

the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Grants and Milan, New Mexico)" (MM Docket No. 99-75, RM-9446) received on December 11, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11866. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Sister Bay, Wisconsin and Escanaba, Michigan)" (MM Docket No. 99-288) received on December 11, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11867. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Randolph and Little Valley, NY)" (MM Docket No. 00-113, RM-9904, RM-9952) received on December 11, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11868. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Pilot Rock, Oregon)" (MM Docket No. 00-128, RM-9912) received on December 11, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11869. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bogota, Texas)" (MM Docket No. 00-54) received on December 11, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11870. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Dillsboro and Rosman, North Carolina)" (MM Docket No. 00-88, RM-9871) received on December 11, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11871. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Wheatland and Wright, Wyoming)" (MM Docket No. 99-195) received on December 11, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11872. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Dos Palos and Livingston, California)" (MM Docket No. 00-92, RM-9857) received on December 11, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11873. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications

Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Darby, Montana)" (MM Docket No. 99-220) received on December 11, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11874. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (McCook, Nebraska)" (MM Docket No. 00-82, RM-9841) received on December 11, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11875. A communication from the Assistant Secretary, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Tribal Self-Governance" (RIN1076-AD21) received on December 8, 2000; to the Committee on Indian Affairs.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-642. A concurrent resolution adopted by the General Assembly of the Commonwealth of Pennsylvania relative to the levying or increasing of taxes; to the Committee on the Judiciary.

#### RESOLUTION

Whereas, Separation of powers is fundamental to the Constitution of the United States, and the power of the Federal Government is strictly limited; and

Whereas, Under the Constitution of the United States, the States are to determine public policy; and

Whereas, It is the duty of the judiciary to interpret the law, not to create law; and

Whereas, Our present Federal Government has strayed from the intent of our Founding Fathers and the Constitution of the United States through inappropriate Federal mandates; and

Whereas, These mandates by way of statute, rule or judicial decision have forced state governments to serve as the mere administrative arm of the Federal Government; and

Whereas, Federal district courts, with the acquiescence of the United States Supreme Court, continue to order states to levy or increase taxes to comply with Federal mandates; and

Whereas, these court actions violate the Constitution of the United States and the legislative process; and

Whereas, The time has come for the people of this great nation and their duly elected representatives in State government to reaffirm in no uncertain terms that the authority to tax under the Constitution of the United States is retained by the people, who by their consent alone do delegate such power to tax explicitly to those duly elected representatives in the legislative branch of government whom they choose, such representatives being directly responsible and accountable to those who have elected them; and

Whereas, Several states have petitioned the Congress of the United States to propose an amendment to the Constitution of the United States; and

Whereas, As previously introduced in Congress, the amendment seeks to prevent Fed-

eral courts from levying or increasing taxes without representation of the people and against the people's wishes; therefore be it

*Resolved (the House of Representatives concurring)*, That the Congress prepare and submit to the several states an amendment to the Constitution of the United States to add a new article providing as follows: "Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or a political subdivision, to levy or increase taxes"; and be it further

*Resolved*, That this application constitute a continuing application in accordance with Article V of the Constitution of the United States; and be it further

*Resolved*, That the General Assembly of the Commonwealth of Pennsylvania also propose that the legislatures of each of the several states comprising the United States, that have not yet made a similar request, apply to the Congress requesting enactment of an appropriate amendment to the Constitution of the United States and apply to the Congress to propose such an amendment to the Constitution of the United States; and be it further

*Resolved*, That copies of this resolution be transmitted to the President and Vice President of the United States, to the presiding officers of each house of Congress, to the presiding officers of each house of Legislature in each of the states in the union and to each member of Congress from Pennsylvania.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN:

S. 3277. A bill to amend the National Energy Conservation Policy Act to enhance and extend authority relating to energy savings performance contracts of the Federal Government; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:

S. 3278. A bill to authorize funding for nanoscale science and engineering research and development at the Department of Energy for fiscal years 2002 through 2006; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD (for himself, Mr. JEFFORDS, and Mr. LEAHY):

S. 3279. A bill to amend the Richard B. Russell National School Lunch Act to authorize the Secretary of Agriculture to carry out pilot projects to increase milk consumption and reduce the cost of milk served to children; to the Committee on Agriculture, Nutrition, and Forestry.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. BINGAMAN:

S. 3277. A bill to amend the National Energy Conservation Policy Act to enhance and extend authority relating to energy savings performed contracts of the Federal Government; to the Committee on Energy and Natural Resources.

ENERGY EFFICIENT COST SAVINGS IMPROVEMENT ACT OF 2001

Mr. BINGAMAN. Mr. President, I rise today to introduce important legislation, to amend the National Energy

Conservation Policy Act of 1986. This legislation, the "Energy Efficient Cost Savings Improvement Act of 2001" will improve the current law by enhancing and extending the authority relating to energy savings performance contracts of the Federal Government. The benefit to the taxpayer will be not only the realization of greater cost savings as they pertain to older, inefficient Federal buildings but, more importantly, the reduction in the waste of monies spent trying to improve these buildings when other, more cost effective alternatives are available.

The National Energy Conservation Policy Act, as amended by the Energy Policy Act of 1992, established a mandate for energy savings in Federal buildings and facilities. Aggressive energy conservation goals were subsequently established by Executive Order 12902, stating that, by 2005, Federal agencies must reduce their energy consumption in their buildings by 30 percent per square foot when compared to 1985 levels. Executive Order 13123 increased this goal to 35 percent by 2010.

To help attain these objectives, the Energy Policy Act of 1992 created Energy Savings Performance Contracting, ESPC, which offered a means of achieving this energy reduction goal at no capital cost to the government. That's right—no capital cost to the government, since ESPC is an alternative to the traditional method of Federal appropriations to finance these types of improvements in Federal buildings. Under the ESPC authority, Federal agencies contract with energy service companies, ESCO, which pay all the up-front costs. These costs relate to evaluation, design, financing, acquisition, installation, and maintenance of energy efficient equipment; altered operation and maintenance improvements; and technical services. The ESCO guarantees a fixed amount of energy cost savings throughout the life of the contract and is paid directly from those cost savings. Agencies retain the remainder of the cost savings for themselves and, at the end of the contract, ownership of all property, along with the additional cost savings, reverts to the Federal government. Currently, contracts may range up to 25 years. Over the entire contract period, Federal monies are neither required nor appropriated for the improvements.

But, as innovative as the ESPC alternative may be, there is one area in which it falls short—and that is, how to avoid wasting valuable funds improving energy efficiency in a building that has long since passed its useful life. How do you justify energy conservation measures in buildings that are in constant need of maintenance or repair? Facilities that, no matter how much money is invested for renovation, will never meet existing building code requirements? You may save money by improving energy efficiency, but then

turn around and reinvest even larger amounts in operating and maintaining a very old facility. Somewhere there has to be a point where we decide there must be other alternatives—and that is exactly what my legislation offers.

The most important element of my legislation is in the way it proposes to fund the construction of replacement Federal facilities. The legislation builds upon the existing Energy Savings Performance Contracting and takes it one logical step further—to include savings anticipated from operation and maintenance efficiencies of a new replacement Federal building. Perhaps the easiest way to explain the benefits of this change is by citing an example. In my home state of New Mexico, the Department of Energy Albuquerque Operations office resides in a complex of buildings constructed originally as Army barracks during the Korean War. Although these facilities have been renovated and modified throughout the years, they remain energy inefficient and require high maintenance and operation costs when compared to more contemporary buildings. What's more, over the next seven years, the Operations office will institute additional modifications to meet compliance requirements for seismic, energy savings, and other facility infrastructure concerns (maintenance, environmental, safety and health, etc.) at a cost of \$34.2 million. Even with these modifications, we end up with a modernized 50-year-old building that will continue to require expensive maintenance dollars. The estimate to replace the office complex with a new facility, by the way, is \$35.3 million. While Congress cannot afford to appropriate funds to build a new facility, we're willing to spend—no, we're forced to waste—almost as much in maintaining an old one.

As requested by the National Defense Authorization Act for FY2000, the Department of Energy conducted a feasibility study for replacing the Albuquerque Operations office using an ESPC. The results of the study are enlightening, for it demonstrated that by using anticipated energy, operations, and maintenance efficiencies of a new replacement building over the old one, the cost savings alone pay for the new facility. What's more, the analysis forecasts that after the annual ESPC loan payment is made to the contractor, there is a \$1 million per year surplus. Over a 25-year contract, the savings to the taxpayer is \$25 million.

Finally, I want to draw your attention to the broader implications that this legislation has for Federal agencies and taxpayers alike. The application of authority created by this legislation in the replacement of other Federal buildings could result in billions of dollars of avoided waste. Simply by considering operation and maintenance cost savings, we would reap a double

benefit of newer facilities and much needed improvements to the Federal infrastructure at a fraction of the cost. And, since ESCOs typically use local companies to provide construction services, this type of program would have a very beneficial effect on local economies.

There is certainly enough work within the Federal government to move forward on this ESPC legislation. To this end, I urge my colleagues to support the bill.

Mr. BINGAMAN:

S. 3278. A bill to authorize funding for nanoscale science and engineering research and development at the Department of Energy for fiscal years 2002 through 2006; to the Committee on Energy and Natural Resources.

DEPARTMENT OF ENERGY NANOSCALE SCIENCE AND ENGINEERING ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill authorizing the Secretary of Energy to provide for a long term commitment in its Office of Science to the area of nanoscience and nanoengineering. This new area is of fundamental importance for maintaining our global economic leadership in energy technology as well in areas such as microchip design, space and transportation, medicines and biomedical devices. The fields of nanoscience and nanoengineering are so new and broad in their reach that no one industry can support them. They are a perfect example how we in Congress can make a difference to support our nation's technological leadership, a key element of the 21st century global economy.

The fields of nanoscience and engineering encompass the ability to create new states of matter by prepositioning the atoms that make up their structure. The physical features that nanoscale R&D will develop are on the order of about 10 nanometers or 1000 times smaller than the diameter of a human hair. What we are talking about is making materials and devices not by miniaturization, which is a top down approach. Nanoscience is the bottom up fabrication of materials, atom by atom. When you build materials at this level, amazing things begin to happen. We are talking about microchips whose features will shrink by a factor of 100 below where industry projects they will be in the year 2010. These chip features will lead to radical breakthroughs in speed, cost and density of information storage. In the field of medicine and health, we are talking about drugs whose routes of delivery are literally at the molecular level. It will be possible to custom build proteins and other biological materials for future biomedical devices. In the field of energy efficiency, batteries and fuel cells can be built with storage capacities far exceeding our current state of the art. In the transportation industry, it will

be possible to make ultra strong and light materials reducing the weight in airplanes, cars and space vehicles. All these breakthroughs in the diverse industries I have discussed will keep the United States' as a global leader in the 21st century economy.

The Department of Energy and its Office of Science are uniquely suited to support this critical research. The Office of Science has been at the forefront of conducting nanotechnology research for the past decade through its broad array of materials, physics, chemistry and biology programs. This authorization bill will carry forth four broad objectives of the Office of Science's existing nanotechnology effort, (1) attain a fundamental understanding of nanoscale phenomena, (2) achieve the ability to design bulk materials with desired properties using nanoscale manipulation, (3) study how living organisms produce materials naturally by arranging their atomic structure and implement it into the design process for nanomaterials, (4) develop experimental and computer tools with a national infrastructure to carry out nanoscience. Let me briefly comment on the fourth area in this list. The Office of Science is the nation's leader in developing and managing national user facilities across the broad range of physical sciences. It would be a natural progression for the Office of Science to develop similar user facilities to advance nanoscience. These facilities, located across the United States, will contain unique equipment and computers which will be accessible to individuals as well as multi-disciplinary teams. In the past, Office of Science national user facilities have served as crossing points between the transition from fundamental science to industrial capability. I expect that these nanoscience user facilities will serve as a similar transition point from long term fundamental research into applied industrial know-how. Accordingly, in this authorization bill I have allotted portions of the yearly budget towards developing these unique user facilities.

This bill is an important first step in a combined national nanoscience effort which will help to maintain the technological edge of our U.S. industry. I hope that the other federal R&D agencies will make similar commitments in their areas of expertise. Maintaining this edge, by promoting these long term and high risk investigations is something which we cannot expect in the short time frame world of today's industry. It is critical that our U.S. government step into this void, particularly in the area of nanoscience, and provide the necessary intellectual capital to propel our national economy as a leader in the 21st century.

I ask for unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3278

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Department of Energy Nanoscale Science and Engineering Act".

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The emerging fields of nanoscience and nanoengineering address the ability to create materials with fundamentally new compositions by prepositioning atoms within an overall molecular composition.

(2) The ability of the United States to respond to the energy and economic challenges of the 21st century will be driven by science and technology. Nanoscience and nanoengineering will enable the United States to develop new technologies for energy exploration and production, for monitoring energy infrastructure, for increasing energy efficiency in end-use application, and for developing new technologies applicable to other Department of Energy statutory missions. These advances will also enhance the strength of U.S. science, technology, and medicine generally.

(3) The fundamental intellectual challenges inherent in nanoscience and nanoengineering are considerable, and require public support for basic and applied research and development. Significant advances in areas such as the self-assembly of atom clusters will be required before nanoscience or nanoengineering will be useful to the energy or manufacturing industries.

(4) The development of new scientific instruments will also be required to advance nanoscience and nanoengineering. Such instruments are likely to be large and costly. Specialized facilities are also likely to be required in order to advance the field and to realize its promise. Such facilities will be sufficiently expensive that they will have to be located and constructed on a centralized basis, similar to a number of unique facilities already managed by the Department of Energy.

(5) Contributions from individual researchers as well as multidisciplinary research teams will be required to advance nanoscience and nanoengineering.

(6) The Department of Energy's Office of Science is well suited to manage nanoscience and nanoengineering research and development for the Department. Through its support of research and development pursuant to the Department's statutory authorities, the Office of Science is the principal federal supporter of the research and development in the physical and computational sciences. The Office is also a significant source of federal support for research in genomics and the life sciences. The Office supports research and development by individual investigators and multidisciplinary teams, and manages special user facilities that serve investigators in both university and industry.

**SEC. 3. DEPARTMENT OF ENERGY PROGRAM.**

(a) **ESTABLISHMENT.**—The Secretary of Energy, through the Office of Science of the Department of Energy, shall support a program of research and development in nanoscience and nanoengineering consistent with the Department's statutory authorities related to research and development. The program shall include efforts to further the under-

standing of the chemistry, physics, materials science and engineering of phenomena on the scale of 1 to 100 nanometers.

(b) **DUTIES OF THE OFFICE OF SCIENCE.**—In carrying out the program under this Act, the Director of the Office of Science shall—

(1) support both individual investigators and multidisciplinary teams of investigators;

(2) pursuant to subsection (c), develop, plan, construct, acquire, or operate special equipment or facilities for the use of investigators conducting research and development in nanoscience and nanoengineering;

(3) support technology transfer activities to benefit industry and other users of nanoscience and nanoengineering; and

(4) coordinate research and development activities with industry and other federal agencies.

**(c) NANOSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—**

(1) **AUTHORIZATION.**—Within the funds authorized to be appropriated pursuant to this Act, the amounts specified under section 4(b) shall, subject to appropriations, be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities for investigators conducting research and development in nanoscience and nanoengineering.

(2) **PROJECTS.**—Projects under paragraph (1) may include the measurement of properties at the scale of 1 to 100 nanometers, manipulation at such scales, and the integration of technologies based on nanoscience or nanoengineering into bulk materials or other technologies.

(3) **FACILITIES.**—Facilities under paragraph (1) may include electron microcharacterization facilities, microlithography facilities, scanning probe facilities and related instrumentation.

(4) **COLLABORATION.**—The Secretary shall encourage collaborations among universities, laboratories and industry at facilities under this subsection. At least one Departmental facility under this subsection shall have a specific mission of technology transfer to other institutions and to industry.

(d) **MERIT REVIEW REQUIRED.**—All grants, contracts, cooperative agreements, or other financial assistance awards under this Act shall be made only after independent merit review.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

(a) **TOTAL AUTHORIZATION.**—The following sums are authorized to be appropriated to the Secretary Of Energy, to remain available until expended, for the purposes of carrying out this Act:

- (1) \$160,000,000 for fiscal year 2002.
- (2) \$270,000,000 for fiscal year 2003.
- (3) \$290,000,000 for fiscal year 2004.
- (4) \$310,000,000 for fiscal year 2005.
- (5) \$330,000,000 for fiscal year 2006.

(b) **NANOSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR INSTRUMENTATION.**—Of the funds under subsection (a), the following sums are authorized to be appropriated to carry out section 3(c):

- (1) \$55,000,000 for fiscal year 2002.
- (2) \$135,000,000 for fiscal year 2003.
- (3) \$150,000,000 for fiscal year 2004.
- (4) \$120,000,000 for fiscal year 2005.
- (5) \$160,000,000 for fiscal year 2006.

**ADDITIONAL COSPONSORS**

S. 3189

At the request of Ms. SNOWE, the name of the Senator from Illinois (Mr.