have the Edwards amendment which is pending. We have Senator REED of Rhode Island offering an amendment on LIHEAP, cosponsored with Senator COLLINS. We have Senator DAYTON coming in a few minutes to offer one on corporate expatriation. They have to figure out the sequencing of votes. We are trying to do as we have been told—to offer as many amendments as possible. I suggest this can be worked out between the Senators from New Hampshire and Connecticut, but we would like to get to this.

Mr. GREGG. Mr. President, how much time does Senator REED require?

Mr. REED. Around 10 or 15 minutes. No longer.

Mr. GREGG. I suggest after Senator REED completes the presentation of his amendment, we go back to the Dodd amendment. Hopefully, I can lay down my amendment and spend up to an hour, equally divided, on it at that point and proceed to the next item of business.

Mr. REID. If my friend will withhold, my only point is that we have been trying to do as your leader wants us to do and line up a bunch of amendments. We have Senator DAYTON coming at 1 o'clock, and I have announced that previously. He is not going to take too long. But I am happy to go along with what the Senator suggested. We will get the Reed amendment laid down and come back to the Dodd amendment.

Mr. DODD. That is fine. We have a couple of other Members, I have just been informed, who would like to speak on the special education amendment. They are not here yet because of the conditions outside. In order to accommodate our colleague from Rhode Is-

land, who is here—and Senator DAYTON from Minnesota is on his way—we could work up a proposal and come back later in the afternoon when the other Members are here and finish up the debate on that and allow these other amendments to be debated, since those Senators are here.

Mr. GREGG. I would like to get back to getting the floor at a reasonable point of time. I suggest at 2 o'clock I be recognized to offer my amendment.

Mr. REID. I think the Senator's original suggestion is the better of the two. I ask unanimous consent the Dodd amendment be set aside and Senator REED be recognized to offer his amendment, speak up to 15 minutes, and then we will return to the Dodd amendment and try to work out something.

Mr. REED. Reserving my right to object, Senator COLLINS of Maine, also a cosponsor, wants to speak on this amendment.

Mr. REID. There will be ample time later for her to do that.

Mr. REED. So her rights will be protected.

Mr. REID. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Rhode Island.

#### AMENDMENT NO. 27

(Purpose: To provide additional amounts for low-income home energy assistance)

Mr. REED. Mr. President, I am offering an amendment today to increase funding for the LIHEAP program, the Low-Income Home Energy Assistance Program, to \$2 billion for this fiscal year. I am offering this amendment with my colleague and friend from Maine, Senator SUSAN COLLINS. Senator COLLINS wanted to be here to offer the amendment with me, but she is traveling from Maine in very difficult weather circumstances today, and when she arrives this afternoon she will take the floor to speak on behalf of this amendment.

I also thank my colleagues, Senator DAYTON, Senator SNOWE, Senator JEFFORDS, Senator KENNEDY, Senator DEWINE, Senator SARBANES, Senator CANTWELL, Senator STABENOW, Senator CLINTON, Senator DODD, Senator KERRY, Senator LEVIN, Senator CORZINE, Senator LEAHY, and Senator DURBIN, who are all cosponsors of this amendment.

At this juncture I ask unanimous consent that Senators CHAFFEE, SCHUMER, HARKIN, FITZGERALD, MURRAY, BINGAMAN, and LAUTENBERG be added as cosponsors of this amendment.

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

Mr. REED. As you can see, this amendment enjoys widespread and bipartisan support. I think it is clear, particularly given the weather today, that support is not unmerited.

Let me begin by offering a weather report, if you will. It is today, in Washington, around 30 degrees. But if you are outside, it feels much colder. The low will be somewhere around 14 degrees.

As you go along the country: Albany, NY, today, 17 degrees the high; Baltimore, 29 degrees; Chicago, 18 degrees; Cleveland, 15 degrees; Des Moines, IA, 12 degrees; Detroit, MI, 18 degrees; Milwaukee, 14 degrees; Omaha, 12 degrees; and my State, Rhode Island, they list the high as 23, but this morning when I left at 5 a.m. it was 5 degrees, but with the wind chill factor it was below zero.

This amendment is important because there are Americans who are suffering because of the cold. But it is not just about cold weather in certain parts of the country at this time of the year; the LIHEAP program is also important since it covers those hot stretches in the summertime when energy bills in the Southwest and the Southeast are astronomical and impact adversely low-income Americans.

We need this program throughout the year. We particularly need it today to protect people from the cold, but, as I said, those individuals who live in Alabama or Arkansas or Texas or southern California need LIHEAP in the summertime and it should be there for them, as it should be for those people who struggle today with the cold weather in the Northeast and Midwest.

In fact, yesterday the coldest place in America was Embarras, MN, minus 26 degrees. It is one thing to be in Embarras, but it is also something else to be freezing in Embarras. So I think we have to do something to ensure that we can protect low-income Americans from the cold that is affecting them today.

Twenty-five years ago Congress passed the LIHEAP program. They knew that people struggling with all sorts of expenses—raising a family, providing food to put on the table—they needed help in these cold months in the Northeast and those hot spells in the Southeast, to provide for assistance so they could afford the energy they needed.

During his campaign, President Bush promised to fully fund LIHEAP to help these low-income families meet their needs for heat in the winter and cooling in the summer. If he stood by his promise, the President would demand the \$2 billion for which we are asking; rather, he has proposed cutting that money. This year, despite rising energy prices, colder weather, and increased unemployment, the President's budget has proposed to cut LIHEAP by \$300 million. This cut would deny assistance to literally hundreds of thousands of Americans. The appropriations bill that we are considering today does restore part of this funding. I commend and thank Senators STEVENS and BYRD and SPECTER and HARKIN and their staffs for their hard work to maintain this funding, but we want to restore an additional \$300 million to bring it up to the \$2 billion level that will just be, in terms of purchasing power, equal to last year. We want to do that and I hope we can do that today through this amendment process.

As I said, we could add this \$300 million, but we are not requesting new funding. This amendment simply requires the administration to give the States the \$300 million the Congress provided in the fiscal year 2001 Supplemental Appropriations Act. Congress provided \$300 million in LIHEAP funding 2 years ago to help these families meet their needs when energy costs increase, when there are significant disconnections of utilities because if you can't pay the gas bill or electric bill, eventually you will be disconnected and you will be without any type of energy.

All of these efforts in terms of funding LIHEAP have been urged on the present administration by the Governors. They understand because they are right there in the trenches, if you will, dealing with the issue of people literally freezing today and sweltering in the summertime.

Cutting heating assistance for seniors and low-income Americans is not the way to go, particularly when it is juxtaposed against proposed significant tax cuts. If we can't at least provide people with a warm shelter in the winter and a cool shelter in the summer when thinking about large-scale tax cuts, to me, seems somewhat inappropriate.

LIHEAP, even with our amendment, will be seriously underfunded. Providing this \$2 billion in regular funding to the program will just equal the purchasing power of last year. What it does not recognize is that energy prices are soaring. Today, on the front page of the Providence Journal, there is an article about the cold wave that is sweeping our region of the country, but also the fact that in order to keep up with the demand for oil, which is our principal fuel, because the demand is so huge, our Governor had to suspend regulations to allow delivery drivers to work through periods of time when they are normally required to rest. What is also happening is the prices are jumping up because of uncertainty in Venezuela and uncertainty in the gulf.

This combination of increased prices, cold temperatures, and also an economy that sees more and more people unemployed, is the perfect storm, if you will, when it comes to requiring assistance for heating throughout the Northeast in particular.

There is something else that happens when people are challenged for energy, when they do without. They take their own improvisational means to keep warm. They turn the electric stove on and open up the oven. They go out and buy portable heaters. It is more than coincidence that the number of house fires shows a sharp increase in the months of cold weather in the Northeast because people are improvising. So this is another danger that must be recognized.

This amendment simply allows people to stay warm in the winter and to escape scorching heat in the summertime. It is something that is basic. It is

something I believe we should support extensively. I am pleased and proud that so many of my colleagues have joined Senator COLLINS and me on a bipartisan basis. I hope this is one amendment we can quickly adopt and include in this omnibus appropriations bill. I hope, also, we can at least signal to those people who are looking for some modest assistance in these cold days that we have heard their calls, we are responding to our political leaders at the State level, the Governors, and we are giving them the resources to at least keep people from freezing in a very difficult time.

The PRESIDING OFFICER. Is the Senator calling up his amendment?

Mr. REED. I asked in my initial statement that we call up amendment No. 27. I ask now it be called up.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. REED) for himself, Ms. COLLINS, Mr. DAYTON, Mr. JEFFORDS, Mr. DEWINE, Mr. KENNEDY, Mr. SARBANES, Ms. CANTWELL, Ms. STABENOW, Mrs. CLINTON, Mr. DODD, Mr. KERRY, Mr. LEVIN, Mr. CORZINE, Mr. LEAHY, Mr. DURBIN, Ms. SNOWE, Mr. CHAFEE, Mr. SCHUMER, Mr. HARKIN, Mrs. MURRAY, Mr. BINGAMAN, Mr. LAUTENBERG, and Mr. ROCKEFELLER, proposes an amendment numbered 27.

The amendment is as follows:

(Purpose: To provide additional amounts for low-income home energy assistance)

At the end of the general provisions relating to the Department of Health and Human Services, add the following:

SEC. \_\_\_\_ The Supplemental Appropriations Act, 2001 (Public Law 107-020) is amended, in the matter under the heading "LOW INCOME HOME ENERGY ASSISTANCE" under the heading "ADMINISTRATION FOR CHILDREN AND FAMILIES" under the heading "DEPARTMENT OF HEALTH AND HUMAN SERVICES", in chapter 7 of title II, by striking "amount for" and all that follows, and inserting the following: "amount for making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, \$300,000,000."

Mr. REED. I thank the Chair.

Mr. JEFFORDS. Mr. President, I am very pleased to support this bipartisan amendment to provide additional funds for the Low Income Home Energy Assistance Program (LIHEAP). At a time when home heating prices are increasing dramatically and temperatures in my home state of Vermont are plunging, we can ill afford cuts in the LIHEAP program.

I have fought for years to make sure that no Vermonter has to choose between heating and other of life's necessities such as putting food on the table or prescription drugs. I am very mindful of the financial strains that low-income Vermonters feel when the weather gets cold.

We must continue to make sure that funding for LIHEAP is a priority of this administration and of the Congress. I am hopeful that LIHEAP will continue to provide a safety net to families and the elderly who are buffeted by high fuel prices, loss of benefits, and sickness.



I am going to close this short statement with this week's forecast from the National Weather Service for Chittenden County. In very stark terms, more than any speech, it demonstrates the need for LIHEAP in Vermont.

Tonight. Mostly clear and bitterly cold. Low 10 to 15 below zero. Northwest wind 10 to 20 mph early tonight. Diminishing to 10 mph late. Wind chills 20 to 25 below zero.

Wednesday. Mostly sunny and continued very cold. High around zero. Northwest wind 10 to 15 mph.

Wednesday night. Increasing clouds. Low 10 below to 20 below.

Thursday. Becoming cloudy with light snow likely in the afternoon. High 5 to 15 above. Chance of snow 60 percent.

Thursday night. Mostly cloudy with a chance of snow showers. Low 5 below to 5 above. Chance of snow 30 percent.

Friday. Partly cloudy. High 10 to 15.

Saturday. Partly cloudy. Low 5 below to 5 above and high in the teens.

Sunday. Cloudy with a chance of snow. Low 5 below to 5 above and high in the lower 20s.

Monday. A chance of snow showers. Otherwise partly cloudy. Low zero to 10 above and high in the lower 20s.

Mr. President, I yield the floor.

Mrs. CLINTON. Mr. President, I rise today in strong support of this amendment, which I am proud to cosponsor to provide an additional \$300 million in Low-Income Home Energy Assistance Program—or LIHEAP—funds for the current fiscal year.

With unemployment rising, temperatures dropping, and energy prices projected to soar, New Yorkers and others around the country need access to energy assistance more than ever. Colder than normal temperatures in October, November, December, and January have boosted overall heating demands above previous expectations. In fact, conditions this winter are projected to be as much as 18 percent colder than last winter, according to the U.S. Energy Information Administration.

People in my state know what cold means. Ask anyone who has been to Buffalo where it feels like zero degrees Fahrenheit today; Rochester where it feels like 6 degrees; Syracuse where it feels like 5 degrees; Binghamton where it feels like minus 2 degrees; Plattsburgh where it feels like minus 7 degrees; Albany where it feels like minus 2 degrees; or any town in New York State in the winter months. It's cold.

Today, the National Weather Service has issued a hazardous weather outlook for western and north central New York. Very cold air will dominate the region overnight, with temperatures again falling into the single digits from the Finger Lakes west, and below zero to the east. According to the Weather Service, these temperatures will combine with winds to produce bitterly cold wind chills below minus 15 degrees in most areas, and below minus 20 degrees in the North Country.

So far this year, it has snowed just about every day in Oswego County. Twice this month, lake-effect storms dumped several feet of snow on the county. In the city of Oswego, snow fell at a rate of 6 inches per hour for about 4 hours last Wednesday.

So it's no surprise that applications for LIHEAP assistance in New York State are up from last year—by at least 9,000 households.

That is why instead of proposing to cut this vital program by \$300 million as the Bush Administration has done, we are here today offering an amendment to increase the funding for LIHEAP provided in this bill by \$300 million. The \$300 million cut proposed by the Bush administration would have forced the State of New York to “freeze out” an estimated 80,000 families who previously benefited from the vital LIHEAP program.

Under this amendment, New York and other states will be able to help tens of thousands more families with home heating assistance, rather than leaving families—literally—out in the cold. The change in seasons needs to be accompanied by a change of heart—and that is why we are here today offering this amendment.

An additional \$60 million in LIHEAP funding that was released to New York State earlier this month received a warm welcome—particularly from the thousands of New York families that are now able to heat their homes without having to forgo other, basic household expenses—like buying groceries. And this additional \$300 million will receive an equally warm welcome.

I want to commend our colleagues on the Senate Appropriations Committee who voted last year not to cut the LIHEAP program as was proposed by the administration, but rather to keep it at its previous level of \$1.7 billion. Thankfully, the bill we are considering today contains approximately \$1.6 billion in LIHEAP funding for the current fiscal year. But that is still not enough.

Many of my colleagues and I have asked the administration to release the hundreds of millions of dollars in emergency funds that are still available in order to help low-income families and the elderly in New York and around the country pay their heating bills. With our economy in crisis, this is no time to be heaping additional financial burdens on our low income residents and forcing them to choose between paying for food and paying their energy bill.

That is why we are offering this amendment today, to convert \$300 million in already-appropriated emergency LIHEAP funds to regular program funds, so that these funds can be spent now to help families in need. Because for low-income families and the elderly in New York State and around the country who are having to choose between food and heating their homes, between prescription drugs and heating their homes—this is an emergency, not question about it.

So I urge my colleagues to support this common sense amendment to provide an additional \$300 million in regular program funding for the Low-Income Home Energy Assistance Program.

Mr. KOHL. Mr. President, I rise today to support my colleagues' amendment increasing LIHEAP funding. In Wisconsin the Low Income Home Energy Assistance Program is not a luxury but a necessity. Many people around my State depend on this funding to heat their home and protect their families, especially in this economy. Already this heating season the State of Wisconsin has almost 4,000 more people being served by LIHEAP than last year at this time. This 13 percent increase is a sign of the high energy prices and worsening economy putting the squeeze on families. The price of the program has skyrocketed as well, almost \$8 million more than last year at this time for a 36 percent increase in cost. The small increase from last year proposed in the underlying bill will not be sufficient to meet the needs of my constituents. Without the additional \$300 million called for in this amendment, Wisconsin will run out of funding in early May, almost a month earlier than in years past.

Constituents are calling and writing my office concerned about running out of LIHEAP assistance. They are unemployed and facing steep bills for energy as well as rent and health care and they are worried they won't be able to make ends meet. The average benefit in my state is \$369, an amount that would be almost impossible for a family on unemployment to pay. Heating a house through the Wisconsin winter is more expensive and takes more energy than cooling a house through a summer down south. We have to recognize that challenge and help these people.

The \$1.7 billion in the bill still leaves 8,803 people in my state without benefits. Almost 9,000 people who are eligible for LIHEAP will go without because there is not enough money. There are thousands in my state who need this money but do not apply because they don't know about the program or don't realize they are eligible. The money today is only the tip of the iceberg. This extra \$300 million will help reach these folks who are not being helped, and will help them pay their bills until the heating season is over.

Mr. SARBANES. Mr. President, I rise today to speak in strong support of Senator REED's amendment, which would ensure that the Low Income Home Energy Assistance Program (LIHEAP) is funded at an amount close to the level authorized by the Senate for the current fiscal year.

As he traveled through colder climate areas in the Northeast and Midwest in 2000, President Bush campaigned on a promise to fully fund this vital program, which assists senior citizens and low-income households with their basic home heating costs.

Regrettably, the President decided to retreat from this commitment, proposing \$1.4 billion for LIHEAP in his fiscal year 2003 budget—a \$300 million cut from the previous year's funding level for the program.

Meanwhile, plunging temperatures and rising heating costs are putting some of the most vulnerable Americans at risk this winter. Indeed, only a fraction of those eligible to receive LIHEAP assistance will actually benefit from the program at current funding levels. Furthermore, heating bills are significantly higher than they were at this point last year. According to the Energy Information Administration, which released its monthly short-term outlook on January 8th, the price of natural gas has risen 34 percent compared to last winter's costs. Heating oil prices have increased a remarkable 43 percent.

Senator REED's amendment would increase LIHEAP funding for the current fiscal year to a level close to the Senate-authorized amount of \$2 billion by transferring the funds already appropriated by Congress in the Emergency Supplemental Appropriations Act of 2001—but not spent by the President—to the omnibus appropriations bill now pending before the Senate. This important amendment will ensure that the administration does not deny these funds to the scores of households who desperately need this assistance to simply keep warm this winter.

I urge my colleagues to join me in supporting the Reed amendment.

Ms. CANTWELL. Mr. President, I rise today in support of this amendment to provide much-needed assistance to our Nation's low-income families. The amendment before us today would use \$300 million in contingency funds included in the fiscal year 2001 supplemental appropriations bill to provide additional money for states struggling to keep pace with demand for the Low-Income Home Energy Assistance Program.

The Low-Income Home Energy Assistance Program, LIHEAP, provides critical aid to many of our Nation's most vulnerable citizens. According to the National Energy Assistance Directors Association, as many as 5 million households received LIHEAP assistance during fiscal year 2001—the last year for which such data is available.

Since then, of course, the need for this program has grown almost exponentially. In many places—particularly in the western part of our country—the downturn in our nation's economy has conspired with soaring retail energy costs to create record-breaking demand for LIHEAP dollars.

I want to explain to my colleagues precisely why this amendment is so important to so many families in my state. On a number of previous occasions—during debate on the Senate energy bill, at various junctures during the Western energy crisis and the ensuing investigations of Enron and others—I have spoken on this floor about

the Bush administration's failure to step in and stem the economic bleeding in my state resulting from skyrocketing electricity prices. But not only did this administration sit idly by as Enron and others conspired to wreak havoc on the economy of the West, this administration has also ignored repeated pleas to release the LIHEAP money that would aid those very citizens who have suffered the most from its inaction.

As my colleagues may recall, during the height of the western energy crisis—which we now know resulted at least in part from the manipulations of Enron and potentially other energy companies—wholesale electricity prices spiked to as much as 1,000 percent above normal.

While prices on the wholesale markets have now stabilized, one daunting reality we face in Washington state is that, despite a series of rate increases that had reached almost 50 percent in some areas by September 2001, the worst of this crisis is not yet over. The Bonneville Power Administration, which markets about 70 percent of the power consumed in Washington, subsequently put in place a rate increase of more than 40 percent in October 2001.

My State and region continue to struggle to pay power costs incurred during the crisis, at least in part due to the Federal Energy Regulatory Commission's failure to act and void exorbitantly prices contracts signed with the likes of Enron. And just this week I learned that, as a result, the Northwest faces the prospect of yet another round of double-digit rate increases later this year.

Already, Washington State has suffered from the second or third highest unemployment rate in the nation for almost a year. Already, utility disconnection rates have quadrupled in some areas of my State.

Already I receive letters from constituents who have to make the choice between buying prescription drugs and paying their electricity bills. So my colleagues can imagine just what kind of threat further electricity rate increases pose to the prospect of an economic recovery.

I could recount in much more detail this administration's flagrant disregard for the statutory requirement that consumers be charged "just and reasonable" electricity rates. But today, I want to focus on the fact it continues to ignore the plight of citizens who have borne the brunt of the economic crisis the administration itself had a hand in creating.

During fiscal year 2002, the Bush administration had at its disposal a total of \$600 million in LIHEAP contingency funds. Congress appropriated a total of \$300 million of these funds as part of that year's Labor-HHS appropriations bill; the remaining funds were appropriated as part of the fiscal year 2001 Supplemental bill, which included \$300 million in LIHEAP funds that remain available until expended.

Due to the dire economic circumstances in which many of my state's working families find themselves, I have repeatedly asked this administration to release a portion of those funds to Washington State.

In October 30, 2001, in testimony before the Senate Health, Education, Labor and Pensions Committee, Assistant Health and Human Service Secretary Wade Horn stated that LIHEAP fulfills a "dual responsibility to provide ongoing assistance where it is most needed and to respond to emergency situations such as extreme weather conditions, supply disruptions or price spikes." At the same time, he indicated that there were no plans to release emergency funds due to a drop in fuel prices as well as forecasts of a relatively mild winter.

In response, I was joined by my colleague Senator MURRAY as well as six other members of the Washington delegation in sending a December 10, 2001 letter to Health and Human Services Secretary Tommy Thompson, pointing out that some 73 percent of Washington's low-income households are heated by electricity—rather than natural gas or oil, as in other parts of the country—and that retail rates continued to rise rapidly. I would also point out that since 1980—when LIHEAP was first authorized—electricity prices have climbed 180 percent on a national basis, while oil, natural gas and propane prices have been relatively more stable. In light of all this, we requested an immediate release of the then-\$300 million in emergency LIHEAP money. No money was released.

On March 8, 2002, after Congress had added another \$300 million to the LIHEAP contingency fund and Assistant Secretary Horn had, in his response to our first letter, suggested that should there be an emergency, the administration would release the necessary aid, I wrote again to suggest we had reached that point.

Washington State's utility shutoff moratorium was set to expire, and 5 inches of snow had just fallen in the eastern part of my State. Still no funds were released.

On April 12, 2002, I wrote yet another letter—this time to OMB Director Mitch Daniels. After a phone call, he requested more information on Washington State's particular situation. My office provided this information in an April 17, 2002 letter. Still no funds were released.

On May 28, 2002, I joined with a number of my Senate colleagues from across the country in sending a letter to President Bush, arguing that many States had already exhausted their annual LIHEAP allocation. Still no funds were released.

Finally, on August 9, the administration released \$100 million of the total \$300 million available in fiscal year 2002 LIHEAP contingency funds. Unfortunately, Washington State was not on the list to receive any of this additional money.



What this amendment proposes to do is take the \$300 million in contingency LIHEAP funds Congress appropriated in fiscal year 2001 and distribute it to this Nation's many families in need.

I ask unanimous consent to print in the RECORD and article from the December 22, 2002 New York Times, entitled "The Legacy of Power Cost Manipulation," which describes the situation in Snohomish County, WA.

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

#### LEGACY OF POWER COST MANIPULATION

(By Timothy Egan)

EVERETT, WASH. Two years ago this month, a record was set at the height of the West Coast energy crunch: an hour of electric power was sold for \$3.25—more than a hundred times what the same small block had cost a year earlier.

Now, power supplies are abundant and wholesale prices have plummeted. But the fallout from what state officials say was the largest manipulation of the energy market in modern times has continued to hit West Coast communities hard. Here in Snohomish County, which has the highest energy rates in the state, more than 14,000 customers have had their electricity shut off for lack of payment this year—a 44 percent increase over 2001. They have seen electric rate increases of 50 percent, as the Snohomish County Public Utility District struggles to pay for long-term power contracts it signed with companies like Enron at the height of the price run-up.

Aided by charities, most customers have had their power returned within a day of being shut off, but others are forced to make choices about which necessities they can live without.

It's a pretty tough thing trying to explain to your 5-year-old kid why the lights won't come on anymore," said Crystal Faye of Everett. "I didn't pay much attention to all that stuff about California and Enron, but it's certainly come home to hurt us now."

Ms. Faye and her husband, Rick, who are unemployed, have had their power shut off twice this year.

Brianne Dorsey, a single mother, said she removed the baseboard heater in her home here and has had to rely on a small wood stove for heat, because she is \$1,000 behind in paying her electric bills.

Faced with such tales tied to rate increases along the West Coast, states are trying to get back some of what they lost during 18 months when energy prices seemed to have no ceiling.

The decision this month by a federal regulatory judge that California utilities had been overcharged by \$1.8 billion bolstered the case of Northwest utilities seeking refunds, officials of those utilities said. It also angered California officials, who say they will continue to press for a total of nearly \$9 billion in refunds. The Federal Energy Regulatory Commission is expected to decide on Northwest refunds in the spring.

No matter what the federal government decides, officials say their best hope for compensation is from a number of criminal investigations being pursued by Nevada and the three West Coast states—Washington, Oregon and California. They liken their cause to state lawsuits against tobacco companies, which started as long shots but resulted in enormous settlements.

Aided by a guilty plea in October from a former trader for Enron, and by newly discovered internal documents describing how companies manipulated the energy market

in 2000 and 2001, the West coast states are hoping to get settlement money from more than a dozen energy trading companies.

The companies say they acted legally in taking advantage of a unique market condition, but state officials say the companies created a fake energy crisis.

At the height of the rise in energy costs in early 2001, the Bush administration said the West Coast's troubles were a precursor of what would happen if the nation did not build 1,900 power plants over the next 20 years.

But state officials in the hardest-hit areas say the crisis was never about energy shortages so much as it was about an epic transfer of wealth. They want payback—in some cases for immediate relief to consumers who cannot pay their bills this winter.

Last month, the Williams Company, in Tulsa, Okla., agreed to a \$417 million settlement with Washington, Oregon and California. While admitting no wrongdoing, Williams agreed to pay refunds and other restitution to the three states; in return, the states dropped an antitrust investigation.

Among large energy companies, the states are seeking refunds from the Mirant Corporation, Reliant Resources Inc., Dynegy Inc., Duke Energy and Enron.

"All of us on the West Coast have been hard hit by these rate increases, but the poor in this county have just been hammered," said Bill Beuscher, who runs the energy assistance program in Snohomish County. Mr. Beuscher said that in the first two weeks the winter energy assistance program was open this year, requests for financial aid were up 55 percent from the same period last year.

The power trading companies named in criminal investigations and refund cases did not want to comment publicly while the cases were pending. But several of the companies that are fighting refunds have said in their public filings that the utilities, particularly in the Northwest, are trying to renege on legitimate long-term contracts. They said they did not act in collusion and explained that the highest prices were a result of severe market shifts brought in part by the Northwest drought.

In some cases, the power trading companies said, the utilities resisted buying shorter contracts, which would have cost them less. They also said that some Northwest utilities took advantage of the price spikes and sold power into the market themselves, only to come up short later. The companies said they expected to be vindicated when the government finishes its refund cases next spring.

Mr. Beuscher said he would like to see money from the Williams settlement be used to help people who cannot afford the rate increases. Consumers in Oregon and California have made similar pleas. But officials in all three states say that until there are larger settlements with the energy companies, consumers are unlikely to see relief.

"We hope that the Williams case serves as a template," said Tom Dresslar, a spokesman for the California attorney general's office, "because California was monumentally ripped off by these energy traders."

About seven million consumers in California, who were initially shielded from having to pay for runaway energy costs during the worst part of the state's deregulation debacle, are paying rate increases averaging 30 percent more than the pre-deregulation prices of 1996. The state has the highest energy rates in the nation, consumer advocates say, although the structure of the rate increase allows poor people and low energy users to escape the recent increases.

"I don't hold out a lot of hope that we will ever get significant refunds," said Doug Heller of the Foundation for Taxpayer and Con-

sumer Rights, a nonprofit group based in Los Angeles. The group calculates that California power customers overpaid a total of \$70 billion.

At the height of the energy troubles, the trading companies boasted of record profits in their quarterly reports. But many of those companies are now near bankruptcy as they cope with a downturn that has caused the energy trading sector to lose 80 percent of its value, according to Wall Street analysts.

"It's like the highwayman robbed us and then spent all the money on booze," Mr. Heller said.

The companies themselves blame the states. In one case that was heard this month, William A. Wise, chief executive of the El Paso Corporation, which is based in Houston, denied manipulating the market and blames the officials who set up California's deregulated energy market for causing the price run-ups with "one bad policy after another."

Under a New Deal-era law, power companies can be forced to pay refunds if they have charged an "unreasonable and unjust" amount for electricity. The Federal Energy Regulatory Commission, which West Coast governors say did very little to restrain power traders during the height of the run-ups, will determine the exact refund amount, if any.

In the meantime, electric rates throughout the Pacific Northwest, once among the cheapest in the nation, have climbed as much as 50 percent.

California's problems stem from its chaotic attempt at energy deregulation, approved in 1996 and put in effect in 1998. The Northwest, with its tradition of publicly owned utilities, was drawn into the California crisis by a convergence of dry weather and freewheeling trading of its own.

Usually, the Northwest avoids price fluctuations by providing a steady stream of hydroelectric power, aided by abundant winter rainfall. But in late 2000, a drought in the Northwest forced utilities to buy power on the open market. Some utilities had also tried to sell power into the California market but were pinched by the drought.

At the same time, major energy traders were withholding blocks of power to create the appearance of further shortages, according to Enron memorandums discovered this year.

Refunds were once thought to be unlikely. But then came the memorandums—many of them detailing schemes to manipulate the market under names like Death Star—and the agreement in October by Timothy N. Belden, a former senior trader for Enron, to plead guilty to conspiring with others to manipulate the West Coast energy market.

Prosecutors say Mr. Belden is cooperating with investigations of the power trading companies.

"What really started the ball rolling were the smoking-gun memos, and then the guilty plea has helped as well," said Kevin Neely, a spokesman for the Oregon Department of Justice.

There is also continued bitterness among West Coast officials toward the Bush administration for waiting until June 2001 before putting price controls on the market, which immediately ended the large price spikes and rolling blackouts and brought stability.

Since then, power use has fallen and prices on the short-term market are about where they were before the energy run-up of 2000 and 2001.

"It was a fallacy to blame this crisis on a lack of new power plants," said Steven Klein, superintendent of Tacoma, Wash.'s public utility, Tacoma Power. "But it's a shame what came of this. It put a dent in a lot of family budgets, and forced some businesses to close."

Ms. CANTWELL. Mr. President, in part the article says:

Here in Snohomish County, which has the highest energy rates in the state, more than 14,000 customers have had their electricity shut off for lack of payment this year—a 44 percent increase over 2001. They have seen electric rate increases of 50 percent, as the Snohomish County Public Utility District struggles to pay for long-term power contracts it signed with companies like Enron at the height of the price run-up. . . .

"It's a pretty tough thing trying to explain to your 5-year old kid why the lights won't come on anymore," said Crystal Faye of Everett. "I didn't pay much attention to all that stuff about California and Enron, but it's certainly come home to hurt us now."

Ms. Faye and her husband, Rick, who are unemployed, have had their power shut off twice this year.

Brianne Dorsey, a single mother, said she removed the baseboard heater in home and has had to rely on a small wood stove for heat, because she is \$1,000 behind in paying her electric bills. . . .

Mr. President, this article details but two examples of the plight of far too many Washington state citizens—where an estimated 295,000 households were eligible for LIHEAP even before the Western energy crisis and economic downturn collided to exact such a devastating toll. In 2002, while the Bush administration sat idly by, some 80 percent of Washington State's eligible households received no LIHEAP assistance whatsoever.

Of the 20 percent that did, 74 percent had children in the home, 14 percent of these households included disabled Americans, and 10 percent included the elderly.

The amendment before us today sends a clear message: while the Bush administration has turned a blind eye to the very real economic pain being felt by our Nation's most vulnerable citizens—in my State, a pain exacerbated by a very real energy emergency with its roots in the western electricity crisis—this Congress must not turn its back. This amendment would ensure that an additional 11,000 households in Washington State, and many more through the Nation, would receive much-needed assistance in keeping the lights and the heat turned on. I ask my colleagues to support this amendment.

Mr. REED. Mr. President, I ask unanimous consent that Senator ROCKEFELLER be added to the amendment as a cosponsor.

The PRESIDING OFFICER. Mr. (EN-SIGN) Without objection, it is so ordered.

Mr. REED. I thank the Chair. 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. GREGG. 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. GREGG. Mr. President, I believe we are in a position to enter into a

unanimous consent agreement relative to the Dodd amendment.

I ask unanimous consent that the pending Dodd amendment be temporarily set aside and that I be recognized in order to offer a first-degree amendment relating to the same subject matter; provided that there be 60 minutes of total debate to be equally divided between Senator GREGG and Senator DODD or their designees; provided, further, that following the use or yielding back of time, the amendments be temporarily set aside, with no amendments in order to either amendment prior to the vote; finally, I ask unanimous consent that when the Senate votes in relation to these amendments, the first vote in order be in relation to the Gregg amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, we know the Senator is acting in good faith. We don't have a copy of this amendment. We have a pretty good idea of what it is. We are confident that we have a general understanding of the amendment. We believe this would be appropriate.

We hope, when this debate is completed, that Senator DAYTON will have an opportunity to offer his amendment. He is scheduled to be here at 1 o'clock. Senator INHOFE is also here. But let us take one step at a time. Therefore, we have no objection. Let me also say that debate on this may not all be completed this afternoon. Senator DODD would reserve whatever time is left of his 30 minutes.

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

The Senator from New Hampshire.

AMENDMENT NO. 78

(Purpose: To provide additional funding for special education programs)

Mr. GREGG. Mr. President, Senator DODD has offered an amendment which increases special education funding by \$1.5 billion. As an individual who has spent a tremendous amount of time, after being elected to this Senate, trying to bring special education funding in line with what the obligation of the Federal Government is supposed to be pursuant to the 1976 bill, I like the idea of increasing special education funding and, in fact, have driven the effort here in the Senate for many years to try to do exactly that, increase special education funding.

When special education was originally proposed, as has been mentioned, the understanding was that the Federal Government would pay about 40 percent of the cost. Unfortunately, when I was first elected to Congress, the Federal Government was only paying about 6 percent of the cost of special education. But I think it is important to review the history to determine where we are and how we have gotten there relative to increases in special education funding because the increases have been rather dramatic over the last few years. In fact, as a result of the commitment of the Republican

Senate, when we had control of the Senate back in the 1990s—and now with President Bush—we are seeing the most significant increases in special education funding in the history of the program. Special education funding, as a function of the Federal Government, has increased faster than any other funding element within the Federal Government on a percentage basis.

So let's review the history.

When the Republicans took control of the Senate in 1996, we made S. 1 the first bill introduced by the new Republican Senate. S. 1 called for significant increases in special education funding. As a result, we have dramatically increased special education funding every year. That is as a result of the Congress's effort, and now the President's effort, to the point where we are up to, this year, \$7.5 billion in 2002. It will be \$8.5 billion in 2003. It will be \$9.5 billion in 2004 if we follow the President's proposals.

This is an important factor because this funding commitment was made by the Republican Congress, not by the prior administration. During President Clinton's term in office, his proposed special education budget increases were essentially nonexistent.

In the year 1997, he proposed a \$280 million increase. In the year 1998, he proposed a \$139 million increase. In the year 1999, he proposed a zero increase in special education funding. In the year 2000, he proposed a zero increase in special education funding. But during this exact period, special education funding went up, as I mentioned, rather dramatically. Why? Because the Republican Members of the Senate insisted upon it. We put it in our budget resolutions. We passed it out of our budget resolutions. And as a result, we dramatically increased funding in the special education accounts. There has been a 224-percent increase in special education funding since 1996.

Then President Bush came into office. And to show the difference in priorities from one administration to another administration, to show the importance—

The PRESIDING OFFICER. Will the Senator send his amendment to the desk?

Mr. GREGG. I am going to send it up in a little while, Mr. President.

To show the difference in its importance and the impact it has on the special education community in America, when President Bush came into office he did not suggest a zero increase, as President Clinton had in 1999. In the year 2000, he suggested a \$1 billion increase. That \$1 billion increase was in his first budget. He followed it up with another \$1 billion increase in his second budget. So now he was up \$2 billion. And then, in the year 2003, he has added another \$1 billion increase. So he is now up \$3 billion in 3 years, which is a 30-percent increase in just 3 years—just in 3 years—over the funding baseline of special education.

So the commitment from this administration has been there and at a level which is historic and has had a dramatic impact in the funding needs of the special education children of America.

The practical implication is that the Federal Government's role has now gone from about a 6-percent commitment to special education to around 20 percent. It is a huge increase, a dramatic increase, and it is on a rising path to full funding if we can get the cost of special education under control, which brings me to the second point.

We are now in the process of trying to reauthorize the special education bill within the Health, Education, Labor, and Pensions Committee. There are a lot of issues involving special education that do not involve funding; issues such as discipline, in which the Senator from Alabama has been involved; issues such as excessive regulation; issues such as too many consultants, too many lawyers taking money out of the system instead of having it go to the kids.

The fact is that the system has become convoluted, officious, and bureaucratic. It needs to be adjusted, and it needs to be improved so we are getting the money back to the children who need the assistance as special needs children.

So reauthorization is very important in this whole context of what we do. It is really difficult to continue to put money into the program at these huge increased rates without doing reauthorization. Why is that? Because it is like the goalposts keep moving every year.

We have seen, unfortunately, in some areas excessive coding, where kids who should not end up with the stigma of special needs end up being stigmatized as special needs children simply because the school system wants to get more money out of the special education accounts. That is not right and not appropriate, and it undermines the ability to help the kids who really need the assistance.

So we need to reauthorize this bill to get some controls back in place over how many children really are special needs children and make sure those kids who really are special needs children get the assistance they need, which brings us back to this amendment.

This amendment is well intentioned. I am in favor, as I have said before on this floor, of doing proper prioritization, of saying: What is it the Federal Government should be doing today? In what areas should the Federal Government be putting its resources?

The No. 1 area, obviously, is fighting terrorism, protecting the homeland, of making an aggressive effort in this area. Certainly the Senator from Maryland, who is seeking the floor, has been a leader in this effort. But the fact is, after we get into dealing with terrorism, the next area that I think is

most important is education. I think the Federal commitment to education is critical. That is why I was a strong supporter, last week, of an amendment which came to the floor which said we are going to put \$5 billion more into education, No Child Left Behind proposals, title I, but in doing that we have to be willing to prioritize. We have to be willing to recognize that this country—our Federal Government—is now spending more than it is taking in. We have to be willing to set a ceiling as to how much we can afford to spend and then live within that ceiling.

But within that ceiling we need to make priorities back and forth between what are the right programs, what programs should get more money, what programs should get less money. We did that last week when we adopted the amendment which said we are going to increase title I funding, funding for the education of low-income kids, by \$5 billion but, in exchange for that, we are going to make an across-the-board cut.

The Senator from Connecticut has come forward with this amendment to jump, by another \$1.5 billion, the funding that is already going into special education. I am supportive of that, but, in the context of allocating resources fairly, of saying, if we are going to make that type of decision, that is a priority, and we have to reduce somewhere else.

So what I am offering today, and what I will send to the desk, at the request of the Presiding Officer, is an amendment which says, let's put in the \$1.5 billion in special education, but also have a cut across the board so we stay within this \$750 billion number, which is the amount of money which we have all agreed to pretty much is a reasonable number to spend as the Federal Government in the year 2003.

This \$750 billion was not pulled out of a hat. It was aggressively negotiated between both sides of the aisle and the White House. Prior to the Republicans taking back the Senate, it was actually agreed to as the number we would reach in a bipartisan way. Now it seems to be eroding with some of the amendments that are being brought forward. But as a practical matter, it is the right number for us, as a Congress, to say: This is what we can afford to spend in the year 2003. But that does not mean that within that \$750 billion we cannot make different priorities on the floor of the Senate. I happen to think one of those priorities should be special education.

Mr. President, I send to the desk an amendment and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 78.

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

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

The amendment is as follows:

At the appropriate place add the following: **"SEC. . FUNDING FOR INDIVIDUALS WITH DISABILITIES EDUCATION ACT.**

In addition to any amounts otherwise appropriated under this Act for support of the Individuals with Disabilities Education Act, the following sum is appropriated out of any money in the Treasury not otherwise appropriated for this fiscal year ending September 30, 2003, \$1,500,000,000, which is to remain available through September 30, 2004; *Provided*, That, unless there is a separate and specific offset for any amounts that are appropriated under Title III of Division G for support of special education in excess of \$9,691,424,000 for the Individuals with Disabilities Education Act, the percentage amount of any across-the-board rescission provided under section 601 of Division N of this Act shall be increased by the percentage amount necessary to rescind an amount of funds equal to the total amounts appropriated in excess of \$9,691,424,000 for special education in Title III of Division G."

Mr. GREGG. This amendment is very simple. It says, let's set the priorities of special education. Let's add, on top of the \$1 billion the President is putting in this year, which is on top of \$1 billion he put in last year, which was on top of \$1 billion he put in the year before, another \$1.5 billion, but let's be responsible about it. Let's take the money out of the other accounts, which represents a four-tenths of 1 percent cut across the board on everybody, a very small number, very doable, and let's do a responsible amendment here on special education and take the increase of \$1.5 billion and, in exchange for getting that increase in special education, make the across-the-board cut.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I am happy to yield whatever time the Senator from Maryland needs.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I thank the Senator from Connecticut.

Mr. President, I rise as a proud cosponsor of the Dodd amendment which I believe is a first step to full funding for IDEA in 6 years. The President has requested a billion dollar increase for IDEA. That might sound like a lot, but at that rate, it will take 32 years to get full funding for IDEA.

The administration is proposing tax breaks for zillionaires, and I believe that is a misplaced priority. We don't need tax breaks for those who do not need help while we are delaying help for those who need it the most—the children with special needs, their parents, and the teachers of the school system that wants to support them and make sure they have the right educational program.

It is so disappointing that the Federal Government is not looking out for the day-to-day needs of the American people. The Dodd amendment increases IDEA by \$1.5 billion. That is a total of

\$10 billion, \$2.5 billion more than last year. Under the Dodd program, if we followed that approach, we could fully fund IDEA in 6 years. What a great way to get to the first decade of this new century.

The Federal Government is supposed to pay 40 percent of the cost of educating children with disabilities, yet it has never paid more than 16 percent. That means local school districts have to make up the difference, often by cutting educational programs or raising taxes. Either one of those are unacceptable options. Full funding for special education will give local governments the resources they need to improve education for all children.

Everywhere I go in my home State, I hear about IDEA. I hear about it regardless of the community, from the rural communities, whether it is the mountain counties or the Eastern Shore, whether it is the suburban counties which at first blush seem very prosperous and certainly my own Baltimore city, from Democrats and Republicans, from fiscal conservatives to social activists, they all talk about how the Federal Government is not living up to its promise about special education. In Maryland, on average, we get only 10 percent. Schools are suffering and parents are worried.

If you talk to parents, they are under a lot of stress, sometimes working two jobs just to make ends meet, trying to find daycare for their kids or elder care for their parents. The Federal Government should not add to their worries by not living up to its obligations. If you have a special needs child with a chronic condition, whether it is asthma or autism or Down's syndrome or juvenile diabetes, you have significant stress in your family.

One of the ways to alleviate that stress is to make sure they have an educational program they can count on and a local school system that will be able to work to meet those needs. Parents have real questions in their minds. Will they have adequate teachers? Will they have up-to-date textbooks or technology? Will they be learning what they really need to know? Parents of disabled children face a tough burden already. Caring for a disabled child at any age can be exhausting. Just think about what they have to do to pay for their prescription drugs, if you are a juvenile diabetic. The federal government should not make it any harder, particularly when the laws are already on the book to guarantee their child an adequate education.

The bottom line is, the Federal Government is shortchanging parents, children, and local school districts. By providing \$1.5 billion more than what is already in the legislation, we can fully fund this by 2009, freeing up money in local budgets for hiring more teachers, textbooks, technology that would help schools improve education for all children.

This will help children with disabilities and their families by providing

enough money. More money means parents have to worry less. Full funding of IDEA is essential. We don't like being the Federal nanny. We don't like being the Federal schoolmarm. This is not about a new program with a new bureaucracy and new regs and new mandates. This is about living up to our promise, the promise to the children, the promise to their parents, and the promise to the local community that we will meet our responsibility if we give an obligation to a school district.

I think the Dodd amendment is a terrific idea, and I want to support it.

The Senator from New Hampshire also says we need to take a look at special education—no two ways about it. In my home State, there is a disproportionate number of African-American young men and Latino young men being placed into special education. Is it the right place or is it the wrong assessment? I don't know. But what I do know is there are challenges to the legislation that we need to address, new thinking for a new century, particularly with new technology breakthroughs.

If you are a mom or a dad, you are exhausted from meeting your family needs, and the least we can do is help bear the financial cost while they are coming out with what is the best plan and sharing the emotional responsibility, the family responsibility. It is time we have some Federal responsibility.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

Mr. SESSIONS. Mr. President, for some years now I have been active in the debate over the Individuals with Disabilities Act. It is a program that has provided tremendous benefit to thousands of families. Children get extraordinary care with the most severe disabilities in our public schools. At one hearing in the Education Committee, the superintendent from a school system in Vermont stated that 20 percent of his budget goes to IDEA.

We have a serious problem with discipline. I have offered amendments and this Senate has passed amendments to deal with that discipline, the weaknesses in the IDEA act allowing a child whose misbehavior is unconnected in any way to the disability that they may have to be treated quite differently from the other kids in the schools, making teachers and principals extremely upset and frustrated, knowing they have a dual standard of behavior in their school systems.

I suggest to anybody that they talk to principals and teachers and superintendents who run school systems. They will tell you this act needs to be reformed.

It is, in fact, a Federal mandate. It is a requirement on State systems mandated by the Federal Government. It is

time for us to do our share of fixing the funding of it. I don't disagree with that. We need to get that 40 percent, as Senator DODD indicated, paid. We need to honor that commitment when they started this Federal regulation. But we also need to reform the law. It has resulted in extraordinary lawsuits, bizarre results in the classroom and a trend of teachers leaving the system. A poll in Washington State indicated that 50 percent of special education teachers expected not to be in the profession in 5 years.

We don't get reform here very often. We need to couch the huge increase that is due to this program as part of a reform of IDEA. It is up for reauthorization this year. We are talking about it, working on it. I hope we can bring some real reform to the program. But we agree as a Congress on a \$750 billion budget limit. We agreed on that, and it is easier to cast those political votes—one more vote in favor of one more spending program outside the budget agreement that we had—just spend, spend, spend. Then we wonder why we didn't stick to our agreed limit, why we have deficits.

The education budget went up significantly this year—about 10 percent. It has been going up significantly in the last 3 years. We are spending a large amount of money, and more each year, on education at a level probably three or four times the inflation rate. So, to the contrary, we are spending money on education.

I think Senator GREGG's amendment is precisely correct. His amendment says let's put the money in the area of education the Federal Government dominates, the area that in effect the Federal Government has taken over—the regulations that direct schoolteachers and principals and superintendents and board members to run their schools in certain ways. Dealing with disabilities is a Federal regulation. We ought to at least meet the 40-percent promise we made in 1975. So I think the perfect solution to this, as Senator GREGG said, is let's take the overall education budget, which has large increases throughout that system—let's take that \$1.5 billion from those other programs that have received increases, shift it to the IDEA program, and give them a bigger boost than we have. I really believe that is the right thing to do.

Mr. President, is my time up?

The PRESIDING OFFICER. The Senator has 40 seconds remaining.

Mr. SESSIONS. Mr. President, I have visited 30 or more schools in my State in the last 3 years. I have talked to teachers and principals on a regular basis, and they express their frustration to me on this subject. As Senator MIKULSKI indicated, she is hearing that and other Senators around the country have said the same thing to me. One experienced special education teacher told me: Jeff, the problem is, we are here working on rules and regulations, lawsuits, and that sort of thing, and we

have completely forgotten what is in the best interest of the child. We need to reform this act. We need to get more money for it and improve what we are doing so that we help children more than based on the money we now have. I yield the floor.

Mr. DODD. Mr. President, how much time remains under the amendment of the Senator from Connecticut?

The PRESIDING OFFICER. The Senator has 34 minutes, 45 seconds.

Mr. DODD. Mr. President, I will take 10 minutes. Will the Senator notify me when that is up?

The PRESIDING OFFICER. The Chair will do so.

Mr. DODD. Mr. President, I want to express some thoughts. I thank my colleagues for, once again, reconfirming support for the special education program. That is heartening. As the Senator from Maryland pointed out, of course, if we follow the plan of the present occupant of the White House, we will be talking about three decades more—we will have to wait a longer time than we have waited to complete the 40-percent requirement that we have already endured.

So if you are a mayor or a county executive or a Governor, you can take real heart in the fact that for about the next three decades we will be at this debate on getting full funding—if we rely on the administration's plans.

I will remind my colleagues once again that this body and the previous Congress voted unanimously for a full funding program over the next 6 years for special education. It was the administration—the present administration—and the leadership of the other body—the Republican leadership—that killed the proposal the Senate unanimously supported. That is where we are. Those are the facts as we find them today. We can go back and revisit history if you want, but the fact is that the Governors and mayors out there may find a history lesson interesting, but they want to know what we are going to do. What is this administration going to do? What has this administration done? What is the Republican leadership in the Senate and House going to have to do if we are going to meet the obligations we talk about?

So what we have here—as the Senator from New Hampshire suggests he will support—is the \$1.5 billion. He is going to do so by adding further to the across-the-board cuts in domestic spending—adding to the impact of the already 2.9 percent across-the-board cuts. I will share with my colleagues what this means.

Now, \$1.5 billion is not a huge amount as a percentage—whatever it is, four-tenths of 1 percent. Add that, if you will, to the 2.9. The WIC Program will be cut by \$137 million as a result of the 2.9-percent cut. The Food Safety Inspection Service will be cut by \$22 million. The Food and Drug Administration will be cut by \$40 million under these proposals. State-Justice-Commerce will be cut by \$113 million in spending.

Go down to Head Start. This analysis shows what the 2.9-percent cut means in energy and water issues—there it is, a \$239 million cut; environmental management, \$203 million. There is a whole list of programs, including the Bureau of Reclamation and the Mississippi River Tributaries Program. If you look at Head Start, \$63 million will be cut. Air traffic control—that ought to be good news for those who worry about domestic terrorism; transportation security, Coast Guard will be cut by \$72 million. The VA—HUD—veterans take note—has \$903 million in cuts; VA medical care, \$692 million in cuts. So go ahead and add four-tenths of 1 percent to the already 2.9.

I don't hear anybody talking about a slight cut in the \$670 billion tax cut in all we are proposing here. Then my colleagues say we will take your \$1.5 billion, but we are going to give a 'hair-cut' to every other domestic spending program except the tax cut, which goes to the top 1 or 2 percent of income earners. I represent a State that has probably a greater percentage of those income earners than almost any other State in the country. I can say with certainty that my constituents—those included, by the way—who would be the beneficiaries of this tax cut would tell you that at this particular juncture that kind of a tax cut, given the fiscal needs of this country, is unwise.

When my colleagues say we are going to make everybody pay a price, we are going to make that haircut of 2.9 percent, including the budget cuts I have suggested, and add this to it, just make sure you understand what we are talking about. We are not talking about a tax cut which taxes revenues over the table—I am not suggesting there isn't room for a tax cut. But how about including that in the proposal? Why is that particular area always left out and all we talk about are the domestic programs that affect families so strongly?

I guarantee you, by the way, as you start looking at Head Start, the WIC Program, food safety programs, while you are providing \$1.5 billion in special education needs and simultaneously cutting back on these other programs, it is not uncommon for the same family and the same child to be the recipient on one hand of the 1.5, and simultaneously getting food in the WIC Program, food safety programs, and the Head Start programs.

Again, I don't know how you can sit here and look at a child who has autism or is suffering from juvenile diabetes, Down's Syndrome, or other special education needs and say: I am sorry we cannot touch the tax cuts, but you are going to have to take this cut in other areas. When my colleagues offer their side-by-side amendment and suggest yet further cuts, I think that is cruel. I think it is unnecessary. I think there are ways of doing this without going after some of these very issues that are so critically important to the well-being of our Nation. They have a

lot to do with the economic security of our country as well.

We need to have a balanced approach. So, Mr. President, we will have a debate further along in this year on full funding again. I only hope the administration changes its view from the last Congress. I will reiterate what I said earlier. Governors and mayors list this as their top priority. Mr. Governor or Mr. Mayor, when the first amendment is voted on and we are telling you, by the way, we are going to help you out in special education, hold your breath because we are simultaneously reaching into your other pocket and causing you to raise taxes or cut other vital spending needs you may have because we are reaching in to rob you of the necessary resources you need as well to run your States and your communities. It is a cruel hoax, in a way, we are laying out before people.

I am not opposed to looking at reform efforts. We had a fine effort in 1997—some of my colleagues have forgotten this already—to look at the special education programs. Again, with the reauthorization, I presume we will look at them again. I certainly welcome that. Anytime we have a program such as IDEA, close examination of how well it is working, whether or not the intended beneficiaries are receiving the resources they need, is something we ought to do. It is the only responsible thing to do.

Let's not simultaneously suggest that we are going to have to wait for examination before we provide the resources to the States and communities. They do not have a chance of waiting. They have to provide for these children under existing law. Congress mandated it 28 years ago, and we have only gotten to 15, 16 percent of that 40-percent commitment.

The \$1.5 billion in this amendment gets us a little closer to the 40-percent commitment. It raises and provides the resources to these communities for the fiscal year we are in already. We will come back again later in this Congress to see if we can get full funding set up in a way which we did a year and a half ago.

When the vote occurs on this amendment, there are two options: One, to provide the \$1.5 billion while going after domestic spending programs, along the lines I mentioned already or, second, we can say we can do it and find the means of doing it, and one of the means is to reduce by a small amount the tax cut the President intends to provide for people in the country. The point being that most of the recipients of this tax cut are people who have incomes in excess of \$250,000.

Tell that to a family with an autistic child. Tell that to a family with a child who has Down syndrome or serious learning disabilities: Sorry, we would like to provide that kind of help you need, but, you see, we have an obligation to provide a tax break to someone making \$300,000, \$400,000 a year. We cannot just quite meet the obligation

to you. I know we made a promise to do it. We said 28 years ago we would do it. We are up to 15 percent of that obligation. By the way, if you wait another 33 years, we will complete that obligation, 60 years after we made the promise. Then we will get you your resources because we cannot afford to give you the help you need without cutting everything else in the domestic area. Of course, we cannot touch the tax cut for the most affluent Americans.

I do not know of anyone outside the people in this town who believe in the logic of that argument. Nonetheless, watch and see what happens when we vote on this amendment. That is exactly what will happen. Go home and explain why we have to cut into these other areas to serve needy kids in this country.

The PRESIDING OFFICER. The Senator has used his 10 minutes.

Mr. DODD. Mr. President, I will take 1 additional minute. I repeat what I said earlier, this is not the America of which people think. We are blessed with great resources. We ought to have the common sense to find a balance, to see to it we meet our obligations when we make them; that we try to help those who are least able to help themselves and their families.

I underscore the point the Senator from Maryland made a few moments ago. Families of children with special needs face incredible pressures, especially those making \$25,000, \$30,000, \$35,000, \$40,000, \$45,000, \$60,000. There are incredible pressures within that family. Why is it we cannot find the resources to help our States, our Governors, our county executives to do more to help these children?

Reforming the process, I am all for that. But the only way we can help is to go after the WIC Program, the Head Start Program, food safety programs, and the like? That I do not understand, and I defy my colleagues to ask an average American to explain it as well. They do not understand it when they hear that argument or we are going to wait another 33 years to meet the obligations under this program.

I feel passionately about this issue; I care deeply about this issue because it is the role that Government ought to play. When I look at families in my State and across the country—and I know the pressures they are feeling and what a small amount it is to offer some relief—just some relief—to the families feeling this heat and pressure, the anxiety it causes—I do not understand that we cannot step up and meet the obligation because we cannot touch a tax cut that goes to the most affluent citizens of this country. I do not understand that situation. I hope my colleagues do not either. When the vote occurs tomorrow, I hope we will support the amendment that provides assistance but does not do so off the backs of people who can least afford it in the country.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Nevada.

Mr. REID. Mr. President, this has been cleared with the majority. I ask unanimous consent that the consent request with respect to the Edwards amendment be modified to the Senate resuming consideration of the amendment at 2:15 p.m., with the previous provision still applicable.

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

Mr. REID. Mr. President, the Senator from Connecticut has reserved his time, as has the Senator from New Hampshire. I am going to suggest the absence of a quorum and, shortly thereafter, call it off with hopes we can move to the Dayton amendment and set aside the pending amendments.

I suggest the absence of a quorum.

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

Mr. REID. Mr. President, I ask unanimous consent that the time that Senator GREGG and Senator DODD have remaining be preserved and the quorum call, which I will make immediately, not be charged to their time.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, my friend from Wyoming is here and wishes to speak on the Edwards amendment. Under the order we just entered, that is not to recur until 2:15 p.m. If the Senator wishes to speak, we can take him out of order, if Senator DAYTON is willing to wait 10 minutes while the Senator from Wyoming speaks.

Mr. THOMAS. Yes.

Mr. REID. Mr. President, I, therefore, ask unanimous consent that the pending amendment be set aside; that Senator DAYTON be recognized to offer an amendment on corporate expatriation; and that following his recognition, Senator THOMAS be recognized for 10 minutes to speak on the Edwards amendment.

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

Mr. REID. Mr. President, I say to my friend, if he will simply seek recognition and send his amendment to the desk, then Senator THOMAS will be recognized to speak for 10 minutes.

#### AMENDMENT NO. 80

Mr. DAYTON. Mr. President, I call up amendment No. 80.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 80.

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

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

The amendment is as follows:

(Purpose: To amend the Homeland Security Act of 2002 (Public Law 107-296) to provide that waivers of certain prohibitions on contracts with corporate expatriates shall apply only if the waiver is essential to the national security, and for other purposes)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ CONTRACTS WITH CORPORATE EXPATRIATES.

(a) SHORT TITLE.—This section may be cited as the “Senator Paul Wellstone Corporate Patriotism Act of 2003”.

(b) LIMITATION ON WAIVERS.—Section 835 of the Homeland Security Act of 2002 (Public Law 107-296) is amended by striking subsection (d) and inserting the following:

“(d) WAIVERS.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is essential to the national security.”.

(c) EXPANDED COVERAGE OF ENTITIES.—Section 835(a) of such Act is amended by inserting “nor any directly or indirectly held subsidiary of such entity” after “subsection (b)”.

(d) Section 835(b)(1) of such act is amended by inserting “before, on, or” after “completes.”

Mr. THOMAS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

#### AMENDMENT NO. 67

Mr. THOMAS. I rise to talk for a few minutes about an amendment that is pending. It has to do with the New Source Review rider. It is an amendment which would, in effect, negate or postpone a proposed change in rules that have been proposed by the administration that I think are very important to our efforts collectively to increase the more effective production of electricity and energy, and to do it in a way that contributes to clean air. I believe this New Source Review proposal does that.

The Senator from North Carolina has an amendment which would prevent the final rules from taking place. He indicates that, in his view, it would prevent backsliding from the administration. He also indicates he considers it an insider's industry benefit.

I suggest that neither of these allegations is valid. In fact, what is happening is a change that will remove the obstacles to environmentally beneficial projects, clarify the New Source Review requirements, encourage emissions reductions, promote pollution prevention, provide incentives for energy efficiency improvements, and help assure worker and plant safety. Those are the things that are involved.

To some extent, I think this amendment has a little bit to do with 2004 in that it is seen as the President's gift to polluters. Of course, that is not the case.

The proposed rider is premature and ignores the public involvement already inherent in this New Source Review reform process. In December of 2002, the EPA issued a final rule that includes actions previously proposed by and



substantially similar to those put forward by the Clinton administration. These actions are supported by a bipartisan consensus after extensive public involvement over more than 10 years. A separate proposed rule on issues related to routine maintenance, repair, and replacement will undergo a full public review and EPA analysis before it can take effect. Thus, it is clearly premature at this time to stop this open rulemaking process by rider before the process even begins.

A proposed rider is bad energy and environmental policy. The complexity of the current New Source Review program and its related burdens create significant disincentives to new investment in energy-efficient and environmentally friendly technologies that are being proposed.

The NSR reforms should allow facilities where actual emissions remain within permitted levels to make operating adjustments and explore alternative fuel and resource choices that will help them meet energy and product needs in the most efficient, cost-effective, environmentally sound manner possible.

A proposed rider will negatively impact more than 22,000 industrial facilities across the country. The New Source Review program affects utilities, refineries, and manufacturers around the country that form the backbone of our Nation's economy. In the current economic climate, we need sensible reforms that streamline regulatory programs while providing fundamental environmental protection that allows companies to improve energy efficiency, environmental performance, and economic competitiveness.

A proposed rider would impede a State's ability to implement effective clean air programs. The National Governors Association, the National Conference of State Legislators, Environmental Council of the States, and several State attorneys general have called for NSR reforms that enhance the environment and increase energy security.

The keys to improving air quality and energy security are innovation and investment. The final and proposed NSR rules will help promote safer, cleaner, and more efficient factories, refineries, and powerplants.

Many groups have supported the idea of making these kinds of changes. Interestingly enough, the National Black Chamber of Commerce has indicated in a letter the proposed revisions to the Clean Air Act's New Source Review previously provided a meaningful compromise to economic growth and the assurance of clean air and continued public health protection.

Such an amendment that is now before us, they continue, impedes progress in reforming a well-intended program that has, over the years, unintended consequences.

Another group which is a cooperative in Montana, with membership of over 325,000, says: We know many environ-

mental groups oppose NSR reform, but NSR reform will actually move forward quicker in adopting more modern and efficient environmental technologies and procedures.

These are some of the testimonies that say we ought to continue with the proposal that has been made to allow refiners to be able to make improvements on existing facilities that will improve the environment and will continue to provide for efficient energy production.

I urge that the amendment offered by the Senator from North Carolina not be received by the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I ask unanimous consent that I be given 15 minutes to make my remarks.

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

#### AMENDMENT NO. 80

Mr. DAYTON. President Bush's announced tax proposal expressed concern over the double taxation of corporate profits. I wish he would express an equal concern about the nontaxation of corporate profits.

It is estimated that currently less than half of corporate profits are taxed in this country. There are various tax and accounting gimmicks that have permitted very profitable companies to not only have no tax liabilities but even receive multimillion-dollar refunds from the American taxpayers.

Take CSX, for example, which until recently has been headed by the President's nominee for Secretary of the Treasury, John Snow. In the last 4 years, CSX reported U.S. profits of \$934 billion, and they paid zero in U.S. corporate taxes. In fact, they received rebates of \$164 billion.

I will repeat that. They made \$934 billion in U.S. profits, paid no taxes, and received a \$164 billion refund. That is certainly not double taxation. That is not even single taxation. That is no taxation, and it is a bigger winner on Wall Street to inflate corporate profits at the expense of the rest of American taxpayers. It is one of the reasons corporate income tax has been a declining share of Federal tax revenues in the last 40 years. In 1960, corporations paid 23 percent of all Federal tax revenues. Last year, that dropped to 9.5 percent, less than half of the share that corporations paid 40 years ago.

It used to be the ethic that business, being an integral part of the communities in which they operated, drawing their lifeblood from the American people and from the democratic and capitalist structures which hallmark this country, had an obligation to give something back. Not any longer.

An Ernst & Young partner recently noted:

A lot of companies feel that the improvement on earnings is powerful enough that maybe the patriotism issue should take a back seat.

One of the most outrageous and obscene tax avoidance schemes is many

United States companies are setting up sham corporate headquarters offshore in places such as Bermuda or the Cayman Islands. These tax-free havens permit the total avoidance of U.S. taxes on foreign operations and, in some cases, on domestic operations as well.

In the nonpartisan journal, *Tax Notes*, a recent calculation was made that from 1983 to 1999 the profits that the largest 10,000 U.S. corporations claimed to have earned in these tax havens increased by over 7 times. Today, that means well over \$100 billion in corporate profits are shifted each year from the United States to these tax-free havens—no taxes paid on them and, as I have said before, sometimes even refunds. It is bad enough those companies can evade U.S. taxes but some even continue to secure very large and lucrative contracts with the Federal Government, even in the areas of national defense and homeland security. Evidently these corporations—the executives who run them, the boards that oversee them—see nothing wrong with profiting off of the U.S. Government and then avoiding paying taxes on even those profits in order to support our Government.

That is why last summer my colleague, Senator Paul Wellstone, had amended the 2002 Defense appropriations bill to bar such corporate tax dodgers from being awarded Government defense contracts. Then he successfully had amended the homeland security bill to bar those companies from getting contracts with the new Department of Homeland Security. Both of those amendments passed the Senate seemingly unanimously on voice votes.

However, after the November election, and after Paul Wellstone's tragic death, the final version of the homeland security bill gutted the Wellstone amendment. Senator Wellstone's amendment, which he crafted with the cosponsorship of the distinguished Senator from Nevada, Mr. REID, provided a narrow exception to this prohibition. That was if the President of the United States certified to Congress that it would be necessary for our national security.

When the bill came back this provision was gutted and the substitution made known to those who had to vote on it that day. They stuck in language that would allow the Secretary of Homeland Security to grant waivers for national security or economic benefits. Just about any kind of economic benefit whatever could be waived and argued by the Secretary: preventing loss of Government, preventing the Government from incurring any additional costs, anything and everything that you could contrive, you could avoid if you could pay a high-priced Washington lobbyist \$1,000 an hour or more, euphemistically called government relations. No doubt those waivers would be granted and the legacy of my colleague, Senator Paul Wellstone,

would be obliterated by waves of waivers, which is why we need more Paul Wellstones in Washington.

To honor Senator Wellstone's memory, I proposed this amendment, which I called the Senator Paul Wellstone corporate patriotism amendment. It reinstates the Wellstone language to the Homeland Security Act. It says, once again, corporations that renounce their American citizenship and have moved offshore to avoid paying taxes to the U.S. Government will not get business contracts from the Government, at least not for homeland security projects.

My language makes it as forceful and explicit as possible. It states that the President may waive subsection (A) of the prohibition if the President certifies the waiver is essential to national security.

Frankly, I cannot see any reason there should be waivers granted in this section. That is the least we can do for the memory of Paul Wellstone. That is the least we can do for our country.

Frankly, most U.S. corporations, as most American citizens, are law abiding, patriotic, responsible, and willing to do their job, including pay taxes, to keep this country strong. No one likes paying taxes. Americans have been antitaxation since colonial days, since the Boston Tea Party, since the rallying cry, "taxation without representation is tyranny."

But taxes are necessary for our country's survival. We have increased our military spending by 23 percent in the last 2 years, with bipartisan support regarding the President's request, and we have new efforts underway in homeland security costing an additional \$37 million. Some Members last week thought we should be spending even more in that area. We have Operation Enduring Freedom still underway in Afghanistan and a military buildup now for possible war against Iraq. That has to be paid for with our tax dollars. It does not include highways and airports, sewer water systems, public education, student aid, health care, nursing homes. This always depends, again, on Americans paying taxes. It ought to depend on everyone paying their fair share of taxes—individuals and corporations.

When someone avoids paying their fair share, then everyone else has to pay a higher share. When one corporation making profits can shift its profits overseas and avoid paying taxes, everyone else has to pick up that part.

I wish we could establish again in this country the ethic that tax avoidance is unpatriotic. It is un-American, especially at a time such as this with national mobilization, especially in this country since September 11 of 2001, which is likely to continue for the foreseeable future. If the executives and board members of these expatriated companies can so shamelessly abandon their U.S. corporate citizenship, maybe they should forfeit their citizenship as well. I intend to introduce legislation in the next few weeks that would re-

quire just that. What is good for the goose is good for the gander. This tax cheating will destroy the great golden goose of America. We send our young men and women overseas to risk their lives or even give their lives for our country, while men—mostly men and a few women—send their corporations overseas to evade taxes. What a disgrace. What a shame that the greatness of this country is being undermined by placing profits and corporate and individual greed over the best interests of the United States of America.

This amendment meant a lot to my friend and colleague, Senator Wellstone. He was surprised but delighted that the Senate, on two occasions, passed this amendment by a voice vote. Had Paul lived, I would have enjoyed watching the fur fly that day in November when this bill came back to the Senate with this provision gutted. But Paul is not here, so it is incumbent upon all of us to take that stand for him and with him. If it was good enough last year to be passed by the Senate, I cannot imagine why anyone who supported it then would change their mind now. In fact, there is even more reason than before to stand behind America, stand behind the belief that we all contribute our share, do our share, and no one avoids their share. That is what makes us successful.

Mr. REID. I would like to ask the Senator a question. I personally appreciate the Senator stepping forward. It should come from the State of Minnesota. Senator Wellstone believed in this strongly.

I remember the Senator advocating this. When I think of our friend Paul and his untimely death in the terrible airplane crash, I feel badly. I feel good about your moving forward with this amendment that Paul and I worked on together in the Senate. It is a modest amendment.

The Senator recognizes, does he not, that this amendment does not apply to nonhomeland security or defense contracts? Maybe we will do something about these companies later. I don't believe they should be able to have a contract with Health and Human Services, with the Department of the Interior, or any of the Federal agencies. However, we have limited this amendment to homeland security and defense. Does the Senator acknowledge that?

Mr. DAYTON. The Senator is correct. The Senator was instrumental in working with Senator Wellstone on the floor and myself to craft this amendment. It is narrowly focused.

Mr. REID. The Senator would also acknowledge, would he not, that this is not a permanent ban. All they have to do is say let me do what I should have done in the first place, just pay American taxes.

Mr. DAYTON. Come home.

Mr. REID. There are all kinds of reincorporations that take place every day in corporate America. They could simply reincorporate in Delaware or

Nevada or Minnesota or any place they felt appropriate and they would be right back, being able to get all the contracts they want.

Mr. DAYTON. They would be right back, as the Senator said, where they were before, headquartered in the United States of America, paying taxes on their U.S. profits rather than creating a sham. These are not real entities; these are fictions just for the sake of tax evasion.

Mr. REID. My third inquiry to the Senator from Minnesota: I know some of our friends who are lobbyists, as you have indicated, public relations representatives—I think, with a straight face they really would have trouble advocating for this. Would the Senator acknowledge that?

Mr. DAYTON. I would, also.

Mr. REID. I appreciate the Senator's attention.

Mr. President, tax loopholes allow dozens of U.S. corporations to move their headquarters, but they move them on paper only, to tax haven countries to avoid paying their fair share of U.S. taxes. It was just a short time ago that Senator Wellstone and I offered an amendment to bar the Department of Homeland Security from awarding Government contracts to these corporate tax runaways. The Senate adopted that amendment unanimously. But in the homeland security bill that passed the last little bit that we were here last year, they cut this amendment.

It is a sad reality that these corporate expatriations are technically legal under current law. But legal or not, there is no reason U.S. Government contracts should be awarded to these tax runaways. These are lucrative Government contracts and we should not reward these companies for doing what they have done.

Senator Wellstone and I believed these corporations, if they want Federal contracts so badly, they should simply come home, come back to the United States and be eligible to bid on homeland security contracts. If they didn't want to do that, then they should go lobby, for example, the Government of Canada or Bermuda or the Cayman Islands for contracts there.

Some of these companies have indicated: We have been in business in America for a long time. They should stay in business in America. These corporations are shams. We have companies that file paperwork, set up not one but sometimes more than one corporation. One company has three British employees in a little office in Hamilton, Bermuda, but by having these three individuals in Hamilton, Bermuda, they can avoid paying up to \$40 million every year in U.S. income taxes.

This bill would forbid foreign corporations involved in these transactions from holding Government contracts with the Defense Department and Department of Homeland Security. It would not restrict major corporations operating in the United States



from winning millions of dollars from the Government in contracts.

I am not going to pinpoint companies. I have read on the Senate floor just a few months ago the names of these companies that are doing these things. This amendment will finally correct the record and accomplish what Senator Wellstone worked for last year. It should have been a priority in the legislation to guarantee the Department of Homeland Security booked its business with corporations that do their share of bearing the burdens of protecting this country. What they have done is they are bearing the burden to protect their own companies, not their own country. The homeland security law is more concerned with window dressing on this issue because what is in the homeland security bill still allows these companies to have huge Government contracts, homeland security contracts.

One contract I have here, \$144,844,000 is what they are getting, even though they have incorporated in Bermuda.

Another company, not as large as the first, but almost \$5 million. We have another company, \$6 million; \$17 million; another company, \$249 million; another company, \$2 million; \$248 million—it is on and on with these what I would think would be embarrassing to them. Apparently it is not embarrassing enough that they pay corporate taxes in the United States like other companies.

I again extend my appreciation to the Senator from Minnesota for this amendment and I hope the many people who are in favor of this legislation will speak in favor of the legislation and we can have a resounding vote like we did when it passed unanimously last year. This would be one way to honor the dignity of Paul Wellstone.

Mr. DAYTON. If I may inquire of my friend, the Senator from Nevada, regarding the last statement, can the Senator think of anything that would be a better tribute to Senator Wellstone's memory than passing this amendment and insisting the Senate conferees uphold it and the President sign it into law?

Mr. REID. I would answer my friend by saying Senator Wellstone, as we know, stood for the small guy. He was concerned about those people who did not have the large lobbying contracts. I think the Senator from Minnesota is absolutely right. The senior Senator from Minnesota is right in that this amendment would help a lot of the small people—small in stature, big in character, like Paul Wellstone—the people Paul Wellstone would try to protect. That is because people who are not paying these taxes prevent us from providing more money for LIHEAP, for which he advocated all the time. It would allow us to provide more money for education, which he talked about, and he could do that because he was a college professor. It would allow more money for the global AIDS epidemic that he talked about.

This money that these corporations are not paying is more money that other taxpayers have to come up with. We have expenses that have to be met. We have programs that have to be funded. This amendment would force some of these unpatriotic companies into being more patriotic. They would be more patriotic because they would be forced to be more patriotic. If they want to have Government contracts with the Homeland Security Department and Homeland Defense Department, they would have to be patriotic.

So I answer the question with a resounding yes. This would mean a lot to Paul Wellstone, that his legacy is not forgotten, nor the things for which he fought.

A lot of these things he fought for alone. I can remember this issue that he was beaten up on pretty good on the Senate floor—until he was able to talk and explain. Like many of the things that Paul Wellstone brought out of the dark into the light, in the light of day it all looked better. I hope we all support this the way we did before.

This is an important amendment and I repeat, it would honor one of the most courageous people I have ever known—physically and intellectually—Paul Wellstone.

Mr. DAYTON. The Senator is absolutely correct about the price we pay when these companies avoid their share of taxes. The Tax Notes journal estimated over \$100 billion in corporate profits now go untaxed because of these offshore tax evasions. Even 20 percent, the tax rate on that, which is below the corporate rate but after deductions and exclusions probably is close to what tax-paying corporations pay, that would cover the cost of the 40-percent funding for special education that Senator DODD was discussing with Senator GREGG a few minutes ago. There it would be right there. We could keep that promise to Minnesota's schoolchildren, Nevada's schoolchildren, and all the schoolchildren in the school districts across this country. It would not require raising anybody's taxes by a single dollar, if those who were evading them would pay their share.

I think it is shameful. I think it is un-American, unpatriotic, and it ought to be illegal. I particularly look forward to a discussion at some point, as I said, about legislation I intend to introduce that says if corporate executives and corporate boards are going to send these corporations overseas, they should go overseas themselves. If they think it is such an advantage to be in the Cayman Islands or Bermuda they should go live there themselves. If they are going to renounce their corporate citizenship, let them renounce their own citizenship as well, and they will suffer the consequences maybe then they will stop and think about how fortunate we are to live in this country and how it is only by all of us doing our fair share that this country keeps strong and secure.

Mr. REID. If I could respond to my colleague through the Chair, let me say

the defense of this previously was that these are just good lawyers, good tax men. This is the way the law is written so why shouldn't they take advantage of it?

What the Senator from Minnesota and I are trying to do is change the law so that this is not this tax loophole. We know and people know that there are lots of tax loopholes. They are hard to plug because of the huge lobby which they have. We try to plug them. The ones that benefit are some of the largest corporations in America—I am sorry to say—avoiding billions of dollars in taxes. It is not fair. They reply by saying, well, these people have good lawyers and good accountants. That doesn't justify what they are doing. In fact, it even signifies that we need to do this as quickly as possible to stop these people from doing this and make it easier for the rest of the people in America who are paying their fair share.

Mr. DAYTON. As the Senator knows, a lot of small- and medium-sized businesses don't have the options. Certainly the average American citizen paying taxes doesn't have the option to move to Bermuda or the Cayman Islands and not claim any tax liability whatsoever. It is shameful that those most profitable that can most easily afford to pay their share are avoiding them entirely and dumping that burden on everyone else.

As the Senator said, this would be one small step in the right direction of returning to an ethic where those who are making profits pay their taxes. If we all do that in a fair way, then everybody's taxes go down. If somebody is avoiding taxes, then somebody else's taxes go up.

I thank the Senator again for his support and assistance with this matter. I know in this matter that Senator Paul Wellstone could not have stood alone last year, and the Senator from Nevada was with him shoulder to shoulder every step of the way.

I thank the Chair.

Mr. REID. Mr. President, we are waiting now until 2:30 when Senator INHOFE is to appear. We understand he will close with the Edwards amendment.

We want the RECORD to be spread with the fact that we have done everything we can to move this legislation along. We were ready to go early this morning. We had to wait until the other side was ready to move on the bill. We have done our best to plug all the timeslots that have been in existence this morning. I want the RECORD to reflect that we are doing nothing to slow this down.

I see Senator INHOFE is here now. If he is ready to speak, we could move the 2:30 time up to whatever time is appropriate for the chairman of the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, if the minority leader will yield, I thought I would get to the floor at 2:15.

Mr. REID. The Senator was scheduled for 2:30. We are ready now.

I am to be corrected. I was told by the floor staff that I was wrong and the Senator is right. It is 2:15. We don't need to change anything. We ask unanimous consent to return to the Edwards amendment. I think that is the order.

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

The Senator from Wyoming.

AMENDMENT NO. 86 TO AMENDMENT NO. 67

Mr. INHOFE. Mr. President, as many of you know, in March of 2001, Senator BREAUX and I wrote the first congressional letter on the New Source Review Program to Vice President CHENEY in his capacity at that time as chairman of the National Energy Policy Development Group. Our letter stated that, unless reformed "EPA's flawed and confusing NSR policies will continue to interfere with our Nation's ability to meet our energy and fuel supply needs."

At this point in my presentation, I ask unanimous consent to have that letter printed in the RECORD.

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

U.S. SENATE,

Washington, DC, March 23, 2001.

Hon. RICHARD B. CHENEY,

Vice President of the United States of America,  
The White House, Washington, DC.

DEAR MR. VICE PRESIDENT: In your capacity as the Chairman of the National Energy Policy Development Group, we are writing to bring to your attention our concerns that, unless addressed, the prior administration's EPA's New Source Review ("NSR") enforcement policies will continue to interfere with our nation's ability to meet our energy and fuel supply needs. We strongly urge that the Administration take into account these concerns in developing its national energy plan.

As you are very much aware, the nation faces a potential energy supply shortage of significant dimension. The California energy crisis is receiving the greatest attention in the media. However, major challenges exist in meeting demands for gasoline and other fuels, especially in the Midwest. More troubling, current projections suggest fuel shortages and price spikes—far exceeding last year's problem. These are due to a number of factors including: difficulties in making summer-blend Phase II reformulated gasoline; EPA hurdles to expanding refinery capacity; and the overall increase in energy demand.

Unless reviewed and addressed, EPA's implementation of NSR permitting requirements will continue to thwart the nation's ability to maintain and expand refinery capacity to meet fuel requirements. In 1998, EPA embarked on an overly aggressive initiative in which it announced new interpretations of its NSR requirements that it has applied retroactively to create a basis for alleging that actions by electric utilities, refineries and other industrial sources taken over the past 20 years should have been permitted under the federal NSR program. We also understand that these new interpretations conflict with EPA's regulations, its own prior interpretations and actions, and State permitting agency decisions.

EPA's actions have been premised heavily on its reinterpretation of two elements of the NSR permitting requirements. First,

EPA's regulations specifically exempt "routine maintenance, repair and replacement" activities from NSR permitting. EPA now claims that projects required to be undertaken by utilities and refineries over the past 20 years to maintain plants and a reliable supply of electricity and fuels were not routine and thus should have gone through the 18-month, costly NSR permitting process. EPA's enforcement officials are asserting this even though, for more than two decades, EPA staff have had full knowledge that these maintenance, repair and replacement projects were not being permitted.

A second ground for many of EPA's claims has to do with whether projects resulted in significant emissions increases. By employing a discredited method for determining whether emissions increases would result from a project—using so called "potential emissions" instead of actual emissions, EPA is asserting that numerous projects resulted in emission increases when in reality they had no effect on emissions or were followed by emissions decreases.

EPA's NSR interpretations have created great uncertainty as to whether projects long recognized to be excluded from NSR permitting can be undertaken in the coming months to assure adequate and reliable energy supplies. Electric utilities and refineries have expected that they could undertake maintenance activities, modest plant expansions, and efficiency improvements without going through lengthy and extraordinarily costly NSR permitting, as long as the project involved either routine maintenance or no significant increase in actual emissions.

Now, in light of the new interpretations, utilities and refineries find themselves in a position where they cannot undertake these very desirable and important projects. This is not an acceptable result when the nation is faced with severe strains on existing facilities. Against this backdrop, we strongly urge that the National Energy Policy Development Group:

Give investigation of EPA's implementation of its NSR requirements a high priority;

Suspend EPA's activities until such time as there has been a thorough review of both the policy and its implications;

Clarify whether the implications of EPA's new NSR interpretations and its enforcement initiative are being reviewed by the White House Office of Energy Policy and the Secretary of Energy prior to actions that could undermine energy and fuel supply; and

Establish guidelines to assure that EPA's application and enforcement of its NSR requirements will not interfere with the Administration's energy and fuel supply policy. Requirements should be developed, which are consistent with responsible implementation of the statutory NSR requirements.

Specifically, to assist you in assessing the implications of NSR on meeting the nation's energy and fuel supply demands, you may want to obtain the following: (1) all requests since January 1, 1998 for information under section 114 of the Clean Air Act issued to facilities and companies in any sector involved in energy and fuel supply; and (2) notices of violation issued to, and complaints filed against, any such company and/or facility alleging NSR violations during that period. We are submitting a similar request to EPA today.

Thank you for your consideration of this matter. We look forward to working with you in the future to develop environmental policy, which further protects human health and the environment and works in concert with sound energy policy.

Sincerely,

JAMES M. INHOFE,  
U.S. Senator.

JOHN B. BREAUX,  
U.S. Senator.

Mr. INHOFE. Mr. President, I publicly thank the administration for being responsive to the concerns of Senator BREAUX and myself. I know it took real courage to pursue the NSR reforms. It took courage because the President knew that many people would misconstrue these reforms as a "sneak attack on the environment" in an attempt to score cheap political points and fundraise.

Despite the rhetoric we will hear today and have heard today about NSR reforms and the process of developing these reforms, make no mistake: President Bush's decision will result in a cleaner environment and greater energy security.

The Clinton administration developed draft proposals and accumulated over 130,000 pages of comments on NSR reform. In fact, on his last day at work on January 19, 2001, President Clinton's air chief with the EPA, Bob Perciasepe, wrote a letter, No. 1, outlining NSR reforms which are similar to the Bush administration's NSR reforms and which are almost identical and, No. 2, calling for the Bush administration to consider finalizing the reforms.

At this point in the presentation, I ask unanimous consent to have this letter printed in the RECORD.

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

U.S. ENVIRONMENTAL  
PROTECTION AGENCY,

Washington, DC, January 19, 2001.

Memorandum on the Status of the New Source Review Improvement Rulemaking:

Over the last two years we have all worked hard to develop improvements to the New Source Review (NSR) program. As I have discussed with you, I believe it is essential that this program have greater incentives for companies to employ the most effective emission reduction techniques voluntarily and give greater flexibility when companies take these voluntary actions. I am writing to share with you where we are on the NSR Improvement effort as I leave this office.

We have come a long way together in developing the conceptual framework for how EPA can improve the NSR program by providing greater certainty and flexibility for industry without sacrificing the level of environmental benefit provided by the current program or meaningful public participation. Due to the array of policy and legal issues that arose on the vast number of areas we attempted to tackle in one very large rulemaking, we were not able to complete the regulatory/packages in this Administration. The concepts that we developed make both economic and environmental sense because in return for environmental performance, industry will receive greater flexibility and more certainty for business investment decisions. The concepts would not undercut the basic goals of the NSR program.

The concepts that we developed and which I support are listed below. I believe many of these could be taken as final actions because of the hard work we have done together.

Voluntary Alternative NSR Program for the Electric Power Generating Industry.—This voluntary program would allow owners of power plants to commit to specific, verifiable emissions reductions across all their generating units over a defined period

of time and in most instances would avoid the need to get an NSR permit when making changes at their facilities.

**Plantwide Applicability Limits (PALs).**—Source owners would be able to make changes to their facilities without obtaining a major NSR permit, provided their emissions do not exceed the plantwide cap. Also, facility owners that use PALs must commit to install best controls over time to gain this flexibility and certainty. PALs would be especially attractive to those industries (e.g., pharmaceuticals and electronics) who need to make changes quickly to respond to market demands in order to stay competitive in a global marketplace.

**Clarifications of Roles, Responsibilities and Time Frames for Class I Area Reviews.**—The process for review of permit applications by Federal Land Managers (FLMs) would be clarified to delineate the roles of the source owner, the permitting authority and the FLM, in conducting permit reviews for sources potentially affecting air quality near national wilderness areas and parks (Federal Class I areas). These changes would reduce delays and disputes associated with permitting applications for sources near Federal Class I areas because they would provide a time frame for the FLM to identify any concerns and analyses needed for the permit applications. Also, it would clarify that the FLM does not have the authority to veto permits, and ensure that the FLM obtains the necessary information to conduct their permit reviews in a timely manner.

**Clean Unit Exemption.**—This exemption would provide an incentive for source owners to install the best emission controls on new or modified emission units and provide flexibility and certainty so that most future changes at such units would not trigger NSR. An owner of an emissions unit that meets certain minimum criteria to be considered "clean" could make most changes to these units without triggering NSR for a specified period of time, such as ten years.

**Innovative Control Technology Waiver.**—This waiver would provide more flexibility for owners of sources who risk trying innovative technology that have not yet been proven effective. Should the innovative technologies not perform up to expectations, we would provide the owners with time either to correct the efficiencies or alternatively apply a more standard control technology.

**Pollution Control Project Exclusion.**—This would codify our existing policy that owners of facilities making changes to their plants that primarily reduce one or more targeted air pollutants (but which collaterally increase other pollutants) are excluded from NSR provided certain conditions are met. We would provide a list of environmentally beneficial technologies that, absent other information that would indicate that the projects would not be environmentally beneficial, would be presumptively eligible for the exclusion; and

**Control Technology Review Requirements.**—Because disputes arise over what control technologies are considered available, the permit review process can become lengthy. To improve the process for obtaining a permit, we would (1) add a definition of "demonstrated in practice," (2) provide a "cut off" date for consideration of additional control technologies, (3) add provisions that specify when applications are deemed "complete," and (4) require that control technology determinations be entered into a clearinghouse before permits can become effective.

Nearly all parties in our discussions identified the need to have all of the data on the latest control technology determinations made by permitting authorities in the EPA clearinghouse. Improving the availability of

this information to everyone will greatly assist the permitting process. To this end, I have committee significant resources to gather all of the existing data, input into the database, and redesign the system to make it easier for all parties to put in new data to keep it up-to-date.

One of the lessons that we have learned through our ongoing efforts is that it would be difficult, if not impossible, to improve NSR in one large rulemaking. Instead, I believe it is best to make incremental changes that will provide flexibility and certainty without sacrificing the benefits of the current program. I hope the new Administration will consider finalizing the concepts described above that provide flexibility and certainty without compromising environmental protection to make near term progress. I realize there are other issues, such as applicability for the base program, that also need resolution. For these remaining issues, continued discussions in the context of the overall program are needed.

I appreciate and thank you for the time, effort and input that you have provided over the past years, and I believe that both industry and environment will benefit from the approaches described above.

ROBERT PERCIASEPE,  
Assistant Administrator.

Mr. INHOFE. Mr. President, I very much look forward to seeing the fruits of the Clinton and Bush administrations' labors on this issue.

From my tenure as chairman of the Senate's Clean Air Subcommittee, I knew that New Source Review was a major issue for the energy sector. In fact, I held the very first congressional hearings on New Source Review in February of 2000 in Ohio. I could not believe my own ears. We heard from companies that were trying to make environmentally friendly modifications to their facilities being stopped dead in their tracks by, ironically, the Clean Air Act.

I was also shocked to hear that it took 4,000 pages of guidance documents to explain 20 pages of regulations. That is 4,000 pages of guidance documents just to explain 20 pages of regulations.

Since then, my shock at the absurdity of the NSR Program has not worn off. We, as a nation, need to rethink the manner in which we approach regulations. We all need to keep an open mind during the debates on various regulatory reform initiatives. I am sick of continually hearing that these are "sneak attacks on the environment." In fact, just the opposite is true. If we rethink regulation, we could find ourselves in a place where we can have far greater environmental protection and more reliable and diverse energy sources.

Congress and the executive branch must also do a better job of understanding how the various layers of regulations impact sectors of our economy. I normally have a chart which shows all of the different regulations that are going to be hitting the various regulated sectors—a chart that shows the refiners that are currently working at almost 100-percent capacity are going to be simultaneously hit with a number of regulations in the next few years. NSR will make it close to impos-

sible for refiners to make these environmental upgrades. Now is the time to work together on these and other regulations to not only achieve the environmental goals but also ensure no disruption in fuel supply which would cause the price spikes that we know are inevitable.

Higher energy prices affect everyone. However, when the price of energy rises, that means the less fortunate in our society must make a decision between heating their home and keeping the lights on or paying for other essential needs.

During a recent EPW Committee hearing last year, Senator VOINOVICH's constituent, Tom Mullen, articulated this concern. Mr. Mullen stated that in a recent study—which is well known and very well expected—on Public Opinion on Poverty, it was reported that 23 percent of the people in America have difficulty paying for their utilities. That is one out of every four Americans.

I will not support policies, such as NSR, that will hurt the poor in Oklahoma and around the Nation. Additionally, the lower environmental performance resulting from the current NSR Program impacts Americans in every tax bracket. NSR reforms enjoy the support of a wide range of interests—from the State attorneys general to labor unions to business groups.

I ask unanimous consent to have printed in the RECORD letters from the U.S. Chamber of Commerce and the International Brotherhood of Boilermakers in support of NSR reform.

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

CHAMBER OF COMMERCE  
OF THE UNITED STATES OF AMERICA,  
Washington, DC, July 15, 2002.

Hon. JAMES INHOFE,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR INHOFE: I am writing on behalf of the U.S. Chamber of Commerce (U.S. Chamber), the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region, to express our support for reform of the new source review (NSR) program. NSR, in its current form has impeded environmental progress and energy production for decades. The revisions recently announced by the U.S. Environmental Protection Agency (EPA) are a good beginning to reforming a deeply flawed program.

The NSR program concerns the Clean Air Act (CAA) emissions standards applicable to significant new and modified stationary sources. In 1980, EPA established a regulatory exclusion for "routine maintenance." The scope of this term, however, remains subject to debate. A clear administrative interpretation of "routine maintenance" would be an improvement over the present situation, which is mired in complexity and confusion.

Reducing the problems with the NSR program is vital. Governments should not unnecessarily impede the work of the private sector. The NSR program is a classic example of bureaucratic complexity. More than 20 years after the initial regulation, a plant manager cannot determine with any certainty whether planned maintenance activities will subject the facility to millions of dollars of extra costs.

The NSR program, as presently constituted, is a severe impediment to increasing domestic energy supply. Electric generating plants cannot make even minor changes in to their operations without running the risk of ruinous enforcement actions that would impose huge fines and enormous compliance costs on their facility. National energy policy, indeed national security, requires the removal of every obstacle to increased domestic energy production.

The National Energy Policy Report directed EPA to review the NSR program, and report on its effect on environmental protection and energy production. EPA's review found that the NSR program has impeded or resulted in the cancellation of projects that would maintain or improve reliability, efficiency, or safety of existing power plants and refineries.

On June 13, 2002, EPA announced a set of revisions to the NSR program. Among other changes, facilities would be able to make physical changes to their plants without obtaining an NSR permit, if their emissions do not exceed a plantwide cap. Projects would be excluded from NSR requirements if they result in a net overall reduction of air pollutants. EPA would also establish a safe harbor test. Projects whose aggregate costs are below the threshold established by the safe harbor test would be exempt from NSR requirements.

These proposals promise a major improvements to the NSR program. They will lead to improvements in the environment, as regulatory certainty will allow facilities to perform routine maintenance and repairs without the fear of triggering NSR requirements. Plants have deferred routine maintenance, which would have improved safety and decreased emissions, due to the potential costs of NSR requirements. With the NSR program modifications, overall emissions will be reduced. The reforms, particularly the plantwide cap, will benefit facilities by allowing increased operational flexibility. The revised NSR program will simplify an overly complex program.

The recently announced NSR reforms are long overdue. The regulations to be made final later this year were proposed in 1996. The proposals requiring notice and comment rulemaking will not be in effect until 2004, at the earliest.

The U.S. Chamber supports reform of the NSR program. The U.S. Chamber urges the Senate to encourage these efforts to improve environmental progress and energy production.

Sincerely,

R. BRUCE JOSTEN,  
*Executive Vice President,  
Government Affairs.*

STATEMENT OF ANDE ABBOTT, DIRECTOR, LEGISLATIVE DEPARTMENT, INTERNATIONAL BROTHERHOOD OF BOILERMAKERS ON THE NEW SOURCE REVIEW PROGRAM

Chairman Jeffords, Chairman Leahy, and members of the Committees, my name is Ande Abbott and I am the Director of Legislation for the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL-CIO. I thank you for this opportunity to present our views.

Commonly referred to as the Boilermakers Union, we are a diverse union representing over 100,000 workers throughout the United States and Canada in construction, repair, maintenance, manufacturing, professional emergency medical services, and related industries. Boilermakers, who make and maintain industrial boilers and the pollution control equipment they use, have had a long-time commitment to a clear, effective and

reasonable new source review ("NSR") policy. We support the recent efforts of this Administration to clarify the program. The efficiency of our facilities and the safety of our workers hang in the balance.

First, let me be clear today that Boilermakers do not oppose the Clean Air Act, nor do we oppose its rigorous enforcement. In fact, construction lodges of our union look forward to doing much of the actual work for the installation of new technologies and controls at utility plants and for industrial boilers across this region and the country. In reference to the NO<sub>x</sub> control program alone, our international President Charlie Jones recently wrote:

"The EPA estimates that compliance measures will cost about \$1.7 billion a year. A sizable portion of that money will go to the Boilermakers who do the work necessary to make the additions and modifications required by the SCR technology."

Aside from NO<sub>x</sub> control, Boilermakers have always led the way on Clean Air Act issues. For example, Boilermakers were pioneers in installation of scrubbers and further in fuel-substitution programs at our cement kiln facilities. In short, Boilermakers have been there to meet the challenges of the Clean Air Act, to the benefit our members and all Americans that breathe the clean air.

However, Boilermakers could not support the EPA's 1999 recent interpretation of its authority under the New Source Review program. NSR, correctly interpreted as we believe the Administration's clarification does, forces new sources or those undergoing major modifications, to install new technology, like the technology President Jones mentioned. We support NSR in that context.

But, when NSR is applied to the routine maintenance policies and schedules of existing facilities, very different results occur. In those cases, facilities are discouraged from undertaking routine actions for fear of huge penalties or long delays or both. By applying NSR in that way, we are pretty sure that Boilermakers won't have the opportunity to work on maintenance projects that we know are extremely important to energy efficiency. Just hearing about recent events in California is enough to make the case that facilities need to be as efficient as possible. We now have read that New York may be facing similar problems. The New York Times reported just a few days ago that, the State "is unexpectedly facing the potential for serious power shortages over the next couple of months." Now is definitely not the time to play with the reliability of a power grid.

Efficiency is not the only reason to encourage routine maintenance. Experienced professionals or Boilermakers new to the trade can both tell you: maintenance is necessary to maintain worker safety. Electric generating facilities harness tremendous forces: superheater tubes exposed to flue gases over 2000 degrees; boilers under deteriorating conditions; and parts located in or around boilers subjected to both extreme heat and pressure. Any EPA interpretation which creates incentives to delay maintenance is simply unacceptable to our workers.

Some critics of the June 13 action by the Administration have contended that the NSR decision was made with insufficient attention to public process. This simply has not been the experience of the Boilermakers or other unions working on this project. The U.S. EPA held four public hearings in each region of the country. Paul Kern, the recording secretary of our Local 105 in Piketon, Ohio, offered a statement at the hearing in Cincinnati. In addition, it is our understanding that over 130,000 rulemaking comments were received on this initiative. Given our experience with certain regulations that

just seem to appear over night, the Administration's action NSR seem pretty open and fair to us. When you compare the current clarification to the way the program changed in 1999—without any rulemaking process whatsoever—the Administration's June 13 announcement looks all the better!

Boilermakers are not just workers; they are also consumers of electricity that work hard for their wages. One item often lost in the mess regarding NSR is that capital expenditures not justified for environmental protection are still passed along to ratepayers. Unfortunately, the less money you make, the greater the percentage of your paycheck goes to your electricity bills. According to Energy Information Administration data, those living at or near the poverty level pay 4 to 6 times the percentage of their income for power. So, advocates of misusing the NSR program hurt those least able to afford it the most!

As you can see, Boilermakers have never asked for repeal or substantial revision of the NSR program. We encourage the development and installation of new technology, and we stand ready to continue to train and apprentice workers to meet the needs of the Clean Air Act. However, when the NSR programs goes where it wasn't intended—and discourages the very maintenance, repair and replacement activities that constitute the livelihood of Boilermakers—we must strongly object. Thanks for the opportunity to make a statement.

Mr. INHOFE, Mr. President, the environmental community does not have to answer to the American people when energy prices go through the roof. But the President of the United States does, and we do, too. I think the President is doing the right thing, and we should support him for it.

So, in summary, this is one of the rare things that both the Clinton administration and the Bush administration have proposed which enjoys support by virtually all the labor unions as well as the business organizations, the U.S. Chamber of Commerce, and other organizations, and the American people who want lower cost energy.

Mr. President, I am offering a second-degree amendment to Senator EDWARDS' rider on the New Source Review. In his amendment, Senator EDWARDS asks the National Academy of Sciences to conduct a study on the impacts of implementing the NSR reform package and to delay the reforms in the interim.

In our judgment, there is no reason for this delay. We have delayed already for 10 years. We have been living with this thing for 10 years. We need reforms now.

Therefore, I am offering a second-degree amendment to allow the NSR final package to move forward, but to allow the National Academy of Sciences to conduct a study. When the NAS completes its study, the EPA can then benefit from its results. I suggest that the National Academy of Sciences will be getting their information from the EPA because they are the ones who have accumulated all the data to date, and there is no more data that is available. There is nothing to be lost by offering this as a second-degree amendment. You would have the benefit of the NAS study as well as moving along the time for implementation.

There is simply no reason to delay the implementation of the final NSR package. The Edwards amendment calls for a study before the final New Source Review rules go final. I guess the Senator from North Carolina has not read the administrative record on the regulations. If he had, he would see that the EPA conducted a thorough environmental analysis of the final NSR proposals.

Mr. President, I ask unanimous consent that the analysis be printed in the RECORD.

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

ENVIRONMENTAL PROTECTION AGENCY,  
Washington, DC, January 19, 2001.  
MEMORANDUM

Subject: Status of the New Source Review Improvement Rulemaking.

To: New Source Review Stakeholders.

From: Robert Perciasepe, Assistant Administrator.

Over the last two years we have all worked hard to develop improvements to the New Source Review (NSR) program. As I have discussed with you, I believe it is essential that this program have greater incentives for companies to employ the most effective emission reduction techniques voluntarily and give greater flexibility when companies take these voluntary actions. I am writing to share with you where we are on the NSR Improvement effort as I leave this office.

We have come a long way together in developing the conceptual framework for how EPA can improve the NSR program by providing greater certainty and flexibility for industry without sacrificing the level of environmental benefit provided by the current program or meaningful public participation. Due to the array of policy and legal issues that arose on the vast number of areas we attempted to tackle in one very large rulemaking, we were not able to complete the regulator/packages in this Administration. The concepts that we developed make both economic and environmental sense because in return for environmental performance, industry will receive greater flexibility and more certainty for business investment decisions. The concepts would not undercut the basic goals of the NSR program.

The concepts that we developed and which I support are listed below. I believe many of these could be taken as final actions because of the hard work we have done together.

**Voluntary Alternative NSR Program for the Electric Power Generating Industry**—This voluntary program would allow owners of power plants to commit to specific, verifiable emissions reductions across all their electric generating units over a defined period of time and in most instances would avoid the need to get an NSR permit when making changes at their facilities.

**Plantwide Applicability Limits (PALs)**—Source owners would be able to make changes to their facilities without obtaining a major NSR permit, provided their emissions do not exceed the plantwide cap. Also, facility owners that use PALs must commit to install best controls over time to gain this flexibility and certainty. PALs would be especially attractive to those industries (e.g., pharmaceuticals and electronics) who need to make changes quickly to respond to market demands in order to stay competitive in a global marketplace.

**Clarifications of Roles Responsibilities and Time Frames for Class I Area Reviews**—The process for review of permit applications by Federal Land Managers (FLMs) would be

clarified to delineate the roles of the source owner, the permitting authority and the FLM, in conducting permit reviews for sources potentially affecting air quality near national wilderness areas and parks (Federal Class I areas). These changes would reduce delays and disputes associated with permitting applications for sources near Federal Class I areas because they would provide a time frame for the FLM to identify any concerns and analyses needed for the permit applications. Also, it would clarify that the FLM does not have the authority to veto permits, and ensure that the FLM obtains the necessary information to conduct their permit reviews in a timely manner.

**Clean Unit Exemption**—This exemption would provide an incentive for source owners to install the best emission controls on new or modified emission units and provide flexibility and certainty so that most future changes at such units would not trigger NSR. An owner of an emissions unit that meets certain minimum criteria to be considered "clean" could make most changes to these units without triggering NSR for a specified period of time, such as ten years.

**Innovative Control Technology Waiver**—This waiver would provide more flexibility for owners of sources who risk trying innovative technologies that have not yet been proven effective. Should the innovative technologies not perform up to expectations, we would provide the owners with time either to correct the deficiencies or alternatively apply a more standard control technology.

**Pollution Control Project Exclusion**—This would codify our existing policy that owners of facilities making changes to their plants that primarily reduce one or more targeted air pollutants (but which collaterally increase other pollutants) are excluded from NSR provided certain conditions are met. We would provide a list of environmentally beneficial technologies that, absent other information that would indicate that the projects would not be environmentally beneficial, would be presumptively eligible for the exclusion.

**Control Technology Review Requirements**—Because disputes arise over what control technologies are considered available, the permit review process can become lengthy. To improve the process for obtaining a permit, we would (1) add a definition of "demonstrated in practice," (2) provide a "cut off" date for consideration of additional control technologies, (3) add provisions that specify when applications are deemed "complete," and (4) require that control technology determinations be entered into a clearinghouse before permits can become effective.

Nearly all parties in our discussions identified the need to have all of the data on the latest control technology determinations made by permitting authorities in the EPA clearinghouse. Improving the availability of this information to everyone will greatly assist the permitting process. To this end, I have committed significant resources to gather all of the existing data, input it into the database, and redesign the system to make it easier for all parties to put in new data to keep it up-to-date.

One of the lessons that we have learned through our ongoing efforts is that it would be difficult, if not impossible, to improve NSR in one large rulemaking. Instead, I believe it is best to make incremental changes that will provide flexibility and certainty without sacrificing the benefits of the current program. I hope the new Administration will consider finalizing the concepts described above that provide flexibility and certainty without compromising environmental protection to make near term progress. I realize there are other issues,

such as applicability for the base program, that also need resolution. For these remaining issues, continued discussions in the context of the overall program are needed.

I appreciate and thank you for the time, effort and input that you have provided over the past years, and I believe that both industry and the environment will benefit from the approaches described above.

Mr. INHOFE. Mr. President, I would like to read from the EPA's own environmental analysis:

The overall effect of the final rule will be a net benefit to the environment.

My second-degree amendment calls for a NAS study to look at the impacts of the regulation after implementation of the final rules while allowing the regulations to go forward, thus allowing cleaner and more efficient technologies to be installed in our Nation's manufacturing centers.

Delaying these regulations would delay projects to create safer workplaces. The International Brotherhood of Boilermakers, a member of the AFL-CIO, has recently opined against the proposed delay in the final package on the New Source Review. I would like to read just a small part of their letter and then will have the rest of the letter printed in the RECORD. This letter is a current letter dated today from the International Brotherhood of Boilermakers. It says:

We have encouraged the Environmental Protection Agency to clarify the program as soon as possible, and oppose efforts in Congress to slow reform down. The efficiency and competitiveness of our facilities and the safety of our workers hang in the balance. This is a jobs and safety issue for millions of American workers.

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

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

INTERNATIONAL BROTHERHOOD OF  
BOILERMAKERS, IRON SHIP BUILDERS,  
BLACKSMITHS, FORGERS &  
HELPERS,

Fairfax, VA, January 21, 2003.

Re Opposition to Appropriations Rider Delaying New Source Review Reform.

Senator JOHN EDWARDS,  
Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR EDWARDS: On behalf of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, ALF-CIO, I am writing to express our support for clarification of the New Source Review, or NSR, program and our opposition to any effort to derail NSR clarification through the appropriations process. Therefore, we urge you and your colleagues not to offer an appropriations rider delaying implementation of the final NSR rules.

Commonly referred to as the Boilermakers Union, we are a diverse union representing over 100,000 workers throughout the United States and Canada in construction, repair, maintenance, manufacturing, professional emergency medical services, and related industries. Boilermakers, who make and maintain industrial boilers and the pollution control equipment they use, have had a long-time commitment to a clear, effective and reasonable NSR policy. We have encouraged the Environmental Protection Agency (EPA)

to clarify the program as soon as possible, and oppose efforts in Congress to slow reform down. The efficiency and competitiveness of our facilities and the safety of our workers hang in the balance. This is a jobs and safety issue for millions of American workers.

First, let me be clear today that Boilermakers do not oppose the Clean Air Act, nor do we oppose its rigorous enforcement. In fact, construction lodges of our union look forward to doing much of the actual work for the installation of new technologies and controls at utility plants and for industrial boilers across this region and the country. In reference to the NO<sub>x</sub> control program alone, our international President Charlie Jones recently wrote:

"The EPA estimates that compliance measures will cost about \$1.7 billion a year. A sizeable portion of that money will go to the Boilermakers who do the work necessary to make the additions and modifications required by the SCR technology."

NSR, correctly interpreted as we hope EPA's new rules will do, forces new sources or those undergoing major modifications, to install new technology, like the technology President Jones mentioned. We support NSR in that context.

However, when NSR is applied in an unclear or inflexible manner to existing facilities, very different results occur. In those cases, facilities are discouraged from undertaking appropriate actions for fear of huge penalties or long delays or both. By applying NSR in that way, we are pretty sure that Boilermakers won't have the opportunity to work on projects that we know are extremely important to energy efficiency. Further, by reducing the useful economic life of boilers or by inaccurately setting baselines, the existing NSR confusion undermines the competitiveness of American job sites. And that means some of the almost 20 million manufacturing jobs at stake in heavy industry are placed at risk.

Finalizing new NSR rules is also important to maintain worker safety. Industrial and utility boilers harness tremendous forces: superheater tubes exposed to flue gases over 2000 degrees; boilers under deteriorating conditions; and parts located in or around boilers subjected to both extreme heat and pressure. Any delay of these important EPA rules is simply unacceptable to our workers.

Some have argued that the final NSR rules can await further study. However, the U.S. EPA held four public hearings in each region of the country on the proposal. Paul Kern, the recording secretary of our Local 105 in Piketon, Ohio, offered a statement at the hearing in Cincinnati. In addition, it is our understanding that over 130,000 rulemaking comments were received on this initiative, and over 50 stakeholder meetings were held.

As you can see, Boilermakers have never asked for repeal or substantial revision of the NSR program. We encourage the development and installation of new technology, and we stand ready to continue to train and apprentice workers to meet the needs of the Clean Air Act. However, when the NSR program goes where it wasn't intended—and creates uncertainty regarding the very livelihood of Boilermakers—we must strongly object. Therefore, we ask you and your colleagues not to offer any appropriations rider delaying the final NSR rules.

Sincerely,

ANDE ABBOTT,

*Director of Legislation.*

Mr. INHOFE. Mr. President, some supporters of the Edwards rider in its current form suggest that delay is justified because State officials seek it. Nothing could be further from reality. Two years ago, a unanimous resolution

of the National Governors Association was passed. It says:

New Source Review requirements should be reformed to achieve improvements that enhance the environment and increase energy production capacity, while encouraging energy efficiency, fuel diversity and the use of renewable resources.

The Nation's environmental commissioners passed a subsequent amendment, stating:

The Environmental Council of the States adopts the provisions of the NGA [the National Governors' Association] policy. The Environmental Council of the States encourages the United States EPA to reform the New Source Review Regulations into a workable regulation that is easily understood and effectively implemented.

These positions reflect the true direction of the majority of States. I think there is a propensity in this body for us to think that wisdom in Washington is greater than that of the States. That is not true. So you have a unanimous resolution from the Governors as well as the Environmental Council of the States.

The bottom line is this: My second-degree amendment allows the EPA and the States to benefit from the wisdom of the National Academy of Sciences on the important issues of clean air policy. However, my amendment does not create potential dangers inherent in delaying the onset of the important and thoughtful administrative reforms of the NSR program.

So I offer a second-degree amendment to the Edwards first-degree amendment No. 67 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 86 to amendment No. 67.

The amendment is as follows:

On page 1, strike all after "SEC." and insert the following:

"(a) COOPERATIVE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall enter into a cooperative agreement with the National Academy of Sciences to evaluate the impact of the final rule relating to prevention of significant deterioration and nonattainment new source review, published at 67 Fed. Reg. 80186 (December 31, 2002). The study shall include—

(1) increases or decreases in emissions of pollutants regulated under the New Source Review program;

(2) impacts on human health;

(3) pollution control and prevention technologies installed after the effective date of the rule at facilities covered under the rule-making;

(4) increases or decreases in efficiency of operations, including energy efficiency, at covered facilities; and

(5) other relevant data.

(b) DEADLINE.—The NAS shall submit an interim report to Congress no later than March 3, 2004, and shall submit a final report on implementation of the rules.

Mr. REID. Mr. President, if my friend will withhold, I have a couple comments I would like to make.

Mr. INHOFE. Mr. President, I am glad to withhold.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I rise in opposition to the second-degree amendment of my friend, the chairman of the Environment and Public Works Committee. The amendment offered by Senator EDWARDS, and cosponsored by Senators LIEBERMAN, JEFFORDS, DASCHLE, and Senator REID of Nevada, really is a very modest amendment.

This administration has gone ahead with the most radical rewriting of the clean air rules in 30 years. Let me repeat that. The administration, administratively, has caused the most radical rewriting of the clean air rules in 30 years. They have not studied what the effects of these rules will be for people's health and the environment. I think Senators on both sides of the gaisle have asked for this study. They have refused to do it.

This amendment simply says, let's wait 6 months—just 6 months—and get a real study of how this amendment will affect people. Our amendment says, because these rules have the potential to be harmful, we should study them first to make sure we know how they will affect people's health. The amendment says, let's wait until we get that settled—6 months, a half a year—before letting the rules become final.

The second-degree amendment says: Yes, we need to study those rules, but let's have the study after the rules go into effect; that is, let the rules go into effect first; and, second, we will study the effects. That means you are rolling the dice with people's health.

What this second-degree amendment says is, we will take our chances with the health of your children, with the health of your parents. What we say is, let the amendment go into effect after we have studied the issue.

What are we going to do a year from now if this study shows—and I am confident it will—that these radical changes will have made people's health worse? What are we going to say to senior citizens who are suffering from respiratory illnesses, as a great deal do?

It was less than a year ago that one of the weekly magazines—I believe it was Newsweek; ran a front-page article that talked about the asthma epidemic sweeping this country afflicting our children. Although they do not determinatively know why, one of the conclusions they arrive at is because of the bad air. However, I don't think we need scientific studies to show that.

By allowing the administration to go forward with this rule, what we are really saying is we do not care. We want these companies to go ahead and be able to continue their polluting—yet we only studied two companies.

We hear that the Environmental Protection Agency today has actually



done the environmental analysis and it shows that these radical rule changes would protect the environment. That is foolishness. It is not true.

The EPA gave us hundreds of pages of old, irrelevant reports.

They said their assessment was qualitative and not quantitative. That is a buzzword for "we have done nothing." It means they didn't do real hard research in how these changes would affect people, children with asthma, and seniors with respiratory illness.

One group did the real hard research. The Environmental Integrity Project looked at two factories and found that just with these two factories, the administration rules would increase pollution by more than 120 tons a year. One of these EPA studies done by the current Environmental Protection Agency points to Delaware as a model. Companies in Delaware have taken some good measures to reduce pollution. That is true. But as industries in Delaware have pointed out and as Senator BIDEN has pointed out, this administration is not following the Delaware model. They are following a different and anti-environmental model.

The amendment of the Senator from North Carolina does not discourage energy efficiency. All of us support more energy efficiency. We support reform of the New Source Review. We want to reduce pollution at the same time as we reform. We don't want reform being an excuse to increase pollution. The new rules would increase pollution.

Again, the amendment of the Senator from North Carolina is a modest amendment. It says: Look before you leap. However, what we are being told to do with the second-degree amendment is look after you leap. That is not the same.

Look before you leap; that is what we should do. The second-degree amendment is misguided, misdirected. It takes away from the importance and the dignity of the amendment offered by the Senator from North Carolina which simply says, the President wants to move forward with radical changes in the Clean Air Act, an act which has been in effect for some 30 years, so before we do this, let's first wait 6 months to see if the changes the administration suggested will hurt the environment.

I certainly hope the amendment of the Senator from North Carolina passes in its form before the Senate and that the second-degree amendment does not pass. I say that because if you look at the track record of the administration, you are looking at a track record that is not good.

We know the administration came out initially with an effort to change the arsenic standards in water. We were able to turn that back. We know the administration has worked very hard to make sure that the rules relating to testing children to find out if lead in their environment is bad—they tried to eliminate that. We were able to stop that.

Clean water: The administration proposed earlier this month changes for managing waterways under the Clean Water Act. The proposed rules would affect enforcement of the Clean Water Act by defining protected and unprotected lakes, rivers, streams, and wetlands. This rule would remove 20 million acres of wetlands from protection.

On January 3—just a few weeks ago—the administration issued categorical exclusions under the National Environmental Policy Act for certain timber projects. As a result, the agency will be able to approve logging in burned, diseased, and insect-infested forests without completing individual environmental reviews.

On December 31, the administration proposed regulations that would allow tuna caught by encircling dolphins to be labeled "dolphin safe." For the last 5 years, tuna caught using dolphins as targets were barred from bearing the "dolphin safe" label.

Two days after Christmas, the administration came up with a Christmas present when they issued new guidelines that would allow more development of wetlands and additional mitigation. However, the existence of wetlands is important because they filter drinking water, retain flood waters, and support wildlife.

The administration on December 23—2 days before Christmas—issued a final rule that would allow States to claim ownership of roads in national parks, forests, wilderness areas, and other public lands. Under this rule, States could assert claims to thousands of miles of dirt roads, trails, and wagon tracks—many of which are in wilderness areas and other public lands.

On December 19, the administration issued a cost-benefit report calling for more than 300 rules to be revised and eliminated, or expanded. These changes affect food safety standards, arsenic in drinking water, energy conservation standards, and logging in national forests.

Again dealing with clean water, on December 16 they issued final regulations under a court-ordered deadline that would weaken clean water protections concerning concentrated animal feeding operations. The new rule will affect 15,000 large and medium size U.S. corporate farms.

On salmon protection, the administration proposed new regulations to weaken salmon protections and to allow increased logging in the Pacific.

On November 22 of last year, the administration issued final regulations that would weaken the Clean Air Act's New Source Review program. The administration has issued standards relating to drilling in national parks. They approved natural gas drilling in Padre Island National Seashore in Texas, the Nation's longest stretch of undeveloped beach. They are going to take care of that and allow drilling there.

On climate change, on November 20 the chairman of the White House Coun-

cil on Environmental Quality said: "Climate change is a technology issue." He believes technological innovations, not curbs on emissions of greenhouse gases, are the solution to global climate change.

Snowmobiles, something on which I have worked hard: The administration proposed to increase the number of snowmobiles allowed in Yellowstone and Grand Teton National Parks by more than 35 percent, even though the rangers there must use respirators and masks because the air is so bad because of the snowmobiles.

Should we not, with a record like this, take 6 months to see if the rules are going to be bad? I didn't read all of them, but you get the idea why I am a little suspect about the rules and why we should not leap before we look. Let's look, have a study done to find out if the rules are as bad as the environmental community says they are.

I hope the second-degree amendment of my friend from Oklahoma is defeated and we have an up-or-down vote on the amendment to call for a study before we enact the very extreme radical rule changes with the Clean Air Act.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Let me respond to the distinguished Senator from Nevada.

First, this has nothing to do with tuna, dolphins, drilling, snowmobiles in the Tetons. The record of this President has been very good. We passed extensive brownfields legislation with the help of the Senator occupying the chair. My amendment included over 200,000 petroleum sites. The record has been good.

It is important, when you are talking about this issue, to talk about the Bush administration. This essentially came from the Clinton administration, not from the Bush administration. With the exception of a few technicalities which have been worked out to everyone's advantage, this is the Clinton administration's program.

Here is the statement made at the last day of the Clinton administration by Bob Perciasepe:

Over the last two years we have all worked hard to develop improvements to the New Source Review program. As I have discussed with you, I believe it is essential that this program have greater incentives for companies to employ the most effective emissions techniques voluntarily and give greater flexibility when companies take these voluntary actions.

And so then we had this study. Look at this study. It is 180 pages. The study comes to the conclusion that the overall effect of the final rule will be a net benefit to the environment. This is going to benefit the environment, not hurt it.

When the Senator from Nevada says, what do we say to senior citizens, I say what do we say to senior citizens when their energy costs go up, when they already have to decide whether to heat their homes or have food to eat.

We have studied this matter for 10 years. We don't need 6 more months.

However, we are willing to have the NAS do a study, and they will use the same data the EPA used in coming up with the conclusion that this is not harmful, but it is good for the environment and health.

I will be joining my friend from Nevada in asking for a recorded vote on this second-degree amendment at the appropriate time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. 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. SANTORUM. I thank the Chair.

Mr. President, during the last few session days, I have been rising to bring the Senate's attention to an issue which I think is very important. We have had a lot of discussion in this body about the concern for deficits. I share those concerns about how much money we are going to be borrowing in the future. One of the principal reasons for these discussions, particularly from Democratic Members, is their concern that because of these deficits going forward, we cannot give or—let me put it this way—let people in America keep more of their money and provide tax relief, as the President has proposed, to try to stimulate this economy.

The President has proposed in the area of \$600 billion in tax relief over the next 10 years to try to help put more money into the private sector to help create jobs, secure jobs, and grow this economy. I think that is a very worthy goal.

Economic growth is vitally important for all of us in America. It creates job security. It creates new opportunities for advancement. It increases our standard of living. I believe everybody in this Chamber would agree that one of our priorities should be to create more jobs and create a stronger economy. The President has put forward a package which he believes will do that.

One of the major criticisms against the package is that it adds too much to the deficit; that while maybe some of these ideas are good ideas—letting people keep more of their money, providing incentives for people to invest, businesses to invest in capital equipment, stopping the double taxation of dividends—all those may or may not be good ideas, depending on to whom you listen—even if they are good ideas, we cannot afford it, we simply do not have enough money; frankly, we are running these deficits, so we have to be fiscally responsible—I am talking about the Democratic conversations of late—that we have to be fiscally responsible and not provide this tax relief.

What I am going to do in the next few days as we continue to debate this year's appropriations bills, the 2003 appropriations bills—not next, but this

year, since we did not get our job done last fall and pass the appropriations bills for this year—is I am going to detail all of the amendments the Democrats are offering and begin to add up the 10-year costs of these amendments.

We have the first amendment offered by Senator BYRD on homeland security, which is \$70 billion over the next 10 years.

Senator KENNEDY's amendment on education was \$84 billion, which brought the total to \$154 billion. Senators HOLLINGS' and MURRAY's amendment on Amtrak, that was \$5 billion over 10 years. Senator HARKIN's amendment, \$7 billion over 10 years, and then Senator BYRD's amendment, which was to basically strip away what was a mechanism to try to pay for some of these increases such as education and others, which was an across-the-board reduction, he eliminated the across-the-board reduction which basically put \$154 billion on to the deficit over the next 10 years.

Pending is Senator DODD's amendment, which adds \$21 billion over the next 10 years in the area of paying for education for people with disabilities.

We have already had a majority of Democrats, in fact almost every single Democrat, vote for \$320 billion in new spending and now we have another \$21 billion on which to be voted. There are a whole host of other amendments which have to be filed by 6 p.m. today, which will add robustly, I suspect, to this total of \$341 billion to date that have been offered by Members on the other side of the aisle who have come to this Chamber repeatedly and suggested that, we cannot provide tax relief to spur this economy to create jobs and to put more money out on to the private sector into taxpayers' pockets but we can afford almost half of what the President's tax reduction measure will cost.

It is important to show where the priorities are of the respective parties. What we have suggested is that to help this economy get going we need to put more money in taxpayers' hands so we can create a stronger economy and a better quality of life for people in America. Many on the other side, not all, have said that is not acceptable.

What is their alternative? Well, this appears to be their alternative: To grow the size and scope of Government in increasing amounts.

We made a mistake. We made this chart too small. My guess is by the time we are done we are going to have a line of charts as to how much money we are going to add to the deficit at a time when we are hearing all this gnashing of teeth about the President's tax plan that is simply too expensive, that it adds too much to the deficit. Yet time after time Members on the other side are more than willing to add money to the deficit. As long as we spend it on Government programs, as long as we spend it on growing the size and scope of the Federal Government, they are willing to spend taxpayers'

dollars and willing to put the deficit to even higher levels.

To set the record straight, when we hear the debate on taxes, as we will later this year and we will hear Members coming to the Chamber saying we cannot afford this tax reduction, remember what they thought they could afford and that is a much bigger Federal Government, more tax dollars being spent in Washington, DC, and higher deficits as a result.

I will be back after each series of amendments we vote on and we will be adding to this chart. I am hopeful this number of votes for these amendments will begin to change. Where we look at almost every single Democrat voting for these large increases in spending, I am hopeful that at some point there will be a recognition that it is important to control the growth of Government spending, it is important not to have big deficits in ever increasing amounts, and we will see some contraction in these numbers.

Time will tell what will happen in the Senate over the next several days as we begin to debate more amendments offered by the other side of the aisle to add more money to the deficit which they decry as already too big in the first place.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The Senator from Rhode Island will offer a very important amendment on unemployment insurance. I ask unanimous consent that following my remarks, the Senator from North Dakota be recognized to speak for 15 minutes; following that, the Senator from Rhode Island be recognized to offer an amendment.

I have spoken to the manager of the bill and have indicated to him that we were going to offer this amendment. I ask unanimous consent, therefore, that when Senator REED offers his amendment the pending amendment be set aside. If there is a problem with that, that would give time to someone on the other side to be available to object having that set aside.

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

Mr. REID. My friend, the junior Senator from Pennsylvania, has come to this Chamber on other occasions with his chart and talked about the Democratic amendments. What he has not talked about is the fact that a year ago, we had a huge surplus. There are estimates that it was as much as \$7.2 trillion—some say it was only \$6 trillion—over a 10-year period. As a result of what has taken place with this administration, that is gone. We are now spending in the red and using Social Security surpluses to pay for the Bush economic plan.

I was on a TV program with Senator NICKLES, who was my counterpart. The person doing the interviewing showed Senator NICKLES a chart. From the time that Harry Truman was President until today, going through every President, every President of the United



States has created jobs, without exception, except the current President Bush. In fact, he has done so poorly in job creation that he has lost over 2 million jobs.

I hope the American people understand we are offering these amendments because we believe the American people deserve more than tax cuts for the rich.

The present administration's tax cut plan will increase the deficit by almost \$1 trillion over 10 years. I hope my friend from Pennsylvania would vote against that if he is concerned about deficits, because that is a huge deficit builder.

Every time my friend, the distinguished Senator from Pennsylvania, comes to the Chamber with his chart, we are going to also talk about what this administration has done that has adversely affected the American people.

The amendments offered by the Democrats—which are said to be “outrageous things”—fund school districts around America to take care of handicapped children. I know that is somewhat radical that we want to pay for handicapped children to be educated, but that is what we have decided we would like to do, that we would fully fund the IDEA program. There is not a school district in America that opposes that.

Some of the other amendments funded the unfunded mandates that have taken place with our passing the homeland security bill. I know the State of Nevada badly needs that money because we have been forced to do things that the Federal Government has passed on to us that we cannot afford to do. The State of Nevada needs help. That is why today States have deficits of about \$100 billion.

The deficit of the State of California alone is \$35 or \$40 billion, but of course it has 15 percent of the population of this country.

So they can bring out all the charts they want to talk about these amendments the Democrats are offering. The reason we have voted nearly unanimously for every one of these amendments is because it is the right thing to do for the people who are not represented by the Gucci shoe crowd, the big limousine crowd.

My friend from Rhode Island is going to offer an amendment to take care of about a million people who have no unemployment insurance. The unemployment rate has increased by millions under this President. It has gone from 4 percent to 6 percent. Job losses, as I have indicated, are over 2 million. The private sector has lost 2.4 million jobs since President Bush took office. Unemployment is staggering. A total of almost 9 million people were unemployed in December. The length of unemployment, which is more than 26 weeks, increased by 122,000 in December alone, the biggest 1-month increase in a long time.

There are a great deal of problems with this economy. We believe there

should be a tax plan to stimulate the economy. What we believe should take place is an immediate tax cut. It should be directed toward the middle class. It should have no long-term impact on the deficit in this country.

I talked earlier about the Bush economic record. It is the only administration to lose private jobs in more than 50 years. We have had no other administration that has not created jobs. His dad came close. He almost was in the negative. He was the lowest we had since Eisenhower. But it is topped by this President. Eisenhower created increased employment by one-half of 1 percent, Kennedy by 2 percent, Johnson by 3.6 percent, Nixon by 2.1 percent, Ford by .18 percent, Carter by 3.3 percent, Reagan by 2.3 percent, George H.W. Bush by .4 percent, Clinton by 2.6 percent; George W. Bush has lost jobs. He is the only president whose job creation is in the negative.

We do not need people to lecture us on how bad the Democratic amendments are. Our amendments are targeted toward American people, not targeted toward the rich.

The PRESIDING OFFICER (Mr. CRAPO). Under the previous order, the Senator from North Dakota is now recognized for 15 minutes.

Mr. BIDEN. Mr. President, may I ask the Senator from Nevada a question about what he just stated?

Mr. REID. I am happy to maintain the floor and yield to my friend from Delaware.

Mr. BIDEN. Mr. President, I say to my friend from Nevada, what confuses me about what the Senator from Pennsylvania said, and others have said, and is disturbing, our friends on the other side of the aisle have an incredible definition of what constitutes security. The idea that we would at this moment cut the end strength of the U.S. military, there would be 100 out of 100 Senators in opposition on the floor.

The idea that we are like those soccer moms we talk so much about, they are no longer soccer moms, I suggest. They are security moms. They are literally worried about whether or not in their children's schoolyard, in their shopping center, in their daily routine, they and/or their family might be a victim of terrorism.

If this war is a war the President talks so much about, with good reason, a war on terror, I assume we are saying the same thing. A war on terror is not a war that is only being conducted by special forces overseas, but the war on terror is in the United States.

What is the greatest concern Americans have? It is that something is going to happen as happened on September 11.

I ask this of these friends of ours on the other side of the aisle. I think they mean well. They talk about the fact they do not want to grow government. I ask, How are you going to combat terror in the United States of America, in Washington, DC; in Omaha, NE; in Wilmington, DE; in San Francisco, CA;

how are you going to confront terror, combat terror? How are you going to make our nuclear powerplant that is right across the river from tens of thousands of Delawareans secure? How are you going to make sure there are no Americans subject to poison gas attacks, the water supply being polluted, chemical agents, or, God forbid, biological weapons. The only way to do that, it seems to me, is with more defense.

What is the defense? That is homeland defense. The defense is the FBI, local law enforcement; the defense is domestic surveillance, domestic operations. My friends keep saying they do not want to grow government. What the devil are they talking about? They just cut 1,100 FBI agents. They shrink government. If tomorrow they took this similar percentage of U.S. Marines and cut them, we would say: My God, what are they doing? They are crazy.

A U.S. marine, I ask my friend from Nevada, who is going to confront a terrorist on the Mall in Washington, DC, or at a nuclear powerplant in Nevada or Delaware, who will confront that person? Who will track them down? Is it a marine? A special forces person? No, it is going to be a law enforcement officer.

These fellows have, unintentionally, I hope, emasculated law enforcement. They have cut the COPS Program that put 100,000 cops on the street. They eliminated that. They transferred, necessarily, 570-some FBI agents out of violent crime strike forces toward terror. They have reduced the coverage in the States. They have now cut another roughly 1,100 FBI agents, eliminated any help for local law enforcement. They ballooned—as a consequence of that, in part—the budget of all these States, and they proudly stand here and say: We are not going to grow government.

I raise my hand; I want to grow government to fight terror. I want to grow the number of FBI agents. I want to grow the number of CIA agents. I want to grow the number of police officers. I want to grow the ability to defend my family from a terrorist attack on a nuclear powerplant in my region, all of which are exposed now. They are exposed.

I hope my friends, when they come to the floor, will explain to me why an increase in the deficit to maintain the end strength of the FBI is less worthy than increasing the deficit over 10 years by half a billion, counting interest, to give people a deduction, no taxes, on their dividends.

Mr. REID. If I could respond to my friend, the distinguished Senator, formally chairman of the Judiciary Committee and Foreign Relations Committee, the only place the Senator has misspoken is that the tax cut will be near \$1 trillion when interest is included, near \$1 trillion.

Mr. BIDEN. I was only talking about the dividends.

Mr. REID. And I say to my friend, the Senator is absolutely right.

We have to have a secure nation. The amendments we have supported and were offered by Senator BYRD are amendments that would give the State of Delaware, the State of North Dakota, and the State of Nevada, a little bit of relief from the unfunded mandates we passed on.

I also remind my friend from Pennsylvania who was talking about how bad the amendments were; he talked a lot about the deficit. We are not talking as "pie in the sky." We, as Democrats, have a ledger you can look to of success. For the first time in modern history, during the Clinton years, we were spending less money than we were taking in. The last year of the Clinton administration, they were coming to us saying: Better not retire that debt so quickly because you could have an adverse effect on the economy. I guess someone in the Bush administration heard that because they listened clearly. Instead of having a surplus, as we had, they have gone gang busters.

Mr. BIDEN. If the Senator will yield briefly—and I will yield the floor—I appreciate the response.

I have no doubt and I do not disagree with anything the Senator has said overall, but I am just suggesting that I wonder how any Members will explain at home, if, God forbid, one of our nuclear powerplants is blown up; if, God forbid, sarin gas is released in the tunnels under New York City; if, God forbid, any number of other things I could mention, which I won't because they will frighten people, happen, I wonder how any Member will explain how we justified, in the name of not growing government, reducing the number of what I call domestic defense officials, the number of FBI agents, the law enforcement agents, the number of people who, in fact, have as their primary responsibility, the security of our people. A government's first and foremost responsibility is security. It is not tax equity, it is security. Security. I am here to say we are skating perilously close to a disaster line here for failing to step up to the plate.

My last comment is I made a speech on September 10 to the National Press Club making the same argument I am making now. It was at that time thought to be somehow a little bit of—we can't afford it. The argument I made on September 10 at the National Press Club was we were ignoring domestic security and international terror at our peril and I laid out what we were not doing.

Let me say to you, I will be back on the floor again and again because I do not want my children or my grandchildren saying to me: Where were you during the war, daddy? Put it another way: Where were you when we were fighting terrorism, or supposed to be fighting terrorism? Why were you cutting law enforcement, cutting the FBI? Why were you cutting the very agencies that were designed to protect our security, that mom in her living room, her child in her school, her husband on the subway? Where were you?

I think we are misguided, in terms of the majority view on this floor. I want to grow government to defeat terror. I want to do it with people with guns. I want to do it with people with might. I want to do it with people with intelligence capability. I want to stop it before it happens. You cannot convince me you can do a better job with fewer people.

I thank my friend.

Mr. REID. I have a unanimous consent request, if my friend will yield.

I ask unanimous consent that Senators REED of Rhode Island, CLINTON, BINGAMAN, JOHNSON, and SCHUMER be added as cosponsors to the Dodd amendment No. 71.

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

The Senator from North Dakota is recognized under the previous order for 15 minutes.

Mr. DORGAN. Mr. President, I came to the floor because I want to talk about an amendment that will be offered tomorrow dealing with disaster aid for farmers, but I can't help but comment just a moment on some of the discussion I heard on the floor as I entered the Chamber, and also just prior to that, the notion there is one side of this Chamber that somehow is for big government and there is the other side that is protecting the American people against big government.

My colleague from Delaware said it appropriately. If you take a look at the amendments that have been offered and debated, the amendments, for example, by my colleague, Senator BYRD, are talking about additional investments in homeland security. Does anyone really think it is just building big government to care about investments in homeland security?

Do you know, for example, that there are 5.7 million containers that come into America's ports every single year and only 100,000 of them are inspected and 5.6 million containers are not inspected? Do you think maybe we ought to do better than that? Do you think there is a potential threat by terrorists dealing with our ports and harbors and the containers that are coming in from all parts of the world?

If you do, do you really want to stand up and say what my colleague is trying to do is just big government? Or maybe you want to stand up and say this is an important investment in the security of this country. Maybe you want to stop the kind of demagoguery that exists around this town at almost every turn on almost every subject.

Isn't there a reason to have a thoughtful debate about what kind of security the American people expect and deserve, responding to the terrorist threat around the world? I think it ought to be thoughtful rather than thoughtless, and too much of the dialog I find, regrettably, is thoughtless.

We have heard, of course, the same dissenting voices. When the proposal was to create a Medicare program, the dissenting voices were to say: Oh, no,

we can't do that. Create a Social Security Program to help seniors? No, we can't do that.

It's a good thing this Chamber wasn't filled with people with that attitude when President Eisenhower proposed we build the interstate highway system or that wouldn't have gotten built.

I won't go on. I will just say I don't think anyone in here pines for "big government." But I think we want a better country. And some of us very strongly believe that to have a better country is to decide to invest in America's kids, to improve education, to make our neighborhoods safe, to create the kind of circumstances in which we have economic growth and opportunity, and people have decent jobs—jobs that pay well, jobs that have security. All of these represent what will make this a better country—not a bigger government, a better country. I think we would be well advised to redraw a few of these charts that we see brought to the floor of the Senate and talk about what is important to the future of America instead of trading slogans back and forth.

But that is not why I came to the floor. I want to talk just for a moment about the issue of disaster aid for family farmers. Last week a cattle rancher from western North Dakota called and said: I don't want any political discussion or political talk. What I need to know is, will there be some assistance for those of us who have been hit by disaster? Because I just spent 2 hours at my local bank. The fact is, if there is not disaster aid made available by the Congress to help those of us who got hit by a natural disaster—a drought that has been devastating for them—then I am not going to be able to continue. There will not be any credit for the coming year and I am not going to be able to continue on my ranch.

There are thousands, tens of thousands of people all across this country in exactly the same situation, wondering if, during this disaster, this devastating drought that has been likened in some parts of our country to the Dust Bowl days of the 1930s—a devastating drought that is not the fault of farmers and ranchers but that has crippled their ability to make a living, devastated their livestock herds and meant that seeds they planted in the spring could not possibly produce the harvest in the fall—wondering whether, as has always been the case, whether Congress will do in this disaster what it has done in previous disasters, and that is say to those farm families: We would like to extend a helping hand.

We do that in virtually every other circumstance. When there is a hurricane in one of our southern States, when there is a fire or a flood or an earthquake, our country is quick to send teams of people and say: Let us help you. This is a natural disaster. It is not of your making and we understand the need for our country to reach out and extend a hand and say let us help you.

I have always been pleased to say let me be a part of that. I want to help the people who have been hit hard by these devastating natural disasters. So my vote has always been yes. My colleagues, fortunately, have always said the same when it comes to disasters that hit the family farm. The question is whether we will provide enough help to allow them to continue on that family farm or ranch.

We are going to offer, tomorrow morning, I believe—at least it will be tomorrow, I hope it will be the first amendment up—Senator DASCHLE, myself, Senator BAUCUS, and others will offer a farm disaster package here on the floor of the Senate and that package will be similar to that which has been offered in the Senate previously and passed by the Senate previously, \$5.9 to \$6 billion. It received a very wide margin here in the Senate. The vote was bipartisan. It was declared emergency spending, as has always been the case with respect to disaster relief. And it was blocked. It was blocked by the House; blocked by the White House. But nonetheless, blocked.

We passed disaster relief on three occasions in the last Congress, only to see it blocked, and we were unable, then, to get this disaster relief made available to family farmers across the country.

So, we will try again tomorrow, urging that the Congress pass disaster relief. We could and should be able to do that in the Senate. I am reading there are some others with a disaster proposal that is less than half of what should be available and also providing that those who had no disaster will get payments. Last week's construct was a bit different from this week's. But what I read is we will still see, under the proposal offered by the majority, a disaster relief proposal that will spread money to those in rural America, notwithstanding who might or might not have been hit with a disaster.

It is our proposition that only those who have need—incidentally, it is a wide group of family farmers and ranchers across this country who have been hit by this devastating drought—it is only those, in my judgment, who should receive the benefit of the disaster program.

We passed a new farm program last year that would provide better price supports and that would guard against falling prices. But this isn't about price support. This is about disaster.

In my part of the country, a fair portion of the crops—particularly in southern North Dakota—never got out of the ground. In parts of North Dakota and in parts of much larger areas of the country, if you saw a picture of the ground that you would have taken during what would have been harvesttime, you would see something that looked very much like a moonscape. The seeds were in the ground but the seeds did not come up. That farmer and his or her spouse would have lost everything. Many of them right now are visiting

with their bankers to determine whether they will be able to continue on the farm or ranch.

I hope this Congress is ready to say, as it did last year in the Senate, that we believe we ought to provide a disaster package to family farmers who suffered this drought disaster.

There are many strikes that are against farmers and ranchers—some perpetrated by the Congress and some by others, one of which is trade, for example. I will not spend much time talking about that. But our farmers have been beset these years by low prices, by bad trade deals, and by a range of disasters—in some cases too much moisture, and in other cases too dry, but the result is the same. In both cases, their livestock herds are decimated. They are unable to raise a crop.

My hope is that by tomorrow we will have sufficient numbers in the Senate, as we have had on previous occasions in the last year and a half, who will stand up for family farmers and ranchers and decide they, too, will support, as they have in the past, disaster relief. My hope is that by this time tomorrow we will have had the debate, finished the debate, and had a favorable vote. Senator DASCHLE and I, and Senator BAUCUS and others, have spoken on the floor previously.

Senator BAUCUS put this in the stimulus plan last year and Senator DASCHLE was in the Chamber leading the effort. We have had plenty of debate on it. It ought not be a mystery for any Member in this Senate about what is happening in rural America. No one, in my judgment, need ask the question, including the President of the United States—who, incidentally, went to South Dakota so often last year that he should have rented an apartment in South Dakota, and he came to North Dakota. And within the last couple of years, he has said, oh, by the way, you family farmers, when you need me, I will be with you. We needed him and he wasn't with us—last year and now this year. We asked this President to join us. We asked the Speaker of the House to join us and help us pass disaster relief at this point.

That is why beginning tomorrow Senator DASCHLE, myself, and others will be pushing for an amendment on this omnibus bill. I know there will be those who will come to the floor—and perhaps one of my colleagues who spoke earlier today—and say, well, what they are talking about is big government. What we are talking about is trying to stimulate the economy and help those in the country who need some help. One quick way to stimulate the economy in rural America is to help those farmers and ranchers with some disaster relief, as we have always done in the past. That disaster relief finds its way into the mainstream. It supports jobs and main streets and businesses in all of our communities in rural America.

It is not just about family farmers. It is about the world economy. It is about

stimulating our economy. There is no more quick way to do that than to include in any stimulus package—in this case to include in the omnibus bill—a piece of legislation that does what Congress should have done a year ago but failed to do because the Speaker of the House and the President blocked it; that is, pass a decent disaster relief bill in the neighborhood of \$6 billion on an emergency basis that no longer leaves America's food producers in doubt; that says to those families who are struggling on the farms that we are with you, we care about you, but when you suffer disaster this country is going to extend its hand to you.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that following the remarks Senator REED I be recognized for 15 minutes.

Mr. REID. Mr. President, reserving the right to object, I have spoken to the floor staff. Following the statement of Senator VOINOVICH, Senator DURBIN wishes to speak on the amendment that Senator REED is going to offer.

Mr. DURBIN. Mr. President, reserving the right to object, it is my understanding that Senator REED may speak for 10 minutes. Is that correct?

Mr. REED. No.

The PRESIDING OFFICER. The Senator has no limit.

Mr. DURBIN. All right. I ask unanimous consent that follow his remarks I be recognized for brief comments on the same subject. But I will wait. I think that is appropriate.

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

Mr. VOINOVICH. Mr. President, I have to preside at 4 o'clock. May I ask unanimous consent to be recognized to speak at 5 o'clock after I am finished presiding?

Mr. REID. I think that will be just fine. We will have no objection.

Mr. REED. I have no objection. I think I can assure the Senator that I will be finished before 4 o'clock.

Mr. NELSON of Florida. Mr. President, may I inquire of the assistant Democratic leader, when will we get a unanimous consent on the African famine amendment?

Mr. REID. I have spoken to the majority. They recognize that the next amendment we want to offer is by the Senator from Florida. We understand that Senator INHOFE will be ready to go also. I am sure we will get that consent as soon as the debate on unemployment insurance is completed.

The PRESIDING OFFICER. Hearing no objection, the unanimous consent request of the Senator from Ohio is agreed to. The Senator will follow the Senator from Rhode Island.

The Senator from Rhode Island is recognized.

AMENDMENT NO. 40

Mr. REED. Mr. President, under the unanimous consent, I call up amendment No. 40.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself and Mr. DURBIN, Mr. KENNEDY, Mr. LEVIN, Ms. CANTWELL, Mr. CORZINE, Mr. JEFFORDS, Mr. BINGAMAN, Mr. BAUCUS, and Mrs. CLINTON, proposes an amendment numbered 40.

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

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

The amendment is as follows:

(Purpose: To expand the Temporary Extended Unemployment Compensation Act of 2002)

At the appropriate place in title I of division G, insert the following:

**SEC. \_\_\_\_ . ENTITLEMENT TO ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.**

(a) ENTITLEMENT TO ADDITIONAL WEEKS.—

(1) IN GENERAL.—Paragraph (1) of section 203(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 28) is amended to read as follows:

“(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to 26 times the individual's weekly benefit amount for the benefit year.”.

(2) REPEAL OF RESTRICTION ON AUGMENTATION DURING TRANSITIONAL PERIOD.—Section 208(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147), as amended by Public Law 108-1, is amended—

(A) in paragraph (1)—

(i) by striking “paragraphs (2) and (3)” and inserting “paragraph (2)”; and

(ii) by inserting before the period at the end the following: “, including such compensation by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section”;

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(3) EXTENSION OF TRANSITION LIMITATION.—Section 208(b)(2) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147), as amended by Public Law 108-1 and as redesignated by paragraph (2), is amended by striking “August 30, 2003” and inserting “December 31, 2003”.

(4) CONFORMING AMENDMENT FOR AUGMENTED BENEFITS.—Section 203(c)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 28) is amended by striking “the amount originally established in such account (as determined under subsection (b)(1))” and inserting “7 times the individual's average weekly benefit amount for the benefit year”.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(2) TEUC-X AMOUNTS DEPOSITED IN ACCOUNT PRIOR TO DATE OF ENACTMENT DEEMED TO BE THE ADDITIONAL TEUC AMOUNTS PROVIDED BY THIS SECTION.—In applying the amendments made by subsection (a) under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 26), the Secretary of Labor shall deem any amounts deposited into an individual's temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as “TEUC-X amounts”) prior to the date of enactment of this Act to be amounts deposited in such account by reason

of section 203(b) of such Act, as amended by subsection (a) (commonly known as “TEUC amounts”).

(3) APPLICATION TO EXHAUSTEES AND CURRENT BENEFICIARIES.—

(A) EXHAUSTEES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) who exhausted such individual's rights to such compensation (by reason of the payment of all amounts in such individual's temporary extended unemployment compensation account) before such date,

such individual's eligibility for any additional weeks of temporary extended unemployment compensation by reason of the amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(B) CURRENT BENEFICIARIES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) as to whom the condition described in subparagraph (A)(ii) does not apply,

such individual shall be eligible for temporary extended unemployment compensation (in accordance with the provisions of the Temporary Extended Unemployment Compensation Act of 2002, as amended by subsection (a)) with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(4) REDETERMINATION OF ELIGIBILITY FOR AUGMENTED AMOUNTS FOR INDIVIDUALS FOR WHOM SUCH A DETERMINATION WAS MADE PRIOR TO THE DATE OF ENACTMENT.—Any determination of whether the individual's State is in an extended benefit period under section 203(c) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 28) made prior to the date of enactment of this Act shall be disregarded and the determination under such section shall be made as follows:

(A) INDIVIDUALS WHO EXHAUSTED 13 TEUC AND 13 TEUC-X WEEKS PRIOR TO THE DATE OF ENACTMENT.—In the case of an individual who, prior to the date of enactment of this Act, received 26 times the individual's average weekly benefit amount through an account established under section 203 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107-147; 116 Stat. 28) (by reason of augmentation under subsection (c) of such section), the determination shall be made as of the date of the enactment of this Act.

(B) ALL OTHER INDIVIDUALS.—In the case of an individual who is not described in subparagraph (A), the determination shall be made at the time that the individual's account established under such section 203, as amended by subsection (a), is exhausted.

Mr. REED. Mr. President, today I join with Senator DURBIN and several other of my colleagues in calling for an extension of Federal unemployment benefits for the 1 million long-term unemployed workers who have exhausted their benefits and were not aided by the legislation that we passed on January 8.

On January 8, we passed a bill that extended benefits to unemployed workers who were cut off from receiving their benefits on December 28. With the December 28th deadline, approximately 800,000 workers were cut off from re-

ceiving their benefits. We essentially gave them 13 weeks of extended benefits, but in doing so we neglected to provide additional benefits for a million Americans who lost their unemployment benefits—first, their State benefits of 26 weeks, and then their extended Federal unemployment benefits.

In recent recessions, Congress always acted to respond to the plight of these unemployed Americans who are searching for work, trying to maintain their households, and trying to maintain their families. In the early 1990s, Congress extended benefits five different times—three of those times during the Presidency of President George Herbert Walker Bush.

In contrast to the 1990s, the situation is even greater today. At the end of December 2002, an estimated 2.2 million workers exhausted their Federal benefits; whereas, in the recession of the 1990s, approximately 1.4 million Americans had exhausted those benefits.

Where is this crisis affecting Americans? It is everywhere. It is estimated that of these 1 million jobless Americans, about 56,800 are from Texas; 44,000 are from Pennsylvania; 43,500 are from Ohio; 37,600 are from North Carolina; 53,000 are from Illinois; 20,000 are from Indiana; 27,000 are from Tennessee; 18,000 are from South Carolina; and 84,000 are from New York. And the list goes on and on.

This is not a rollcall to be proud of because it represents the fact that the economy is not working. These are not small numbers. We overlooked a lot of those Americans when we took partial action on January 8.

This is not just about numbers. This is about people.

I think there is an erroneous perception that somehow these people are not looking hard enough for work; that they are really the hard-core unemployed, transient workers; that somehow they just don't deserve our help. Nothing could be further from the truth.

I will share some stories that have appeared in the press about people who are struggling with this dilemma of unemployment. I think you will find these people are very similar to people in your neighborhoods, in your families. They are Americans who want to work but in this economy cannot find work.

And there is something else that is going on here, too. This economic dilemma has some characteristics of a cyclical unemployment cycle, but many economists believe there are structural issues at work. You see, this is the situation where, for the first time in recent memory, many of these unemployed Americans are highly skilled, highly educated, and highly motivated. Yet they cannot find work.

For example, Laura Carson of Easton, MA, lost her job in July of 2001. She was a human resources executive. She worked for approximately 17 years,

since she graduated from Suffolk University. She has applied for unemployment insurance. She exhausted her State benefits, and then she exhausted her extended benefits. She is still looking. She tried to get a job this holiday season in a retail shop, but she could not find work. She is still looking. Just to survive, she has gone ahead and refinanced her house and taken out a home equity loan. But that is only putting off the inevitable, as bills keep crashing in upon her.

These are the types of people we are trying to help: Susan Brown of Chappaqua, NY, lost her job as a consultant 18 months ago. She used to be a principal in a firm that specialized in Web design. She is one of the victims of this technological bubble that burst. Her company went belly-up in 2001.

This is a woman who has worked for 18 years since she got out of college. She worked through high school and put herself through college. This is exactly what we like to reward in America: hard work, discipline, and dedication. She got remarried over the summer and, ironically—but in this market, not surprisingly—her husband lost his job, also. She has had to dip into her 401(k) plan to make ends meet. She is still looking but still very frustrated about finding work. She said:

There are just no jobs. I can't even tell you how hard it is.

And prior to her loss of employment, she was making \$200,000 a year. This is an example of this new phenomenon where highly skilled, highly motivated, highly educated people just can't find comparable employment in this recession.

Jules Berman of Queens was laid off from his job. He worked for almost 30 years for a New York candy company. He filed for unemployment insurance in December 2001, and he has seen his benefits exhausted. He has never been out of work before in his entire work life.

What you are seeing, again, if you do the math: after 30 years, seeing middle-aged men and women, who are losing their jobs for the first time in their work history, who thought—as we all did, our contemporaries—if you worked hard, got a good education, got in with a good company and strived and struggled each day, you certainly could work until you retired on your pension and your Social Security. That is not the case. And now, at the age of 50, with mortgages, with children who are going to college, with health care bills and health care concerns, they are looking for a job.

That is the reality, and it is not just in the Northeast. Eric Strubble lives in Newcastle, CA. He was laid off from Hewlett-Packard—another example of the huge downturn in technology companies that has taken place in the last few years. He has filled the gap with these unemployment benefits, but, as he said:

Obviously, if we had to live off it, there would be no way, but it helps stretch things out a bit.

People don't get unemployment insurance because they don't want to work. It is a fraction of what you make in your salary check each week. The average unemployment benefit is about \$256. It does not make up for your lost wages. It allows you, as Mr. Strubble says, to "stretch things out a bit" until you get on your feet.

Joyce Smith, 52, of Ardmore, TN, exhausted her \$190-a-week benefit in August. She was a factory worker. As she said:

There's not much out there. They don't want people my age. It's been a panic and a struggle, and you just go into a depression.

Gary Hineman of Morgantown, PA, an unemployed steelworker who is 48 years old, has worked his whole life. In fact, he fibbed about his age at 16 just to get in the Steelworkers Union. He worked all his life, worked hard, and yet he is looking desperately for work. He said:

If I could speak to Members of Congress, I would tell them to see how we live and how we feel. They want the economy to pick up, but there are no jobs to pick it up with.

That is Mr. Hineman. His wife Michelle works as a grocery clerk. They are getting by on her \$15-an-hour job.

Mr. Hineman said: "That is the only thing I've got going for me." These are examples. These are the realities. These are the people we are trying to help and we should help: hard-working Americans. Yet we neglected 1 million of them.

Now, as the comments of these individuals suggest, this is a reflection of an economy that is not working. For the first time in 8 years, family incomes have fallen; poverty is increasing; families at all income levels are losing their health insurance; gross domestic product is growing, but it is not growing fast enough to make up the jobs that are necessary so these people can get back to work.

Indeed, the reality for most Americans today is, they live on their paychecks not their portfolios. When the paycheck stops, they are in very difficult circumstances. Our proposal is very simple: Let's give these individuals some more extended unemployment benefits so they can stretch it out a bit longer, find that job, make decisions that are going to get them back in the workforce.

Let me point out that our economy has lost over 2.2 million private payroll jobs since President Bush took office. The unemployment rate is currently 6 percent—nearly 2 percentage points higher than when President Bush took office. Long-term unemployment is very high, and that is the issue we are dealing with in this amendment: giving some support to these long-term unemployed.

By the way, I cannot think of a more efficient stimulus program than giving people looking for work unemployment benefits to tide them over until they find work. The money goes directly to them and directly into the economy.

So from the standpoint of economic policy, that makes sense. Certainly from the standpoint of helping citizens of this country, it makes a great deal of sense.

The unemployment insurance trust fund has a \$24 billion surplus. The funds are there. We should access them and allow these individuals additional benefits. We have to do more to help working Americans to make sure they make it through a very difficult, very challenging economic situation.

We have done it before, and I hope we can do it again. I hope we will do it again in this bill. This is an issue of great concern for our economy, but, as I have tried to illustrate with these individual stories, this is about our neighbors, people we live with back in our home States, the people we represent, the people who have worked all their lives; and all they want is a chance to keep their heads above water until they can find that job, as they look for that job day in and day out.

I think it is the least we can do for them. I hope we will do it. I am pleased and proud to be joined by Senator DURBIN as a cosponsor. I know he will return a bit later to make his comments.

I hope we can, in fact, take up this amendment, adopt it on a strong bipartisan basis, and make sure that all long-term unemployed, not just those who were satisfied in the last legislation—but all the long-term unemployed—get a chance for extended benefits.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 86

Mr. VOINOVICH. Mr. President, I rise today in opposition to the proposed amendment to stop the New Source Review reforms from moving forward, and in support of Senator INHOFE's second-degree amendment. I am pleased to have an opportunity to speak about this because there is a lot of confusion among our colleagues and throughout the country over what NSR New Source Review—means. The program is a policy that is in desperate need of reform. Reform is critical to public health and the environment, to our Nation's economy and energy supply, and to the safety of our country's workforce.

The program was created back in 1977. It simply requires new facilities to install the "best demonstrated technology" to control emissions. The program also requires older facilities to update their equipment to "state of the art" when they do major modifications. I underscore "major modifications."

When the NSR program was created 26 years ago, Congress believed that incorporating pollution controls whenever new facilities are built or when older ones are significantly modified was the most efficient way of controlling pollution. The EPA issued their first NSR regulation, a 20-page document, in 1980. This implementing regulation excluded from the definition of

modification "routine maintenance, repair and replacement." Since then, the EPA has produced over 4,000 pages of guidance documents in an attempt to explain and reinterpret the regulations. I say "attempt" because in fact the guidance documents are very confusing.

It is important for the public and Members of this body to understand that the lawsuits blossoming all over the United States for NSR violations were brought about by an EPA guidance document, not new regulations, an EPA guidance document in 1998 which changed the definition of routine maintenance. This continual reinterpretation has led to confusion, misunderstanding by the EPA, the States, and the industries affected by the regulations.

This chart, which I have used at hearings before the Government Affairs and EPW Committees, shows why companies are reluctant to subject themselves to New Source Review permits. If you were a company and you were going to do routine maintenance and repair, would you ever submit yourself to this maze? I am sorry it is in such small print because my colleagues can't see it. But this is the kind of thing they are being required to do if they want to go forward with routine maintenance and repair.

Not only has the situation led to costly litigation, but to a climate of uncertainty, forcing companies to forgo needed maintenance and repair work until the regulatory policies are clarified. Ironically, this uncertainty has led companies to reduce their investments in cleaner, less polluting technologies for fear that the shifting regulatory environment would declare such improvements a violation.

While the goal of the Clean Air Act has been to make the air cleaner, the NSR program has at times worked against this goal and wound up having the opposite effect.

I want to clarify a very important point often misconstrued by the opponents of NSR reform. All major facilities are regulated by the Clean Air Act. No plants are exempt from the Act, and no plants are "grandfathered." All facilities have permit levels that they must meet for their emissions. They must abide by ozone and particulate matter standards, what we refer to as maximum achievable control technology standards, the acid rain program, the NO<sub>x</sub> SIP Call, the regional haze program, and a range of other regulatory programs that apply to each industry or facility. Furthermore, states implement source-specific emission limits through state implementation plans that can be set at more stringent emissions levels if the states deem it necessary.

In fact, as this chart shows, the Clean Air Act has been extremely successful in reducing emissions of pollutants. Since the 1970s, emissions of all criteria pollutants—carbon monoxide, lead, particulate matter, nitrogen

oxide, ozone, and sulfur dioxide—have been reduced by 29 percent. This is significant when you consider the fact that over the past 30 years, our population has increased by 38 percent, our Nation's energy consumption has increased by 45 percent, the number of miles our vehicles travel each year has increased by 143 percent, and our gross domestic product has increased by 160 percent.

While our country has grown, emissions have decreased. However, I strongly believe that more can and should be done.

I have worked tirelessly over my entire career to improve our nation's and Ohio's air quality. In the 1970s, as Mayor of Cleveland, I worked on this issue firsthand by operating a 57 megawatt municipally owned utility. I also spent considerable effort as Governor to get 28 of Ohio's counties into attainment for ozone. Through my efforts to institute an automobile emissions testing program and convince one of our major coal fired facilities to install a scrubber, all 88 of Ohio's counties met the air quality standard requirements of the Clean Air Act by the time I left office.

I have continued this work here in the Senate since 1999. As chairman of the Clean Air Subcommittee, I have been working to further reduce pollution from power plants through a multi-emissions strategy. Last year, we worked on this issue in the EPW Committee. Unfortunately, the majority moved ahead on a proposal that would have been unjustifiably devastating to our economy and very costly for consumers and businesses alike.

In the 108th Congress, I plan to work to craft a bipartisan multi-emissions strategy that makes real reductions possible right away. I urge my colleagues to lay politics aside and work with me to improve public health, protect our environment, provide better regulatory certainty, and ensure continued access to safe, reliable, and low-cost electricity.

Mr. President, the NSR program plays an important role in reducing power plant emissions. It also—this is something that is not well understood—applies to every stationary source in the country. When people talk about this, they think it is just utilities that are involved. Rather, we are talking about refineries, chemical plants, and manufacturing facilities. NSR applies to all of them, and all of them out there today are uncertain about what they should be doing and, as a result, are doing nothing.

The current confusion over NSR is actually contributing to polluting our air. When NSR is clarified, I am sure that many of these companies would move on with their programs. They would reduce emissions, and they would make their facilities more efficient.

It is imperative that the NSR program be reformed if we are to improve air quality because at present compa-

nies either can't or won't make the necessary changes to improve efficiency and the environment. Without NSR reform, multi-emissions legislation will not work.

We need to do everything possible to encourage new investments in more efficient equipment that produces fewer noxious emissions. That is why Senator CONRAD and I, along with 24 of our colleagues, sent a bipartisan letter to Administrator Whitman in May calling on her to "complete the [NSR] review and to undertake the necessary regulatory process in the near future to clarify and reform the NSR program."

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

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

U.S. SENATE,

Washington, DC, May 13, 2002.

Hon. CHRISTINE WHITMAN,  
Administrator, U.S. Environmental Protection  
Agency, Washington, DC.

DEAR ADMINISTRATOR WHITMAN: The Administration's National Energy Policy included a recommendation that the Environmental Protection Agency (EPA) conduct a review of the New Source Review (NSR) program and make recommendations to improve the program. We are writing to urge you to complete that review and to undertake the necessary regulatory process in the near future to clarify and reform the NSR program. We also encourage you to implement any changes in a way that protects human health and the environment while providing regulatory certainty for the electric utility industry and other industries that must comply with the program while providing reliable and affordable electricity to consumers.

We have heard of many situations where confusion over the NSR program is having a dampening effect on utilities' willingness to perform energy efficiency and environmental improvement projects. The NSR program needs to be clarified to adequately define the concept of "routine maintenance" to avoid the regulatory uncertainty currently facing industry. Such clarification would allow companies to repair their facilities and maintain reliable and safe electric service for consumers and workers without being subject to the threat of federal government lawsuits for allegedly violating vague NSR requirements.

Again, we urge EPA to expeditiously proceed with a regulatory process to clarify and reform the NSR program. Thank you for your consideration.

Sincerely,

Kent Conrad, George V. Voinovich, Mark Dayton, Byron L. Dorgan, Jean Carnahan, Tim Johnson, Zell Miller, Richard Lugar, Chuck Hagel, Arlen Specter, Kit Bond, Thad Cochran, Ben Nighthorse Campbell, Evan Bayh, Sam Brownback, Jim Bunning, Mary Landrieu, Craig Thomas, John Warner, Pete Domenici, Ben Nelson, Larry Craig, Mike Euzi, Mike DeWine, Richard Shelby, Mitch McConnell.

Mr. VOINOVICH. Our letter was bipartisan, nine Democrats and 17 Republicans, all calling for reform. While I am sure all 26 of us would not necessarily agree on exactly what the reforms should ultimately look like, we did all agree that we ought to get moving with it. We are running out of time.

In our letter to Ms. Whitman we also stated:



We have heard of many situations in which confusion over the NSR program is having a dampening effect on utilities' willingness to perform energy efficiency and environmental improvement projects.

Mr. President, I'd like to share just one of the examples that I am aware of. For refiners, I am aware of an incident in which tubes on a reboiler furnace failed, resulting in a fire which damaged the remaining tubes. New tubes were installed and the unit was back in production within two weeks. However, they were in violation of NSR due to the "actual-to-potential" emissions test. If NSR regulations were followed, the unit should have undergone the permit process, resulting in the refinery being out of commission for five to 18 months. I think my colleagues should remember that the next time a refinery closes and prices spike.

Mr. President, the 26 Senators who signed this letter are not the only ones who think that NSR has prohibited reductions in emissions. This is really important. In August 2001, the National Governors Association passed a unanimous resolution calling for NSR reform. Their resolution states "New Source Review requirements should be reformed to achieve improvements that enhance the environment and increase energy production capacity, while encouraging energy efficiency, fuel diversity, and the use of renewable resources."

Furthermore, according to the National Coal Council study, commissioned by the Clinton administration, if the EPA were to return to the pre-1998 NSR definitions, we could generate 40,000 new Megawatts of electricity from coal-fired facilities and reduce pollution at the same time.

The current NSR program threatens our energy supply due to both short-term and long-term reliability problems. According to the Department of Energy, electricity demand is projected to grow by 1.8 percent per year through 2020. At the same time, no new nuclear plants have been constructed since the 1970s and the number of new coal facilities has declined significantly since the 1980s. Our nation's use of coal will continue to increase, resulting in greater demand on our aging coal facilities. In order to meet the growing electricity demand, more frequent maintenance and repair work will be needed to keep these coal facilities on-line.

Another point that needs to be made, which is often overlooked in this debate, is that the costs of NSR are passed on to the ratepayers. Somehow people forget that the customer always pays. Too often, the environment and the ratepayer get lost in the constant duel between extremist environmental groups and recalcitrant companies.

Higher energy prices will have a more profound effect on low-income families and the elderly. The Department of Energy, as this chart shows, claims that those individuals or families making less than \$10,000 per year will spend 29 percent of their income on

energy costs, and those making between \$10,000 and \$24,000 a year will spend 13 percent of their income on energy costs.

The NSR program not only prevents the installation of more efficient and less polluting technologies, but it also interferes with safety improvements.

According to the Boilermakers Union, "Maintenance is necessary to maintain worker safety. Electric generating facilities harness tremendous forces: superheater tubes exposed to flue gases over 2000 degrees; boilers under deteriorating conditions; and parts located in or around boilers subjected to both extreme heat and pressure."

Failure to maintain and repair equipment creates a potential danger to the lives and safety of the men and women who work on these facilities, and they are not moving forward right now with many of these repairs.

Fortunately, the EPA has responded to the bipartisan and strong call for reform of the New Source Review program. On December 31, 2002 the EPA published a rule that included five reforms of the program. Some of my colleagues might not know that the final rule was actually proposed by the Clinton administration. Let me repeat: These reforms were proposed by the Clinton administration. They are bipartisan.

The reforms are the result of over 10 years of work by the EPA across three administrations and have involved over 130,000 written comments in the last year alone. The EPA has conducted a detailed environmental analysis of the rule and found that the reforms will have a net benefit to the environment, a net benefit. They are good for the environment. Again, I want to stress to my colleagues that Senator INHOFE's amendment will allow us to move forward and help the environment.

This morning my colleague from North Carolina proposed an amendment to delay the implementation of these reforms for 6 months until a study is completed to assess their impact. They have been studied for a long time. On the surface this sounds like a good idea. However, if this amendment passes, we will delay reforms that have been worked on for over 10 years and would make improvements in the environment and to public health today. An EPA analysis already found that the reforms will have a net benefit to the environment.

Furthermore, Mr. President, contrary to an argument put forth by critics of NSR reform, EPA has stated publicly that it deliberately wrote the rule so that current lawsuits would not be affected by the proposed NSR reforms.

It is my belief that if this amendment passes, it will also seriously harm the prospects of future reforms to the NSR program. For example, EPA has proposed a rule to provide a new definition for "routine maintenance, repair, and replacement." The EPA did not offer specifics but asked for public

comment on a range of options. This proposal is at the crux of the issue and is imperative. I believe this amendment would not only delay the current rule from being implemented, but it would also effectively delay other very important reforms to the program. We have to get on with it.

I join my colleague and friend, Senator INHOFE, today in the second-degree amendment he has proposed. This amendment would allow the reforms to be implemented while requiring the National Academy of Sciences to evaluate its impact. It allows the reforms to go forward to stop this state of limbo that exists. At present, nothing is happening. Companies will then be able to make efficiency improvements and reduce their emissions. At the same time, the Academy can study the impact of the reforms as they are being implemented.

Ending the confusion surrounding the NSR reforms will allow companies to make the investments that are necessary to both increase our energy supply and environmental protections. We can reduce pollution and become more energy-efficient. We need to provide both for continued economic development and protections for public health and the environment. To meet these needs, we must move enact substantive NSR reform.

I thank the administration for their work in developing this proposal and moving ahead with the Clinton era reforms. I urge them to continue these efforts. Support for these actions is strong and broad-based. The confusion about NSR regulations is pervasive throughout our Nation, from the regulated community to the regulators. It must be addressed—and soon.

Mr. President, I sincerely urge my colleagues to support Senator INHOFE's second-degree amendment to Senator EDWARDS' amendment. The program is broken and desperately needs to be reformed. We cannot afford further delay.

Mr. INHOFE. Will the Senator yield?

Mr. VOINOVICH. Yes.

Mr. INHOFE. First of all, I thank the Senator from Ohio for the time he has spent in setting out this issue. Not many people are aware of the fact that Senator VOINOVICH was the head of the National Governors Association Clean Air Committee and has been working on it for a long time.

I only add to his comments and ask him if he is in agreement that we have 180 pages here, and almost all of this was done during the Clinton administration. All the data that would be available for the NAS is found in the results that are very positive in this report. So I certainly hope this is an accommodating way for the Senator from North Carolina to say, yes, we want the input of the NAS; we don't want to wait 6 more months.

Mr. VOINOVICH. Again, I thank the Senator. I emphasize that 130,000 comments were made last year regarding those regulations that have been issued by the EPA. So it has been really vetted. People have had an opportunity to

participate in this. I support the Senator's suggestion that rather than ask for a study by the Academy, we delay that and let the rules be issued, and then let the Academy look at it. That is a much sounder, more commonsense approach to dealing with this problem.

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

Mr. VOINOVICH. I am more than happy to yield.

Mr. REID. Mr. President, would it not be better, rather than having the rule going into effect and having all the people, from our perspective, start polluting while the study is taking place, to find out which side is right? We are saying to have the NAS study the issue, hold this off for 6 months, and then there should be a determination made as to whether the rule as proposed by the administration affects people.

I don't see—and I ask my friend from Ohio, the distinguished junior Senator—what harm can be done in holding off for 6 months this rule going into effect when, if we don't hold off, our reasoning would be, as indicated in the study I talked about earlier today, where just 2 months—2 plans would put into the environment 120 tons of bad things every year.

Would it not be better to wait and see what the study of the National Academy of Sciences comes up with before the rule went into effect?

Mr. VOINOVICH. Mr. President, I say to the Senator from Nevada that the previous administration had been working on these rules. They started out during the Clinton administration. The Bush administration began looking at the recommendations from the previous administration. They subjected them to review by many organizations. By the way, these rules do not apply to utility companies. They have only proposed a rule in this regard. What I am saying to Senator REID and others is that because the regulations have not been reformed, companies for several years have done nothing to move forward with installing controls that would reduce emissions or make their facilities more efficient. I think we have delayed long enough. It has been vetted.

If someone believes yet another review is necessary, it should be done after the reforms are implemented. Any additional review should be done after implementation so that we are dealing with reality and not speculation. This is very important. I think it is time for us to go forward with the reforms to allow facilities to do their routine maintenance and repair work. This will make their facilities more efficient, reduce their emissions and, in some cases, produce more energy.

Mr. REID. Mr. President, I will respond simply to my friend that the environmental community has a different view. They believe this radical rule change would simply allow pollution to take place that is not allowed now.

We hear that the rules the administration has made are the same as rules

made in the Clinton administration. This simply isn't true. Here is what Carol Browner has said:

Some have suggested that the administration's announced changes are changes the Clinton administration supported. Nothing could be further from the truth. Fundamental to everything we did was a commitment to ongoing air quality improvements. There is no guarantee, and more importantly, no evidence or disclosure demonstrating that the administration's announced final or proposed changes will make the air cleaner. In fact, they will allow the air to become dirtier.

Mr. VOINOVICH. Mr. President, we had a hearing in the EPW committee last year on the rules before they were publicized, and they were savaged because many people believed the issuance would interfere with current lawsuits. The EPA claims that the reforms do not interfere with pending lawsuits for violations under the guidance that was issued back in 1998.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Illinois is recognized.

#### AMENDMENT NO. 40

Mr. DURBIN. Mr. President, I came to the floor to speak on the Reed-Durbin amendment regarding unemployment insurance. If another Senator has been waiting to speak, I will be glad to wait. If not, I will proceed.

Mr. President, I rise in support of the amendment which has been introduced by JACK REED of Rhode Island and myself. About 20 years ago, when I first ran for Congress, I waited each month for an economic indicator which really led the debate about the state of America's economy. That economic indicator every single month was the unemployment rate. If the unemployment rate in America was high, or going up, that really consumed all of the political attention of candidates and Members of Congress. That was considered to be the yardstick or barometer of how healthy America's economy is. In the span of time I have served in Congress, that yardstick and barometer has changed.

We now focus more on the situation of the Dow Jones Index and Standard & Poor's. We look daily, almost on a minute-by-minute basis, to the report of the Dow Jones Index as an indicator of our economic well-being. But I think in so doing, we have overlooked something we have done for a long time. If the economy is not strong, people do not go to work. If they do not go to work, they get desperate to keep their families together, to pay for the basics, to make sure their kids have the necessities of life, and they struggle to hope that the economy returns to strength and they can return to employment, and soon.

There is a lot of talk in this Chamber about who is responsible for this recession. That is a common topic in politics. We politicians spend a lot of time pointing fingers, saying: This recession really started the last few months of the Clinton administration; no, no, it

really started in the first few months of President George W. Bush's administration. Let me for a moment push that aside and suggest that the families who lost their jobs do not care. They are not interested in when this started. They want to know when it is going to end so that if they lost a job and are falling behind, they have a chance to get back into the workforce.

These are not people who can be characterized as lazy in any way. They have worked, and worked hard, for a long time, but contractions in the American economy because of this recession have killed jobs all across America. During the 8 years of the Clinton administration, we created 22 million new jobs. During the first 2 years of this administration, we have lost 2 million jobs nationally, and we are losing over 100,000 a month. As a result, many people are hard pressed to keep up with their obligations to their family.

The December 2002 unemployment rate of 6 percent is the highest rate in over 8 years. According to a Congressional Budget Office economic forecast, the unemployment rate is expected to remain at that level at least until the second half of this year, 2003.

Over 1.85 million workers have been looking for work for at least 6 months. As of January this year, more than 1 million workers exhausted the 13-week temporary benefits extension enacted in March 2002 and remain unemployed. Employment has declined by 1.7 million jobs since January of 2001. The decline is slightly worse than the average fall-off after the last six recessions. While the unemployment rate remains far lower than at the end of the recessions in the 1980s and 1990s, it has still risen significantly from its 30-year low of 3.9 percent in 2000, not that long ago.

The reason I raise that point and the reason Senator REED and I come to the floor to offer this amendment is to suggest that hundreds of thousands, perhaps 1 million, unemployed workers in this country are facing extraordinarily dangerous and difficult times. These are people who are caught up in the vortex of this recession and cannot get out. They cannot find work. They drew unemployment for a short period, and it has been exhausted. They used it all up. Now where are they? They are stuck in a position where they have to try to meet their monthly bills and have no unemployment compensation, no prospects for employment, and the recession seems to be going on interminably.

I asked business leaders of major corporations from my State to give me their best guess of when this recession would end. Frankly, they told me—and it was depressing to hear—it might be 2 years. I hope they are wrong. I hope it ends tomorrow. I hope we see better signs of encouragement. The fact is, it has not happened.

What have we done in the past when we have dealt with recessions not even as bad as this one? We said time and



again if the recession continues indefinitely, we have to step in. We cannot abandon these Americans who are victims of this economy. Let us give them a helping hand. Let us do something for their families. Let us make certain they do not lose their homes to mortgage foreclosures. This is not a Democratic response or a Republican response, it has been our American response year in and year out.

Let me give an example. During the recession of the early 1990s which, in many respects, was not as bad as this one, Congress extended temporary unemployment benefits five times. During this recession, we have extended benefits only twice. Of the five times Congress extended benefits in the early 1990s, three were under President Bush's father in the recession he faced, and two were under President Clinton when he took office, and the recession had continued.

This is not a partisan response we are suggesting today. It is unfortunate only two Democratic Senators would offer this. This should have been a bipartisan offering.

During the recession of the early 1990s, Congress established the Emergency Unemployment Compensation Program which was in place for 30 months, from November 1991 to April 1994. During this recession, we established the Temporary Extended Unemployment Compensation Program which is scheduled to expire at the end of May 2003 and, therefore, would have only been in place for less than 15 months. Here we are with a recession that is worse and a response that does not measure up to half of what we did during the last major recession we faced.

We passed an extension of unemployment compensation benefits recently which will provide temporary benefits to some workers. This amendment which Senator REED and I proposed will provide assistance for an additional 53,000 workers in my State and 1 million workers nationwide. It will provide 13 weeks of additional benefits. Workers in high unemployment States who already receive 26 weeks of benefits will receive an additional 7 weeks of benefits. Thus, the greatest number of weeks a worker can receive is 59 weeks, the same as under the extension enacted under President Bush's father.

The CBO cost estimate, \$6.5 billion, is substantial but still represents only slightly more than a third of the balance in the unemployment insurance trust fund, after accounting for the extension enacted earlier this month. I think the 5-month extension we enacted was something that was good and it helped a lot of workers, but we cannot leave out the 1 million Americans who will not be helped by this action taken just a few weeks ago. One million Americans have exhausted their unemployment benefits and are stuck in a situation—without a job in a recession—to which, frankly, we do not see an end. What we are asking the

Senate to do today on this appropriations bill is to think about those we have left behind. I do not believe it is fair to characterize the people who are victims of this recession as anything less than hard-working Americans caught behind the curve of this economy. I do not care whose responsibility this recession is for this moment. We can argue about that for a long time, but I do feel a responsibility to these workers and their families.

In my State, the unemployment rate in November of last year was 6.7 percent. This is a 13.6-percent increase from November of the previous year when our rate was 5.9 percent. Our unemployment rate in Illinois sadly is tied for third highest in the Nation. Alaska and Oregon are higher. We are tied with the State of Mississippi. If one measures the impact of a recession by the percent change in unemployment rates, this recession has hit my State twice as hard as the recession of the early 1990s, and as of January 1, 2003, over 53,000 Illinois workers exhausted the 13-week temporary benefits extension enacted in March 2002 and remain unemployed. Each week, 4,000 Illinois workers will exhaust their regular State unemployment benefits.

The President, in his radio address a few weeks ago, said as follows:

We will not rest until every person in America who wants to work can find a job.

Thank goodness. That is a pledge every President should make. On December 28, in another weekly radio address, the President said, and this is right after Christmas and we knew unemployment benefits were expiring:

One of my first priorities for the new Congress will be an extension of unemployment benefits for Americans who need them.

The President responded and Congress answered with an extension of unemployment benefits that took us close to meeting that pledge, but not close enough for 1 million Americans who were left behind. The extension of unemployment benefits that the President proposed and signed excluded 1 million American workers who have been unemployed for over 9 months and have exhausted all their temporary Federal benefits without finding a new job.

I have argued in this Chamber today that this is a question of fairness and compassion. Let me add parenthetically that it is also a stimulus to the economy. The money given to unemployed workers is spent almost immediately to meet the needs of their family. It is not salted away, invested, or saved. It is spent for goods and services creating economic activity and jobs in a time when this economy dearly needs that to happen.

I hope my colleagues will reconsider this issue and join Senator REED and myself in enacting this amendment.

Mr. NICKLES. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. NICKLES. I will ask a quick question. I know my colleague referred

to the 1990–1991 recession a couple of three times and alluded to: We did it then. Why do we not do it now?

Is the Senator aware of the fact that the unemployment rate was 7 percent or more, compared to the current level of 6 percent, when we passed the Federal unemployment extension in 1990–1991?

Mr. DURBIN. I say to the Senator from Oklahoma, I am aware of that fact, but I hope he is also aware of the fact that the recession we are currently in also has some economic indicators that are even more troubling than what we faced in the early 1990s.

I say to the Senator in good faith that I sincerely hope this recession ends tomorrow. I do not care what the political consequences are for Democrats or Republicans, but I hope the Senator from Oklahoma will concede the recession we are in today is unlike those we have had before. There is high unemployment. Maybe we have not reached record levels, but there seems to be a resistance to getting this economy started again. I think that is why we are debating a stimulus and growth package.

I hope the Senator will concede that, though the numbers may not be exactly as bad, the depths of this recession and the impacts of the current recession are really unique and we should respond to them at least in the way we did before.

I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to speak on this issue, but my colleague, the chairman of the Finance Committee, was in the Chamber prior to my arrival so I will speak after his comments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first, I think all 100 Senators would agree, both from the standpoint of our needs for the future as well as what we have done in the past, that we all recognize the legitimacy of the Federal Government stepping in to compensate with Federal unemployment help when State programs have run out. There is no dispute about that.

There is a dispute over when and how much, and the plan we are being offered now would be a plan that has been put in place at other times but under much higher rates of unemployment.

I hope we do not have higher rates of unemployment, but sometime down the road we will, hopefully not now during this period of time, and it seems to me we ought to keep reserve to do what we have other times in the past when we have had higher rates of unemployment than we have right now, as opposed to triggering in programs that do much more for the unemployed than we normally do at 6-percent unemployment, let's say, as opposed to 7-percent unemployment.

If we were to go the route that is being proposed, then we would be doing more than we normally do at this rate of unemployment we have now. Surely, the people who are proposing what they are proposing today, as all of us would probably do if there is a higher rate of unemployment, would expect the Congress to respond to that. It is not a question of should we respond; it is a question of a measured response and when it triggers in.

I am not condemning people who say we ought to do more today beyond what States do, but they are responding in a way that we would normally respond when the unemployment situation would be much more negative than it is right now.

I think it is wrong for my colleagues to speak about this recession being different than other recessions, for two reasons. No. 1, the definition of a recession is two quarters of negative growth. We had three quarters of negative growth but that negative growth ended September 30, 2001. So we have had five quarters now of growth, about 2½ percent average.

Economists are predicting the quarter we are in now for 2003 would be about 3-percent growth, so I do not think it is fair to say we are in recession unless we have a Senator who is making his own definition of a recession—and he has that right—but I think we should be comparing apples with apples and not apples with oranges.

The second point I make is even if we were just coming out of a recession instead of being five quarters out of a recession—an official recession as defined by economists—I think we all need to remember that historically unemployment as a statistic is a lagging indicator. So one would expect other indicators of an improving economy to improve before the unemployment figure improved. Consequently, this has to be taken into consideration as help is given to unemployed people.

It is quite obvious that a number of my Democratic colleagues seem to think we can never spend enough on unemployment. So I want to review where we are so the record is straight.

Under the regular State unemployment program, workers are entitled to as much as 26 weeks of unemployment benefits. Under the temporary federally funded unemployment program enacted last March, those who exhaust their regular State benefits can receive up to 13 weeks of additional Federal benefits. In addition, workers in high unemployment States can receive yet another additional 13 weeks. That is a maximum of 26 weeks of Federal benefits.

So to some, it works out this way: Workers in every State can collect up to 39 weeks of benefits, 26 of those being State and 13 Federal. Workers in higher unemployment States can collect up to a whole year of unemployment benefits, which means 26 weeks State, 26 weeks Federal.

Last year, this temporary program was estimated to cost \$11 billion. We are still responding, as we should in a bipartisan way, to this unemployment statistic still being relatively high but not as high as it has historically been. Earlier this month, in addition to what we did last March, Congress voted to extend these Federal benefits through May of 2003. This extension is estimated to cost \$7 billion more. That happens to be a total of \$18 billion in federally funded unemployment benefits. According to some of my Democratic colleagues, that still seems not to be enough.

Through this amendment, I think they are trying to spend an additional \$6 billion. The amendment they offered today would change the current law to provide 26 weeks of federally funded benefits in every State, and 33 weeks in high unemployment States. The last time Congress provided 33 weeks of benefits, the unemployment rate was well over 7 percent. That is why I made the point. If we do this, what are we going to do if unemployment gets up to 7 percent, which I do not think anybody expects it to but suppose it did? The current unemployment rate is 6 percent.

Now there is something even more troubling. What I have said until now has been done by Congress in the past during certain times of high unemployment. More disturbing to me, this amendment changes current law to provide a uniform duration of benefits. Most States vary the duration of benefits based on the worker's actual employment history. Variable duration recognizes the insurance principles inherent in unemployment compensation by providing a shorter duration for workers who had a limited amount of work prior to qualifying for the benefits. These workers have paid less unemployment taxes and they have less attachment to the workforce.

Congress has never provided extended benefits without regard to the duration of State benefits. That is a very dramatic departure that this amendment holds for the future. A uniform duration means some workers will be able to collect more Federal benefits than they would State benefits. Moreover, a uniform duration means some workers will actually be able to collect benefits for a longer period of time than they actually worked.

Current law requires a minimum of 20 weeks of work to qualify for Federal benefit. Yet this amendment provides up to 33 weeks of benefits. These 33 weeks of Federal benefits could be paid in addition to as much as 39 weeks of State benefits. That happens to be a total of 72 weeks of benefits for someone who maybe only worked 20 weeks. This amendment represents the single largest expansion of Federal unemployment benefits in the entire history.

That brings me to an issue of how, if this were a legitimate approach to unemployment compensation, this ought to be handled by committees of appro-

priate jurisdiction, not be offered on the floor of the Senate to an appropriations bill. I am speaking because that appropriate committee is the Senate Finance Committee. We have jurisdiction over unemployment compensation. A departure in Federal responsibility is very important to consider as a committee—its impact, its costs. More important, if we are going to have this sort of an impact that is so different from what States have historically had, it ought to be considered by the committee of appropriate jurisdiction. We are dealing with something that is other than just simple extension of unemployment compensation.

Now, we may need to revisit this issue later this year, depending upon how the economy performs. But when we do that, we need to do it in a way that we take into full consideration that this amendment represents an unprecedented and, at least at this point with 6 percent unemployment compared to more than 7½ percent unemployment when it has been used in the past, an unjustified expansion of the unemployment program.

I urge my colleagues not to vote for this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my friend and colleague, the chairman of the Finance Committee, for his statement. I hope my colleagues pay attention to it, especially the last part. The chairman of the Finance Committee said this has not gone through the Finance Committee, and pointed out several things that sounded like this is about what we did in the 1990s, but it is not. It is expensive. This is a different proposal than what we have seen.

We actually had a similar type of proposal that was debated last year, to which I objected, I believe the Senator from Iowa objected, and maybe the Senator from New Hampshire objected, that was a doubling of the Federal program from 13 to 26 weeks. This is a different iteration of that. It is different—in some cases maybe better, in some cases maybe worse. The one we objected to last year was a \$17 or \$18 billion program. The proposal now, we understand from the authors—I have not seen this from the Congressional Budget Office, but I respect them and I assume it is correct—says it costs \$6.5 billion. Last week, we passed a bill that cost \$7.2 billion. So this is \$6 billion on top of that.

The Senator from Iowa mentioned that this says there would be a mandatory 26-week Federal unemployment compensation program. Present law we passed last week is an extension of up to 13 weeks for all States. There is a big difference in legislative language when you say “up to” rather than mandating 26 weeks. One, you are doubling the program, and you also do not keep it connected to the State program. Some States have different durations. We have always been tied to the State program.

I keep hearing about what we did in 1990; we want to duplicate what we did in 1990. The chairman of the Finance Committee alluded to the fact that the 1990 unemployment rate was much higher. It was 7 percent, 7.4 percent, 7.8 percent. The unemployment rate today nationwide is 6 percent. We have a lot of States that are substantially lower. We have 24 States that have unemployment rates at or below 5 percent this year—now. We have nine States that have unemployment levels between 2.7 and 4 percent. I remember in my private sector days, if you had unemployment at about 4 percent, you might not be able to hire somebody.

So there will always be some who are unemployed because people are changing jobs, they just graduated, they just moved and are temporarily unemployed. There is always a segment of the population temporarily unemployed. Almost half of our States have unemployment rates of 5 percent or less.

I mentioned there is a big difference from the language we passed in 1990. In 1990, we did do 26 weeks, but up to 26 weeks. We also had unemployment rates that were over a full point higher.

Also, sometimes we want to ask: when are we going to pay attention to the committees of jurisdiction? We are on an appropriations bill, yet we have an amendment that expands entitlements. Even though we extended current law last week, agreeing to spend an additional \$7 billion plus, colleagues say: Wait a minute, let's add another \$6.5 billion on top of that. We will just do an amendment that should come out of the Finance Committee right now. This is the first time that people will have seen it, and it's different than the proposals we have seen in the past, and we will see if we cannot pass it.

It does not belong here. Obviously, my colleagues know the budget point of order lies against this amendment. This proposal has not been introduced as a bill and a committee hearing has not been held, that I know of. Maybe different bills have been introduced. If it is the bill Senator CLINTON was talking about introducing, this is not the same bill. There is a reason we should follow regular order. There is a reason we should use the committee of jurisdiction. There is a reason we should have bipartisan cooperation on bills such as this. I am disappointed we are not.

In this current recession, we have spent up to \$26.25 billion since March of 2001 to help the unemployed. That is almost what we spent in the 1990s. People say: Well, you are not helping; you do not care about the people. That is hogwash. The proposal introduced today by Senator REED and Senator DURBIN is not targeted. Twenty-four States have unemployment of 5 percent or less, but they will get the same benefits as everyone else, except the highest unemployment states get an extra 7 weeks.

Then we have the dilemma of, right now, the present requirement is a per-

son only has to work 20 weeks and they can receive as much as 52 weeks in unemployment compensation. That is not a bad deal, especially when you consider 72 percent of workers in a household who are eligible to receive these benefits have another family member who is employed.

Think of that: 52 weeks of paid unemployment compensation while in a household where, in 72 percent of those households, there is an employed family member.

This is a crummy way to legislate. It doesn't belong on this appropriations bill. We need to finish this appropriations process. We have 11 bills that were not finished last year. We have already finished one-quarter of this present fiscal year and we haven't passed these bills and we need to complete them. If colleagues want to do a change on unemployment compensation, they should introduce a bill, have it referred to an appropriate committee, and ask the chairman for a hearing, ask the chairman for a markup. That is the way business is supposed to be done in the Senate. It is not to try to rewrite entitlement programs. If you can do unemployment compensation, you can do Medicare, you can do Social Security, you can do any other bill, but that is not following the procedure.

Senator STEVENS has great expertise, but I doubt that controlling or managing unemployment compensation is his area of expertise. That is not what his committee does. That belongs properly in the Finance Committee. We need to start respecting committees' jurisdictions and we have not been doing it.

I urge my colleagues, let's not be playing games. Let's not be trying to pass something they know won't pass and they know it will not come out of conference even if they are successful. I don't believe they will be successful. They should not be successful.

Mr. President, the pending amendment offered by the Senator from Rhode Island, Mr. REED, increases mandatory spend and, if adopted, it would cause an increase in the deficit. Therefore I raise a point of order against the amendment pursuant to section 207 of H. Con. Res. 68, the concurrent resolution on the budget for fiscal year 2000, as amended by S. Res. 304.

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. REID. Mr. President, I renew my request to vitiate the quorum call.

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

Mr. REID. Mr. President, I ask unanimous consent that the leaders set a time for the budget waiver I am going to be suggesting in just a second. That is part of the unanimous consent request.

Therefore, on behalf of Senator REED of Rhode Island, I move to waive the Budget Act under the requisite rules of the Senate.

Mr. NICKLES. Reserving the right to object, and I shall object, because I think somebody in our conference said they would wish to consult with me so, temporarily, I object.

Mr. REID. Mr. President, we have some business here to conduct.

Mr. NICKLES. Will the Senator yield? I have a unanimous consent request I would like to enter before the 5 o'clock vote.

#### ORDER OF PROCEDURE

Mr. President, I ask unanimous consent when the Senate considers S. 121, the AMBER Alert bill, Senator HATCH be granted 5 minutes to speak. Therefore, debate on the bill would commence at 5 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection. Mr. President, I ask the record reflect I do not waive any of my rights under the motion that the Senator from Oklahoma offered, and I would renew my motion to waive at a subsequent time.

The PRESIDING OFFICER. Without objection, the request of the Senator from Oklahoma is agreed to.

Mr. NICKLES. I thank my colleague.

Mr. REID. I also made a request. I say to my friend from Oklahoma, I want to make sure the record is reflective that I do not waive any of my rights on the motion to waive the Budget Act.

Mr. President, while I still have the floor, we have a few minutes until 5 o'clock when debate on the AMBER Alert matter takes place. We have two matters. We have the Senator from West Virginia to be heard—I did see him here. He wanted to speak on the Ridge nomination, which is going to come up. He wanted to get that debate out of the way.

We also have Senator NELSON here, who has been patiently waiting, who wishes to offer an amendment on his behalf and that of Senator INHOFE. We would need consent to set aside the pending amendment to allow him to do that.

I ask unanimous consent the pending amendment be set aside for the Senator from Florida to offer his amendment. He said he would need 25 or 30 minutes to speak, but he said that he could do that this afternoon in 10 minutes.

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

The Senator from Florida.

#### AMENDMENT NO. 97

(Purpose: To make additional appropriations for emergency relief activities)

Mr. NELSON of Florida. I call up amendment No. 97 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. NELSON), for himself, Mr. DASCHLE, Mr. LEAHY, and Mr. DURBIN, proposes an amendment numbered 97.

Mr. NELSON of Florida. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. In addition to amounts appropriated by this Act under the heading "Public Law 480 Title II Grants", there is appropriated, out of funds in the Treasury not otherwise appropriated, \$600,000,000 for assistance for emergency relief activities: *Provided*, That the amount appropriated under this section shall remain available through September 30, 2004: *Provided further*, That the entire amount appropriated under this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. NELSON of Florida. Mr. President, I rise to address a humanitarian crisis in the world that has not been getting the attention its magnitude warrants. The world has focused on the buildup of forces in the Persian Gulf region for a possible war. We focused on a very dangerous situation in North Korea, which threatens the U.S. interests and Asian security. We have a litany of problems plaguing the Western Hemisphere as well, relating to narcotics trafficking, civil war, and abject poverty.

But today I call to the Senate's attention, sub-Saharan Africa and the starvation that is occurring in east Africa, in west Africa, central Africa and in the southern part of Africa. The droughts in these areas have caused a massive food shortage which will worsen over the next few months and threatens the lives of millions of Africans. It is our responsibility, as a nation of bounty, to demonstrate to the world that the United States lives up to its commitments and obligations to those in need.

In that spirit I am offering this amendment. This amendment is not about politics. If you will recall what President Reagan once said, he said:

A hungry child knows no politics.

He was correct. This is about people dying. This is about reaching out and saving lives. We have an opportunity to do the right thing now, and that is save African children from starving to death.

Congressman FRANK WOLF, my good friend, has just returned from Ethiopia and Eritrea.

Mr. President, I ask unanimous consent that his report of his trip be printed in the RECORD.

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

#### TRIP REPORT: ETHIOPIA AND ERITREA— DECEMBER 29, 2002–JANUARY 4, 2003

Babies wailing and screeching, desperately trying to get nourishment from their mothers' breasts.

Two- and three-year-olds so severely malnourished that they cannot stand, much less crawl or walk, their pencil-thin legs so frail that they could be snapped like a twig with little or no effort.

Young boys and girls with bloated bellies. A teenager whose legs are no thicker than my wrist.

Drinking water almost non-existent—a four-hour walk each way just to find some. Fields scorched. Crops failed.

River beds dry as a bone. Hand-dug collecting ponds for rain so sun-baked that the earth has cracked.

Disease. Despair.

These are some of the horrific sites I witnessed last week in Ethiopia, which once again is facing a famine of catastrophic proportions.

I spent a week in Ethiopia in 1984—when nearly one million people died of starvation—including two nights in a feeding camp. The squalid conditions of the camps and the suffering faces of the children, mothers and elderly were haunting and unforgettable. What I saw—and experienced—changed me forever. I never thought I would see something like that again. I have. Last week.

By Easter, thousands of Ethiopians could be dead from starvation. Children living in villages just 90 miles from the capital city, Addis Ababa, which is easily accessible by truck, are already near death. Conditions in villages in more remote areas of the country are significantly worse.

#### DIRE SITUATION

While the government of Ethiopia is out in front of trying to draw attention to the crisis—unlike in 1984 when the Mengistu government tried to keep the famine secret until a BBC camera crew broke the story—what makes this year's crisis more horrific is that the population of Ethiopia has increased from 45 million in 1984 to 69 million today. In addition, HIV/AIDS is spreading throughout the country and Ethiopia's 2½-year border was with neighboring Eritrea has drained precious resources and led to thousands of displaced people and families, particularly in remote areas of the country.

With each crisis—drought, war, disease—more families become destitute and completely dependent on others for their welfare and survival. The repeated droughts have made more people vulnerable to hunger and hunger-related diseases, sharply increasing the danger of outright starvation among groups that may have been able to survive previous crop failures and livestock losses.

This also is a tough neighborhood, with Sudan bordering to the west and Somalia to the east. These countries are struggling to overcome internal turmoil of their own and refugees from each have crossed into Ethiopia and are living in refugee camps.

But perhaps the greatest difficulty is getting the world to respond. The focus in capital cities around the globe is the war on terror, Iraq and North Korea.

#### HOW COULD THIS HAPPEN?

I do not believe this situation should ever have been allowed to develop. Does anyone really believe that the world would turn a blind eye if this crisis were unfolding in France or Australia? If the photographs in this report were of Norwegian children wouldn't the world be rushing to help? Is not the value of an Ethiopian child or Eritrean mother the same in the eyes of God?

This disaster has been building since last fall, yet there has been little mention of it in

the Western media, let alone any in depth reports. Without graphic photographs and video-tape, foreign governments will not feel the pressure to act.

The situation in Ethiopia is dire and many believe if immediate action is not taken to address the looming crisis, the number of people who could die from starvation could surpass those who perished during the 1984–1985 drought. In 1984, 8 million were in need of food aid. Today, more than 11 million people—just slightly less than the combined population of Maryland and Virginia—are presently at risk and that number is growing every day.

Last year's crops produced little or nothing, even in parts of the country that normally provide surpluses of food. The demand for international food aid is tremendous. I was told there is enough food in the country to meet January's needs and part of February's, although at reduced levels. Incredibly, there is nothing in the pipeline to deal with March, April, May, or the rest of the year. Even if ships loaded with grain were to leave today, many would not make it in time to avert disaster.

Villagers are living on about 900 calories a day. The average American lives on 2,200 to 2,400 calories a day.

An elderly woman at a feeding station in the northern part of the country showed me her monthly allotment of wheat: it would have fit into a bowling ball bag.

A man working under the hot African sun with fellow villagers to dig a massive rain collecting pond—each carrying 50-pound bags of dirt up from the bottom of the pit—told me he had not had a drink of water all day and didn't know if he would eat that night. It would depend on whether his children had food.

#### NO WATER

Water—for drinking and bathing—is almost non-existent, and what is available, is putrid. There is no medicine—and even if there was something as simple as an aspirin there is no water with which to wash it down. Disease is rampant.

During my trip I visited villages in both the north and south of the country. I went to a food distribution center and a health clinic. I talked with farmers who had already begun to sell off their livestock and mothers who did not know where or when their children would get their next meal. I met with U.S. State Department officials and NGOs. I also met with Prime Minister Meles and a number of relief officials in his government.

The government's decision not to establish feeding camps is a wise one. The camps only exacerbate the crisis because they allow diseases to spread much more quickly and take people away from their homes and albeit limited support systems. In 1984, many families traveled great distances to reach the camps and by the time they got there were often near death. Moreover, villagers who left for the camps and somehow managed to survive had nothing to return to because they had lost their homes and sold their livestock.

Fortunately, relief organizations, including U.S. AID and the United Nations World Food Programme, have developed an early warning system to better predict the effects of the looming crisis and have been sounding the alarm since the fall.

Nevertheless, they are facing an uphill battle. Donor fatigue is a very real problem.

#### COMPETING WORLD CRISIS

Getting the world—and the United States, in particular—to focus on the issue is difficult because of the war on terrorism, the situation in Iraq and the growing crisis in North Korea.

Since August 2002, the United States has provided approximately 430,000 metric tons

of food, valued at \$179 million. This amount constitutes approximately 25 percent of the total need in the country. The U.S. government will need to do more to avert a disaster of biblical proportions.

Before leaving on the trip, a number of well read people in the Washington area looked at me quizzically when I told them I was going to Ethiopia. They all asked why? When I told them that the country was facing another famine along the scale of 1984, they were dumbfounded.

Time is of the essence. A village can slip dramatically in just a matter of weeks. Many of the children I saw last week will be dead by early February and those who do somehow miraculously survive will be severely retarded. The world cannot afford to wait any longer.

I also visited neighboring Eritrea, where the situation is not much better. Widespread crop failures are expected as a result of the drought. Compounding the situation are the lingering effects of its war with Ethiopia, which ended in December 2000. While nearly 200,000 refugees and displaced persons have been reintegrated into society following the truce, almost 60,000 have been unable to return to their homes due to the presence of land mines, unexploded ordnance, insecurity or the simple fact that the infrastructure near their homes has been completely destroyed.

#### RECOMMENDATIONS

Donors, including the United States, must make prompt and significant food-aid pledges to help Ethiopia overcome its current crisis. The food pipeline could break down as early as next month if donors do not act immediately. There are a number of countries, Canada and France, for instance, that can and should do more.

The Office of Management and Budget (OMB) must work to ensure that the U.S. assistance is released as quickly as possible.

When President Bush visits Africa, he should consider going to Ethiopia. I believe he would be moved by what he sees.

The Bush Administration should make an effort to rally public support similar to what was done during the 1984-85 famine. Perhaps the new director of faith-based initiatives at USAID should serve as the coordinator for such an effort.

Donor support also must include water, seeds and medicine as well as veterinary assistance.

The Ethiopian government should take its case to capitals around the globe, sending representatives to donor nations armed with photographs of dying children to put a face on the growing crisis. Regrettably, if they do not ask, they will not receive.

The Ethiopian government must contribute additional food aid from its own resources as it did in 2000 and 2002 as a sign of leadership and commitment to the welfare of its people.

More must be done to develop long-term strategies to tackle the root causes of the food shortages in Ethiopia, like improving irrigation and developing drought-resistant crops. The government must develop a 10- or 15-year plan designed to help end the constant cycle of massive food shortages. A well developed plan would go a long way toward reassuring the international community that the country wants to end its dependence on handouts.

The Ethiopian government also should do more to help diversify its economy. Its largest export—coffee—is subject to huge price fluctuations in the world market and rather than exporting hides and leather to Italy and China—only to come back as belts, purses and shoes—the government should work to attract business that will make these products on Ethiopian soil.

The government of Ethiopia also should consider a sweeping land reform policy that would allow farmers to own their property rather than the government owning all the country's land, a vestige of the country's socialist days.

The media needs to more aggressively pursue this looming crisis. It was responsible for making the world aware of the terrible famine that was occurring in 1984 and has the ability to let the world know about the tragedy unfolding again.

Many of the same issues that apply to Ethiopia apply to Eritrea. Both countries are in desperate need of assistance.

In closing, I want to thank all the people—from government officials in both Ethiopia and Eritrea to U.S. officials and NGOs and missionaries in both countries—who are working around the clock to deal with this crisis. I also want to thank U.S. Ambassador to Eritrea Donald McConnell and U.S. Ambassador to Ethiopia Auzerlia Brazeal and their respective staffs for all they do. They are outstanding representatives of the U.S. government. Special thanks go to Jack Doutrich in Eritrea and Karen Freeman, Jo Raisin and Makeda Tsegaye in Ethiopia. Roy "Reb" Brownell with USAID in Washington also deserves special recognition.

Finally, I want to thank Lt. Col. Malcom Shorter, who accompanied me on the trip, and Dan Scandling, my chief of staff, who took all the photographs and videotaped the trip.

Available on line at: <http://www.house.gov/wolf>.

Mr. NELSON of Florida. This report states that thousands of Ethiopians could be dead of starvation by Easter. Frank Wolf writes:

More than 11 million people, just slightly less than the combined population of Maryland and Virginia—are presently at risk—and that number is growing every day. That number could surpass the number that died in the 1984-85 hunger crisis in the region.

The U.N. World Food Programme also warned of severe food shortages this spring, estimating that between 10 million and 14 million Ethiopians, at risk of starvation, are at risk of starvation in this year, 2003.

Back in 1985, my wife Grace and I spent 8 days in the feeding camps in Ethiopia. And every day we carry with us what we experienced.

I ask unanimous consent to have printed in the RECORD, since I do not have the time to read portions, an article that I wrote in January of 1985 about the starvation that occurred there.

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

#### ETHIOPIAN HUNGER PROBLEM Baffles THE MIND

ADDIS ABABA, Ethiopia.—Here in this drought-stricken land the enormity of the hunger problem baffles the mind. As I visited the feeding centers where gentle humans are restoring life to some of the starving, I was bewildered as to how to solve this crisis.

The problem of famine in Africa is real. Twenty nations have been affected. Seven are critical. Just in Ethiopia alone, over 7 million people are threatened by starvation.

A severe drought is a major cause. The rains either did not come or were less than is required to germinate the seeds in the fertile soil.

Agricultural techniques are backward. There are few drilled wells, little irrigation,

almost no fertilizer used and severe topsoil erosion. If there is to be problem-solving, it will be long-term and it will be painful. Attitudes will have to be changed to use modern agricultural methods. And in Marxist countries, the collective farm reduces the farmer's incentive to produce for himself and only aggravates the sparse production.

There have been four major droughts in Ethiopia in the last 35 years. People have died of starvation. But this is the worst drought and death is apparent throughout the land.

My visit to Alamata and Korem, two feeding centers 250 miles north of Addis Ababa, was shocking. The emaciated bodies of young and old were overwhelming. One's emotions cannot be controlled as you see the helpless trying to survive. The huge numbers dulled my sense of hope.

Thousands have died and thousands more died in remote villages which statistics will not record. But there is hope—because humankind is responding—and responding well.

The Free World is responding swiftly by sharing its abundance of food, medicine and blankets. Help from Western nations, from the private sector and from government, is pouring in. People are acting out of their best humanitarian instincts.

The United States is leading the pack. There are not many "ugly Americans" in Africa today. We are responding from our generosity. And America is responding mightily!

Americans are responding as a government. President Reagan has announced his intention to provide one-half of the food assistance needed in Africa this year—a \$500 million U.S. contribution. For Ethiopia, a Marxist state, with whom we have strained relations, \$130 million in food is already planned. This government-supplied grain is distributed by many private volunteer agencies, such as Catholic Relief and World Vision, and soon some will be given directly to the Ethiopian government relief agency. The sacks bear the words: "Donated by the People of the United States of America."

The private sector is also responding. For 1985, food assistance to Ethiopia through private organizations is estimated to be \$125 million, with another \$22 million spent on Ethiopian refugees elsewhere.

The private sector from Florida responded magnificently. A "flight of mercy" was organized, funded, loaded, and flown to Addis Ababa, which bespeaks the generosity of Floridians.

This mission was conceived by my wife, Grace Nelson, as a needed response to the problems she had seen in Africa last summer. In Mali, she held a starving child in her arms. She has not been able to forget it. After organizing some fundraising activities, the thought of a "flight of mercy" came from a discussion with the editor of the Florida Times Union. He suggested that although people wanted to help, they needed a concrete mission to respond to and one which could be tracked to a successful conclusion.

This story is an American success story. A DC-8 was chartered and loaded with 40 tons of food, medicine and blankets, in the midst of ongoing fund drives. WCPX-TV in Orlando collected over \$80,000 and two truckloads of blankets. World Vision, a Christian humanitarian organization, provided the mechanism for obtaining the two tons of medicine and thirty-eight tons of fortified food, eleven tons of which were donated by a former Ethiopian official in Indiana. This special mixture of oats, powdered milk and honey, known as ATMIT, is indigenous to Ethiopia. Another \$120,000 was raised before the flight departed Chicago on January 12th.

The plane was so long you could hardly see from one end of the cargo bay to the other. During the 24-hour journey, our group of

"food shepherds" slept on top of the pallets of fortified food using some of the donated blankets for warmth. It was a good feeling to know that our mission was one of trying to help the starving by actually taking food to them.

Our landing was the first of a stretch-DC-8 on the Addis Ababa runway. Trans-American Cargo Airlines and World Vision soon had the cargo unloaded.

Success does not come easily and indeed we soon had our problems. Food was being delayed to the feeding centers because rebel activity in the region interrupted transportation of supplies. When we finally were cleared for an old DC-3 to fly us to the camps, we found they were running dangerously low on food. But our supplies arrived just in time.

I shall never forget the children, also starved for affection, clinging to my hands and arms smiling in spite of their physical deprivation. They were proof that the World Vision feeding center was successful because only a few weeks before they had been lifeless and lethargic. Others were in intensive care, often with their mothers, as nutritional supplements were administered—sometimes through a tube because they were too weak to eat.

The staff was loving and kind . . . it showed. The nuns at the Missionaries of Charity Compound ministered to the dying. These sisters are sponsored by Mother Teresa of Calcutta, who had just paid a visit, greeting and blessing each person in the camp—9,000 of them! What a lesson in love.

There are those who say, "let them die." Their theories of over-population and survival-of-the-fittest are practical, they say. Besides "why should we care about a foreign, strange land?" Fortunately, most of America does not think that way. The goodwill, hopes and prayers of Floridians were obvious in our specific flight of mercy. Many have responded before, others are following.

This mission was successful because of the spirit and character of our people. Perhaps it is best summed up in Matthew Chapter 25: "When you did it for the least of these, you were doing it for me."

Mr. NELSON of Florida. Mr. President, from my letter, which will be in the RECORD, you will see the similarity to what we have here today.

Just in Eritrea, crop failures and the lack of rainfall put about 1.5 million at risk—just less than half the population. But these grotesque figures only speak to those in the Horn of Africa. For example, down in Zimbabwe, 49 percent of the population is in need; in Malawi, approximately 29 percent of the population is in need; in Zambia, approximately 26 percent of the population; and in Lesotho, approximately 30 percent of the population. These are just some of the countries whose populations need food right now.

The World Food Programme estimates that a total of over 38 million people are at risk of starvation throughout Africa this year. This figure is almost beyond comprehension, and compels this body to provide relief.

The toll of this famine threatens to be far worse than anything we have seen previously for another reason. The terrible epidemic of HIV/AIDS, which is currently ravaging the continent, destroys the immune systems of its victims. When further weakened by malnutrition, they are unable to fight off

even the most mild illnesses. If we do not act, the death toll will rise, and it will rise quickly.

There is also a security aspect to providing this relief. It is well-known that the Horn of Africa has had its problems with extremism, particularly in nearby Sudan. As such, crises in this region may pose significant security threats as we fight the global war on terrorism. Terrorist organizations and other extremists have frequently used food as a political weapon in past famines. By controlling the distribution of food, they can hold entire populations of hungry people hostage, and thereby gain their unwitting support. We must combat these threats on all fronts, including providing relief, and with it order, to regions that desperately need it.

Now, allow me to explain this amendment in the context of the fiscal year 2003 appropriations bill we are debating. Because of the Congress' inability to pass the 2003 appropriations bills on time, food relief is being undercut by \$252 million as we operate at 2002 funding levels. Moreover, such severe food shortages in Africa were not contemplated in the president's 2003 request. Simply funding the president's request will not be enough to stave off a massive starvation crisis in Sub-Saharan Africa.

I ask that a letter from the Alliance for Food Security to President Bush dated January 3, 2003 be printed in the RECORD.

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

ALLIANCE FOR FOOD SECURITY,  
January 3, 2003.

HON. GEORGE W. BUSH,  
*President of the United States, The White House, Washington, DC.*

DEAR MR. PRESIDENT: US charitable, agricultural and commercial groups have come together to urge additional US Government funding to provide assistance to 30 million Africans suffering from severe food shortages, without diminishing US efforts to address chronic hunger and provide relief elsewhere. To assure that previously-planned food aid programs and emergency relief can go forward in fiscal year (FY) 2003, we urge you to seek full funding of the \$1.2 billion appropriations for PL 480 Title II when the current continuing appropriations bill expires. To provide the additional commodities needed for urgent emergencies in Ethiopia, Eritrea and southern Africa, we ask you to seek emergency supplemental funds for the \$603-778 million that would provide half of the commodities to meet projected needs for FY 2003.

In FY 2003, US food aid levels are alarmingly insufficient. There are several reasons for this resource gap.

First, Congress has not yet passed the FY 2003 appropriations bill and is forcing PL 480 Title II to operate at a level that is \$252 million less than the Administration's FY 2003 budget request. Second, even if the Administration's FY 2003 budget request for Title II is approved, because most commodity prices have increased, that funding level would buy 30% fewer commodities than originally planned. Third, severe food shortages in southern and eastern Africa were not anticipated when the Administration prepared its

FY 2003 budget request, and these emergencies require an additional \$600-778 million above the Administration's FY 2003 budget request.

Finally, for FY 2003, the Administration initiated a policy which precludes the purchase of commodities for food aid using general Commodity Credit Corporation (CCC) authority. Instead, the Administration stated its intent that it would seek appropriations to meet legitimate food aid needs. Although the FY 2003 PL 480 Title II budget request was increased to make up for the loss of a portion of CCC commodities, the funding request is insufficient to meet the needs of both ongoing programs for poor and displaced persons, as well as people facing emergency food shortages.

Insufficient funding for ongoing Title II programs will hurt millions of people in regions that are recovering from war or are vulnerable to crises, such as Afghanistan, West Africa, Bangladesh, Nicaragua, Angola, Somalia and Sudan. Cuts in these programs could also have negative repercussions for U.S. foreign policy and national security interests, and could lead to future emergencies. The more subtle and insidious effects of chronic under-nutrition must not be overlooked. Thus, the full appropriations of \$1.2 billion is needed now for FY 2003.

Beyond the FY 2003 appropriations, another \$603 to \$778 million is needed to meet the historic US commitment of providing at least half of the commodities required during a food crisis in poor countries. This funding is needed to provide a nutritious mix of foods to avoid starvation in Ethiopia, Eritrea and 6 southern African countries, and to help people rebuild their strength and take the first steps towards recovery. People are even more vulnerable to starvation due to the HIV/AIDS pandemic, which makes this an extraordinary crisis and requires immediate response. Even if the Bill Emerson Humanitarian Trust is used to provide up to 500,000 MT (valued at \$250 million including delivery costs), this would only provide one-third of the estimated emergency needs.

In conjunction with delivering adequate food supplies to address the emergencies in Africa, charitable organizations are committed to helping people immediately move into the recovery phase. Food aid must be integral with investments in agricultural production, such as seeds, fertilizer and farming tools, and with expanded HIV/AIDS efforts. This includes services that improve prevention, enable families to provide nutritious foods and care for relatives living with the disease, and ensure the nutritional, educational and financial needs of orphans are met.

Using food aid to assist people who are impoverished so in the future they may provide for their own nutritional needs in the main purpose of the PL 480 Title II program. It is an equally high calling as helping people who face immediate famine. To diminish the one in order to care for the other is not a choice our great country should make. In compassion and recognition of our urgent needs in Africa while at the same time maintaining the U.S. commitment to fund the developmental and other relief programs of Title II in FY 2003.

Sincerely,  
ACDI/VOCA.  
Africare.  
American Maritime Congress.  
American Soybean Association.  
Astaris LLC.  
Bread for the World.  
California Wheat Commission.  
Chippewa Valley Bean Co., Inc.  
Didion Milling, Inc.  
Friends of World Food.  
Illinois Soybean Association.



Adventist Development & Relief Agency International.  
 Agrisor, Inc.  
 American Red Cross.  
 APL Limited.  
 Bethel Grain Company.  
 California Association of Wheat Growers.  
 CARE.  
 Central Bag Company.  
 Counterpart International.  
 Food for the Hungry, Inc.  
 Global Food & Nutrition, Inc.  
 International Organization of Masters, Mates & Pilots, ILA, AFL-CIO.  
 International Orthodox Christian Charities.  
 J.R. Short Milling Company.  
 Land O'Lakes.  
 Mercy Corps.  
 National Farmers Union.  
 North American Millers Association.  
 Opportunities Industrialization Centers International, Inc.  
 Project Concern International.  
 Salvation Army World Service Office.  
 TechnoServe.  
 The Manchester Company.  
 U.S. Dairy Export Council.  
 U.S. Wheat Associates.  
 USA Rice Federation.  
 World Vision.  
 International Relief & Development.  
 Jesuit Refugee Service USA.  
 Maritime Institute for Research and Industrial Development.  
 National Dry Bean Council.  
 National Potato Council.  
 Northwest Medical Teams.  
 P&O Nedlloyd Limited.  
 Salesian Missions.  
 Save the Children.  
 The International Rescue Committee.  
 Transportation Institute.  
 U.S. Jesuit Conference.  
 USA Dry Pea and Lentil Council.  
 Washington Wheat Commission.

Mr. NELSON of Florida. Mr. President, this letter from a coalition of over 50 nongovernmental, humanitarian and agricultural groups seeks between \$608 and \$778 million above the President's request to meet the demands of these emergency circumstances. The \$600 million my amendment provides is based on close consultation with these organizations who know the situation well from their work on the ground in Africa.

This amendment provides resources called for in the African Famine Relief Act of 2003 introduced by Senator DASCHLE. It does not specifically designate the funds for sub-Saharan Africa, to be consistent with the way we have traditionally appropriated P.L. 480 Title II funds. But I trust that these funds will be used for the purpose for which they are intended—staving off the imminent threat of mass starvation in Africa.

It is my hope that this amendment will be acceptable to my colleagues on both sides of the aisle, and to the administration, and I will explain why. The designation of these funds as "emergency funds" is important. That means the funds do not have to be spent unless the President likewise designates this crisis as an emergency. If he does not designate the situation in Africa as an emergency, and most would agree it is an emergency, but the President would not be required to pro-

vide these funds and it would not affect the topline.

Over the weekend, USAID Administrator Andrew Natsios took an important first step to provide some relief to Ethiopia, by agreeing to send 262 metric tons of food there at a cost of about \$127 million. I commend Mr. Natsios and Secretary Powell for their attention to this issue, but we need to do more. It is my hope that by speaking about this issue now, increased attention to the plight of the Africans will spur American and international action. The U.S. Senate should show leadership on this without delay. I thank the Chair, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FEINGOLD. Mr. President, I want to underscore the importance of the issue that Senator NELSON has raised today. Some 38 million Africans are threatened with starvation in the coming months. In a six-country region encompassing Zambia and Zimbabwe, Malawi and Mozambique, Swaziland and Lesotho, 25 percent of the population is urgently in need of assistance. This food crisis is striking a tremendously vulnerable population that has already been devastated by HIV/AIDS, compounding the difficulty of African families' struggle for survival. In the Horn of Africa, almost half of Eritrea's population is at risk, and Ethiopia stands on the brink of a crisis rivaling that of the mid-1980s.

I have served on the Subcommittee on African Affairs since I came to the Senate, and spent over half of my tenure here as either the ranking minority member or chairman of that subcommittee. I have watched this crisis unfold over the past year with horror. The United States and the international community must act now to address this crisis; delay will mean death for too many innocent families. But we must also work in the months and years ahead to address some of the underlying causes of food insecurity in Africa, so that we can reduce communities' vulnerability to natural factors affecting harvests. Certainly we need to join with the many Africans who want to ensure that misguided policies and decisions are examined, discarded, and not repeated—from the tremendously destructive policies pursued by the Zimbabwean government, to corrupt practices affecting food stocks in Malawi, to the impact of the government's national service program on the agricultural sector in Eritrea. And certainly we need to ensure that assistance is distributed responsibly, fairly, and efficiently. But we also need to help African societies reinvigorate their agricultural sectors, by working to get small farmers the technical assistance, infrastructure, and opportunity that they need to succeed.

In July of last year, I asked the GAO to examine some of the causes contrib-

uting to the southern African food crisis, and to evaluate the efficacy of our response, so that we can improve our performance and prevent crises in the future. Unfortunately, the World Food Program has warned that early indicators suggest drought may continue to plague the region in the year ahead. I am looking forward to the GAO's final report, and hope that it can point the way toward proactive steps that we can take to work with our African partners on this issue.

As another step in this broader, long-term effort, this week I am introducing a resolution calling on USAID to give adequate attention to land tenure issues as the agency pursues efforts to bolster agricultural development and fight hunger, and I hope to work with my colleagues on other initiatives aimed at addressing underlying causes of chronic food insecurity in the months ahead. Too often, we think of Africa only as a troubled continent, full of flood and famine, war and deadly disease. But I have traveled widely on the continent, and I have met with energized and committed Africans from government officials to businessmen to community activists. There is no lack of good partners on the continent, and there is no absence of promise or potential. Our commitment to get serious about these issues now can lead to meaningful success, improving the lives of millions of Africans and bolstering food security in the region.

These long-term initiatives deserve Congress's support, but we will be working with profoundly weakened partners in our every effort—be it counterterrorism initiatives or programs aimed at increasing trade and investment—if we do not address this immediate emergency. Senator NELSON is right to sound the alarm about this crisis now, while we have an opportunity to act and to help those people currently at risk. To help now is humane, it is right, and it is in our interest.

Mr. REID. Mr. President, I ask unanimous consent that the Reed amendment on unemployment insurance which is before the body be recalled, and I move to waive the relevant section of the Budget Act for the consideration of the Reed amendment. Senator NICKLES also raised a point of order. I just want to move to waive it. Such time as we vote on it will be the decision of the body.

The PRESIDING OFFICER. Is the Senator asking for regular order on that amendment?

Mr. REID. I asked that the Reed amendment be recalled. I ask for regular order and renew my unanimous consent request to waive the relevant section of the Budget Act for consideration of the Reed amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, will the Senator from Florida yield?

Mr. NELSON of Florida. Mr. President, it was clearly my intention to regain the floor so I could yield to my friend from Oklahoma.

Mr. REID. Mr. President, will the Senator yield?

Mr. INHOFE. Yes.

Mr. REID. I ask unanimous consent that we return to the Nelson amendment.

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

Mr. NELSON of Florida. I yield to the Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the distinguished Senator from Florida for yielding.

Let me first of all say, to clarify the understanding that I have in listening to his presentation, that his request would not necessarily be binding unless the President were to include this as something which he would interpret as an emergency; that is, the funding that is requested by the Senator. Is that correct?

Mr. NELSON of Florida. The Senator is correct. If the President did not designate the situation in Africa as an emergency, the President would not be required to provide these funds and it would not affect the top line.

Mr. INHOFE. If the Senator will yield further, I can't quite see the Senator's map of the continent. My understanding is that most of that is in sub-Saharan Africa. Is that correct?

Mr. NELSON of Florida. The Senator is correct. It involves three countries in east Africa, six countries in west Africa, three countries in central Africa, and about seven countries in southern Africa.

Mr. INHOFE. Mr. President, if the Senator would yield further, let me just make a comment. I perhaps have had maybe even a conflict of interest in this case. But that conflict has made me very sensitive to the plight they have in sub-Saharan Africa. As the Senator from Florida knows, I have been there many times. I am very familiar with that whole region. But in the case of Ethiopia, which seems to be one of the first areas the Senator is addressing, a drought is taking place there right now. In fact, I have and I will hold up a picture of a little girl we found during that drought. She was abandoned. She was 3 days old. We were able to get her back into good health. I am very proud to say that this little girl—Zegita Marie Rapert—happens to be my granddaughter. She is now officially adopted.

By the way, in case you are wondering why she is wearing a crown, that was her first birthday. She has three older brothers ages 4, 5, and 6. It is a pretty typical family. Anyone from

Ethiopia is considered royalty: Queen of Sheba—anyone from Ethiopia is royalty. So they gave her this crown for her first birthday.

I would suggest that there is no area that is having a more difficult time right now. I know there is a lot of competition for funds. But I think the way the junior Senator from Florida has structured this amendment, that would allow the administration to make some of these determinations and some of these priorities.

I strongly support the idea of giving some aid to that area because of the drought that has been unprecedented for about 12 years. Hopefully, this will happen, and it will become a reality for these people.

We do a lot of talking around here about poverty; we do a lot of talking about problems; but until you see some of the poverty and some of the effects of the drought that has taken place right now in the sub-Saharan, Africa, it is really one that we don't understand.

I yield the floor.

#### NATIONAL AMBER ALERT NETWORK ACT OF 2003

The PRESIDING OFFICER (Mrs. DOLE). Under the previous order, the clerk will report S. 121.

The assistant legislative clerk read as follows:

A bill (S. 121) to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes.

Mr. NELSON of Florida. Madam President, I have a parliamentary inquiry. I had asked for the yeas and nays, and there was determined to be a sufficient second.

Could you inform me, on the Nelson amendment, what is the parliamentary situation?

The PRESIDING OFFICER. The yeas and nays have been ordered on that amendment.

Mr. REID. Madam President, if I could ask the Chair to direct the Senator's attention to the Senator from Nevada, it is my understanding we have a vote scheduled for 5:15. There are 15 minutes of debate prior to that time. The two leaders are trying to figure out what votes are going to come next. We have a series of amendments that have been offered today. I ask that my friend from Florida withhold until the two leaders have determined the time for the vote.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I rise in strong support of S. 121, the National AMBER Alert Network Act of 2003. Specifically, I congratulate and thank my colleagues who have worked so hard toward the passage of this needed legislation: Senators KAY BALEY HUTCHISON and DIANNE FEINSTEIN.

Both of them are deserving of the credit for this bill. I am very proud to align myself with both of them.

Senator HUTCHISON has been a great leader in this area, and I am very much appreciative of her. Also, Senator LEAHY and others have worked hard on this bill.

The horrific kidnapping of Elizabeth Smart in my home State of Utah is illustrative of a terrifying wave of recent child abductions that has swept our Nation. Clearly, there is a tremendous need for legislation to help communities fight these terrible crimes.

Without question, when it comes to child abductions, time is of the essence. We are all too aware that child abductors prey on the youngest, most innocent and vulnerable members of our society—often for the purpose of committing other serious violent crimes against them.

Too often, it is only a matter of hours before a kidnapper abuses, assaults or kills the child victim.

According to figures released by the Bureau of Justice Statistics, almost 75 percent of the murders that occur following child abductions happen within the first 3 hours.

AMBER Alert systems are critical to successful search and recovery efforts because they enable law enforcement authorities to galvanize entire communities to assist in the safe recovery of child victims.

We recently witnessed the success of the AMBER Alert system in California where the system was used to broadcast the disappearance of Nichole Timmons. After she was recognized, Nichole was safely recovered in the neighboring State of Nevada.

In another recent California case, the AMBER Alert system was used to broadcast the disappearances of Tamera Brooks and Jaqueline Marris. Just hours after their abduction, and minutes before their possible murder, the two young women were found.

My home State of Utah recently adopted a statewide alert program aimed at preventing child abduction called the Rachel Alert. The program was named after young Rachel Runyan who was kidnapped from behind her home in Sunset, UT, and later found murdered.

I know that law enforcement agencies are working closely with broadcasters and the public to develop AMBER Alert systems across our country. Despite these efforts, however, I believe a National AMBER Alert Coordinator in the Department of Justice is needed to assist States in developing effective alert plans that can be coordinated nationwide.

Fortunately, we already have the technology in place to do just that—the Emergency Broadcast System. For years, broadcasters have been cooperating with Government officials and reaching Americans across our country by issuing emergency alerts on our televisions and radios. We have all experienced an interruption in regular