SENATE—*Tuesday, February 5, 1991*

(Legislative day of Thursday, January 3, 1991)

The Senate met at 2:15 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer: Let us pray:

The prayer of layman Walter Guntharp, offered at the Chesterbrook Presbyterian Church last Sunday, was a great blessing. I use it with his permission:

"Father: In a tormented world, we go our usual ways, safe from the perils of war, secure from hunger, and protected from the elements in warm and comfortable homes. We are observers of the world's troubles, yet we are largely insulated against them.

"Help us, Father, to understand the magnitude of our blessings, to realize that, however unworthy we might be, You have made us to prosper in the midst of a world of pain, fear, and privation * * *

"We pray that You will open our eyes to our own blessings. Forgive our indifference and grant us a deeper commitment of service to You and to our fellow man. Amen."

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, today, following the time reserved for the two leaders there will be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

It is my hope that this week the Senate can take up three matters: the export administration reauthorization bill, the defense production reauthorization bill, and the nomination of Lynn Martin to be Secretary of Labor if reported favorably by the Labor Committee.

With respect to the latter, I am advised that that committee will be meeting tomorrow and if as expected the nomination is reported favorably, it is my hope and intention to attempt to accommodate the President and his nominee by dealing promptly with that recommendation.

I hope also we can gain clearance to proceed to the export administration reauthorization bill and the defense production reauthorization bill. Both of those items have been cleared on the Democratic side, and consultation is now occurring on the Republican side. We hope we will obtain approval to proceed to those items promptly.

U.N. MEETING ON CLIMATE CHANGE

Mr. MITCHELL. Mr. President, this week the United States is hosting the first negotiating session of the Intergovernmental Negotiating Committee for a framework convention on climate change of the U.N. General Assembly. The hope is that agreement on a global warming convention can be reached in time for the meeting in Brazil next year.

But for these negotiations to be successful, the United States must take a leadership position. We can and must demonstrate to the world that we are leaders in environmental protection.

In global warming, we stand out in two ways. First, we are among the most wasteful nations on this planet. We contribute 20 percent of the world's global warming commitment. We use 15 times the energy per person that a person in a typical developing country uses and twice that of some industrialized nations, such as Japan, France, and Italy.

Second, we are alone among industrialized nations in opposing even the concept of setting an emissions reduction target and deadline. Austria, Australia, Canada, Denmark, France, Germany, Italy, Japan, The Netherlands, New Zealand, Norway, and Sweden have all proposed reductions in greenhouse gas emissions.

Ignoring this problem simply makes it worse. Delay leaves us with more limited choices in a more urgent situation. What will the next generation think of our inability to adequately address this problem?

Global warming is an immediate threat. The decade of the 1980's includes some of the warmest years on record. This week temperature records are being broken across the country as we experience April in February. The potential of temperature shifts that previously occurred over thousands of years instead taking place in a matter of decades, confronts us with an unprecedented event.

Neither our Earth nor our human civilization has any experience with such a change. Scientists are doing their best to warn us of potential outcomes. But their warnings are of probabilities, not certainties.

They are well-founded probabilities, and they are becoming more well-founded over time.

Efforts are under way to improve the data base for those predictions. But because short-term climate shifts are an entirely new phenomenon, our reading and interpretation of the data will always include some margin of error.

Climate change will affect the life of every human being.

Some nations have already recognized that action cannot wait.

The international community has undertaken an urgent program of worldwide monitoring: The World Meteorological Organization, the International Council of Scientific Unions, and the U.N. Environmental Programme are working with national governments to collect and analyze global climate data.

The sense of urgency is growing.

But there are some, in this Nation and others, who argue that the scientific view must be final and unanimous before any concrete steps are taken to combat the causes of the problem.

But we do not wait for scientific certainty in other cases where a technical problem confronts us.

We apply experimental medical protocols in the effort to fight cancer, even when we do not know what the ultimate cancer-causing agent is.

We try to prevent the discharge of toxic wastes into the waterways, even though we may not know precisely which toxins pose the greatest threat to which organisms.

The call for scientific certainty is a double standard. It is not a standard we meet in any other legislative field. In this instance, it is a device for delay for those who are unwilling to act.

This is especially ironic, and potentially dangerous, that this argument is being raised in connection with what is the most serious, far-reaching; and irreversible environmental danger the world faces.

The best scientific information today tells us that the concentration of greenhouse gases already in the atmosphere has committed the world to an increase in the warming of the atmosphere.

The Intergovernmental Panel on Climate Change [IPCC]—an intergovern-

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

mental group of scientists and government officials, including those from the United States, concluded last year that under a business-as-usual scenario for emissions of carbon dioxide and other greenhouse gases, a global warming of 5 to 10 degrees Fahrenheit above preindustrialized levels is likely by the end of the next century. This is more climate change in a shorter period of time than we have experienced in at least 150,000 years.

The Secretary General of the World Meteorological Organization has said:

The global warming to which we are already committed is irreversible * * * By the time we detect it, it will be too late * * *

The majority of the scientific community today believes the concentrations of atmospheric carbon dioxide alone—and it is just the main one of the greenhouse gases—will nearly double from 1985 to 2010.

Greenhouse gases are being released into the atmosphere much faster than they are being removed by the Earth's natural systems.

Even if we could hold emissions of greenhouse gases constant their concentration in the atmosphere would continue to intensify for the next century.

There is no quick response on this issue. Greenhouse gases have long atmospheric lifetimes so it takes many years for emissions reductions to have an impact on the atmosphere. Carbon dioxide, which accounts for over one-half of the global warming effect, has an atmospheric lifetime of 50 to 200 years. Nitrous oxides last 150 years. Chlorofluorocarbons last 60 to 400 years.

It took this Congress 10 years to enact amendments to the Clean Air Act. It will take the Environmental Protection Agency and the States 10 to 20 years to fully implement clean air legislation enacted last year. If we postpone action on global warming, we may find we eliminated the choice which, in retrospect, would have been the prudent, cost-effective course of action.

The action of greenhouse gases is well known and not in dispute. They prevent some of the heat of the Sun's energy from reradiating back into space and warm the air near the Earth's surface. Warmer air at the Earth's surface affects the climate. And on the climate depends our ability to produce the major food crops on which human life depends.

The increase in greenhouse gases in the atmosphere has been measured. It is not in doubt. Their heat-conserving effects are scientifically known, and not in dispute. The question is not if the Earth will become warmer; it is when and by how much?

Given the facts that we know as well as the large uncertainties about regional effects, it is the responsibility of all nations to develop strategies for reducing the emission of these gases into the atmosphere.

Undoubtedly, the largest share of that control must come from those nations now responsible for the largest share of the emissions—the Western Nations and the Soviet Union, which together produce more than half the excess emissions in question.

But that share of the responsibility does not eliminate the responsibility of other contributors to the problem. And that means we face a worldwide responsibility from which no inhabited nation is exempted.

The threat of global warming thus confronts the entire world with an unprecedented challenge and an unprecedented opportunity.

Never before have all of the nations on the Earth been faced with a danger from which none of their neighbors is protected. Unlike manmade calamities, such as wars, or regional disasters, no part of the Earth will remain unscathed, no human population will be untouched by climate change.

But change presents opportunity as well as danger.

Never before have all the nations of the Earth been faced with the imperative of treating our Earth as the one world it is.

Never before has the survival and health of the richest depended upon the help and cooperation of the poorest. Never before has there been as great an incentive for nations to share in the work and in the rewards of developing technologies and processes to meet a common problem.

When national boundaries cut across natural ecological systems, as they do on four of the five inhabited continents, the health and well-being of the natural environment is a matter of concern to all the nations affected. River systems, tidal patterns, wind flows, rain fall, plant, and animal communities—all respect no manmade boundary.

The challenge we face is to develop effective ways of preserving natural systems and at the same time improve the living conditions of the people who rely on those natural systems.

For that challenge, we will need both imaginative ideas, and aggressive efforts to develop and share the least polluting technologies, so that developing nations need not pass through the smokestack period of industrialization on their path to economic development.

Equally important, we will need the commitment and support of people for the actions that must be taken by our society and others to meet these challenges.

Even as we are forced to focus our attention on the deadly clash of military forces, the long term survival of our planet demands that we keep a focus on natural forces as well.

In the long term, those forces will determine how we live as certainly as the outcome of war.

At the first session of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change beginning this week, the United States can be both host and leader if we announce a policy of specific reductions in greenhouse gases and deadlines for such reductions. As was the case with clean air legislation, the President can then share with us his legislative initiative for meeting these requirements domestically.

Delay reduces our options and increases the final cost of action. The President should have announced a bold initiative to address this global environmental problem. Unfortunately, his administration's so-called action plan, announced yesterday, is in reality an "inaction plan." The administration's statement of policy is positive in that it recognizes global warming demands a solution. However, the administration fails to offer a solution. In this policy area, the administration has chosen to follow, not lead. It is up to the Congress to provide the leadership the United States should have and the world needs.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved and that there be added to his time such additional time as I may have used over and above the time I was allotted prior to my remarks made here.

I now yield the floor.

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the order there will now be a period for transaction of morning business with Senators permitted to speak therein for not to exceed 10 minutes each.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. Mr. METZENBAUM first sought recognition.

Mr. METZENBAUM. I thank the Chair.

WARN ANNIVERSARY TWO

Mr. METZENBAUM. Mr. President, this week marks the second anniversary of the effective date of the Worker Adjustment and Retraining Notification Act—the so-called WARN Act. Two years have elapsed since we furiously debated the wisdom of requiring employers to provide 60 days advance notice of a plant closing or a mass layoff.

Many in this body remember that debate. I was the principal author of the

legislation. It was a modest provision designed to cushion the devastating impact of plant closing or a long-term layoff on workers and their communities.

Opponents of the bill did not see it that way. On the floor of the Senate, a number of Senators on the other side of the aisle passionately argued that the WARN Act was "garbage" legislation that "represents the worst of America." They predicted that the bill would "create industrial paralysis" and would "prompt an avalanche of costly, wasteful litigation."

Last year, on the occasion of the first anniversary of the WARN Act, I documented that those opponents were dead wrong. Published reports concluded that there had been no explosion of litigation under the WARN Act—only a handful of cases had been filed. The general consensus was that the vast majority of firms followed the plant closing law with little problem.

Mr. President, I rise today to report to the Senate that the WARN Act continues to work reasonably well. Once again, there is no evidence that the act has spawned a flood of litigation. In fact, we have uncovered only about a dozen lawsuits filed in the 2-year history of the act. More importantly, advance notice continues to help ease the trauma of a plant closing for the affected workers and their families.

Just last month, I received a letter from Jeff Fritz of Lakewood, OH. Mr. Fritz recently got a notice under the WARN Act that he and 70 of his coworkers would lose their jobs because Venture Packaging was closing its Cleveland plant. He writes "things could have been a lot worse without the 60 days notice we were given."

Mr. Fritz also attached a letter signed by most of the workers at the plant. They write, "The blow was softened considerably by the 60 days notice we received." I ask unanimous consent that both letters be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. METZENBAUM. Mr. President, Jeff Fritz and his colleagues are not isolated beneficiaries of the WARN Act. For example, throughout Ohio, there have been nearly 300 advance notices filed with the State dislocated worker unit in the last 2 years. Those notices have provided early warnings to more than 40,000 working men and women.

In addition, there have been nearly 240 onsite visits by Ohio rapid response units. These State level strike forces help establish immediate assistance for workers facing plant closings.

One can extrapolate from the Ohio experience, which represents 4.3 percent of the national work force. Thus, one can expect more than 480,000 workers to receive advance notice each year nationwide.

According to the Department of Labor, in the most recent program year, State rapid response units had been notified under the WARN Act for 2,636 plant closings or mass layoffs.

Despite the successes of the past 2 years, there is still room for improvement. I am aware of several cases where employers have tried to hide behind the shield of bankruptcy law to avoid the requirements of the act. Moreover, there is some evidence that employers are attempting to manipulate the numerical triggers in the law to avoid providing notice.

In addition, a report from the Federation for Industrial Retention and Renewal lists the "plant closing dirty dozen." This report documents case studies where corporations continue to treat workers and communities with great indifference when they abandon a plant. For example, the case studies indicate that employers have been reluctant to cooperate with workers and community leaders to find alternative owners for the plant. In one instance reported in the study, a manufacturer responded to efforts by State and local officials to save the plant by relying on public relations staff.

Mr. President, a plant closing is not an image problem that needs to be managed. It is a traumatic event that should be avoided at all costs. One of the original goals of the WARN Act was to provide workers and communities with enough lead time to explore options to save the plant. Part of such an effort involves gathering information, generally with the help of the employer.

It is an open question whether 60 days notice is enough lead time to explore alternatives effectively. Likewise, it is an open question whether employers will provide necessary information on a voluntary basis. Nonetheless, the goal remains that employers should assist workers and communities to pursue every option to avert a shutdown.

Mr. President, we should build on the success of the WARN Act. In the difficult economic times ahead, it is an essential shock absorber that will cushion the impact of job loss. I will continue to monitor the impact of the law. If problems arise, I am prepared to propose amendments to strengthen the WARN Act.

EXHIBIT 1

LAKEWOOD, OH,
January 9, 1991.

Senator HOWARD METZENBAUM,
Senate Office Building, Washington DC.

DEAR SENATOR METZENBAUM: I greatly admire you and the way you stand up for the "little guy." I also thought it was great the way you fought against the flag burning amendment.

The main reason I'm writing today is to express my appreciation for your sponsorship of the plant-closing notification bill. I recently received word that Venture Packaging would close its Cleveland plant, putting approximately 70 people out of work. Things could have been a lot worse without the 60 days notice we were given. Most of the plant workers didn't know much about the bill or who was responsible for it. That's why I circulated the enclosed letter. Most of my fellow workers were happy to sign and express their gratitude.

Sincerely,

JEFF FRITZ.

LAKEWOOD, OH,
January 9, 1991.

Senator HOWARD METZENBAUM,
Senate Office Building, Washington DC.

DEAR SENATOR METZENBAUM: On January 3, 1991 we received word that Venture Packaging's Cleveland plant would be permanently closed. The blow was softened considerably by the 60 days notice we received. Thank you for sponsoring the plant-closing notification bill.

Sincerely,

JEFF FRITZ,
(And 48 coworkers).

Mr. METZENBAUM. Mr. President, I thank you for your courtesy.

I yield the floor.

The PRESIDENT pro tempore. The Senator from South Carolina [Mr. THURMOND].

PRESIDENT BUSH'S NATIONAL DRUG CONTROL STRATEGY FOR 1991

Mr. THURMOND. Mr. President, last Thursday, President Bush presented the Nation with the 1991 national drug control strategy. This new updated strategy is the third such plan. Yet, the principal goal remains the same: To reduce the level of illegal drug use in America by stressing a mix of supply and demand reduction policies and programs. Once again, President Bush has provided the Nation with a sound blueprint for action as we continue to tackle the problems posed by illegal drugs.

Mr. President, tomorrow, the Senate Judiciary Committee will hear testimony from the Acting Director of the Office of National Drug Control Policy, John Walters. He has done an excellent job in preparing this updated strategy for the President. I look forward to his testimony.

As we are each aware, the drug crisis has had a profound impact upon every facet of American life. Illicit narcotics, such as crack cocaine, ice, and marijuana, have become the major focus of virtually every law enforcement organization. Cities, towns, and neighborhoods have been plagued with drugs.

Mr. President, the dire need for a national drug strategy is unquestionable. Although Congress made great strides with the 1986 and 1988 drug bills, it chose to create the Office of National Drug Control Policy so that our Nation may have a cohesive plan for fighting drug abuse. One and a half years ago, President Bush unveiled our Nation's first comprehensive strategy for winning the war on drugs. In the short

time since its introduction, the national strategy has proven to be very effective. Early indications are that we have embarked on the right path.

The national drug control strategy established several detailed goals and objectives. These goals and objectives were first set in the 1989 strategy as targets for 1991. Under the leadership of then Director Bennett, and under the continuing guidance of Acting Director Walters, the Office of National Drug Control Policy has met these objectives. For example, the President's goal was to decrease overall drug use by 10 percent. Drug use has, in fact, decreased by 11 percent. Another goal was to decrease casual cocaine use by 10 percent. Casual use has decreased by 29 percent. Frequent use of cocaine has seen a 23-percent decline. Finally, and perhaps most importantly, the President had a modest goal of achieving a 20-percent decrease in adolescent cocaine use. Cocaine use among our Nation's young people has decreased by 49 percent. The antidrug strategy, although in its early stages of implementation, has resulted in a recession of the drug epidemic. The progress we have made so far makes the best case for continued efforts to implement and improve upon the President's plan.

President Bush has made clear in the 1991 strategy that we cannot afford to dwell on these recent successes. Drugs still have the upper hand in many communities and the fight must be never ending. The drug crisis is far from over. That is why the 1991 strategy seeks $11.7 billion in drug-related funding, an 11-percent increase over last year and an 82-percent increase since President Bush took office.

In addition to funding, the strategy calls for Congress to act on implementing legislation which is vital to the continued success of the strategy. Some of the legislative proposals include the death penalty for major drug kingpins, a measure to encourage the States to develop and implement coordinated treatment and prevention plans, and streamlined deportation procedures for criminal aliens.

In closing, in the next few weeks, the Judiciary Committee will begin confirmation hearings on President Bush's nominee for Director of the Office of National Drug Control Policy, Gov. Bob Martinez. I am confident that, when confirmed, Governor Martinez will continue to build upon and improve this strategy.

Mr. President, as we continue to fight the war on drugs, a war which will not be won easily, our resolve to prevail must become stronger. For this reason we must work together to ensure full implementation of the President's 1991 strategy.

TRIBUTE TO THE LATE DR. RABBI DAVID H. PANITZ

Mr. LAUTENBERG. Mr. President, I rise to note with sadness, the passing of Rabbi Dr. David H. Panitz, a personal friend and leader in the Jewish community in New Jersey. He had been the spiritual leader of Paterson's Temple Emanuel since 1959, and celebrated his retirement and 45 years of rabbinical service on June 12, 1988. Upon his retirement, he was named rabbi emeritus.

A graduate of the Academic and Teacher Training Schools of the Baltimore Hebrew College, Rabbi Panitz received his undergraduate education and master of arts degree from the Johns Hopkins University. He was ordained at the Jewish Theological Seminary of America in 1943. This same institution later conferred upon him the honorary degree of Doctor of Divinity.

Prior to his serving as spiritual leader of Temple Emanuel of North Jersey, he was Rabbi at Temple Adath Yeshurun in Syracuse, NY, Congregation B'nai Jeshurun in New York City, and Adas Israel Congregation in Washington, DC.

Rabbi Panitz had a distinguished record of service to the community. Among his many endeavors, he served as a commissioner of the Paterson Board of Education, as Jewish Chaplain of the Passaic County Jail, Chair of the Passaic County Alcoholic Rehabilitation Board, national cochairman of the State of Israel Bonds Rabbinic Cabinet, and national chairman of the Inter-Religious Affairs Committee of the B'nai B'rith Anti-Defamation League.

He further touched the lives of others by his activity as national chairman of the Commission on Social Justice, as a member of the National Rabbinic Advisory Committee of the United Jewish Appeal, and as a member of the board of directors of the Jewish Federation of North Jersey.

He was an active participant in interfaith endeavors. He preached and lectured at many civic organizations, churches, and colleges, and held high positions at the National Conference of Christians and Jews. He served as cochairman of the Task Force for Community Action to Combat Poverty, among others.

Rabbi Panitz devoted his life and distinguished career to serving others. Admired and loved by family, friends, members of his congregation, he leaves a legacy of contributions. I pay tribute to his long life of accomplishment and service.

Mr. President, I extend my deepest sympathies to his devoted wife, Esther, and his sons, Lieutenant Commander Jonathan, Dr. Raphael I., Rabbi Michael, his sister Judith Saphire, his brothers Bernard and Seymour, and his seven grandchildren. He will be missed.

CHALLENGING TIMES

Mr. GRAHAM. Mr. President, these are challenging times for our country and the world.

In the wake of powerful democratic movements that have changed the face of nations, we witness the brutal tyranny of Saddam Hussein. In a world where millions of people, once silenced by repressive regimes have begun to speak the common language of liberty and universal justice, Saddam's despotism is especially abominable.

We in the United States, as Founders of the world's most enduring constitutional democracy, have a special responsibility to hold high the standards of freedom in these difficult times. What better time to impress on our own young people the cherished values first written in the Declaration of Independence and embodied in our Constitution. By instilling in our youth an appreciation for liberty, we assure liberty for generations to come.

In this spirit, I am pleased to recognize a group of State and district coordinators who have demonstrated—through the "We The People" Bicentennial programs on the Constitution and the Bill of Rights—exemplary efforts to enhance our student's civic education.

The individuals are: Theresa Bryant, Eugene Caine, Suzanne Prior, Steve Kovacs, George Jeandheur, John Doyle, Paul Hanson, James Elliott, Charles Fleming, Connie Hankins, Dr. Gus Jiminez, Sheila Keller, Kathleen McCarron, Dr. James Moore, Randy Pachuta, Laurie Petter, Annette Boyd Pitts, Louis Roos, Clinton Rouse, Cynthia Ryan, Kathy Steiner, Warren Tracy, Dr. Theron Trimble, and H. Quinn Wiggins. These people coordinate the "We The People * * *" Bicentennial Competition, its noncompetitive companion program, Congress and the Constitution and the National Historical Pictorial Map Contest.

Through the dedicated and voluntary efforts of these people, thousands of upper elementary, middle, and high school students are able to participate in this program. This curriculum, based on the principles of the Declaration of Independence, introduces students to the philosophical ideas of our Founding Fathers, the historical background of the Philadelphia convention and the issues and debates that shaped the writing of our Constitution. Students learn how our Government is organized and how it protects the rights and liberties of all citizens. Most importantly, students learn the responsibilities that accompany the rights of citizenship in the democracy.

These exercises are especially important now. In the face of tyranny, democratic debate is testimony to the power of freedom. Preserving the tradition of debate of fundamental issues is our pledge to the world that freedom and justice will prevail.

These programs also help teach our youth the responsibilities that accompany the rights of citizenship in a democracy. I am honored to express admiration and gratitude to these coordinators for their contributions to the development of competent and responsible citizenship.

TRIBUTE TO CHRISTOPHER JACKMAN

Mr. LAUTENBERG. Mr. President, I rise with deep sorrow to note the recent passing of one of New Jersey's great legislators, State Senator Christopher Jackman.

Chris Jackman dedicated most of his life to public service. He first served as the assistant supervisor and supervisor of bills in both the assembly and the senate. In 1967 he was elected to the first of eight terms in our State assembly. He served as assembly majority leader in 1977 and speaker of the assembly from 1978 to 1982. In 1983 he was elected to the State senate and was serving his second term.

The senator was also vice president and area director for the United Paperworkers International Union, AFL–CIO, and a member of the State AFL–CIO executive board. He was a fighter for the working men and women of New Jersey.

In addition to his political contributions, Chris Jackman will also be remembered for his charity work. He served as chairman for the local units of the Sister Kenny Foundation, the American Cancer Society, and the Heart Fund. He was a member of the advisory board of St. Joseph's Home for the Blind in Jersey City and has been a sponsor of Youth Activities in west New York since 1950.

Throughout his battle with cancer, Chris Jackman retained his commitment, wit, and his concern for the average men and women of our State.

I would like to extend my deepest sympathies to his wife Genevieve, his family, and to all of those who had come to love and respect him.

TRIBUTE TO JOHN NICOSIA

Mr. LAUTENBERG. Mr. President, I rise to express my deep sorrow at the death of a brave fireman. John Nicosia lost his life fighting a devastating fire in the city of Paterson, NJ. We salute his courage, and we honor his memory.

John Anthony Nicosia was only 28 years old when he died. Born and raised in Paterson, he grew up wanting to be a fireman. Paterson Fire Chief John Mauro said John constantly told him of his goal. In 1987 he realized his dream.

It was John's company, Engine Company 4, that responded to the news of the blaze that ultimately destroyed 15 stores—almost two blocks in the city's commercial district—leaving some 400 people without jobs and resulting in nearly $15 million worth of damage. John was one of the first firefighters on the scene; one of the first to take action to try to minimize this terrible destruction. It was 2 days before his coworkers could pull his body from the smouldering rubble. In the words of Chief Mauro, "Nobody knows what we lost here. He was a beautiful kid." The city gave him, as he deserved, a hero's funeral.

Mr. President, I love the city of Paterson. I was born there and I grew up there. Some of my family still lives there. So it was particularly poignant for me when I toured the site after the fire. I never met John Nicosia; but I will never forget him. He was fighting to save my hometown when he died.

My thoughts are with his wife, Mary Ellen, his parents, John and Mary Amato Nicosia, and his brother, Vincent, and his grandparents, Vincent and Sara Amato. For John's family and his friends, there are no words to compensate for this loss. To them I send my deepest sympathy and my hope that their memories of this brave man will help them through these very difficult days.

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

Mr. JOHNSTON. I thank the Chair.

(The remarks of Mr. JOHNSTON and Mr. WALLOP pertaining to the introduction of S. 341 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVILEGE OF THE FLOOR

Mr. WIRTH. I thank the Chair. Mr. President, I ask unanimous consent that Kevin Matthews of Senator LIEBERMAN'S staff be granted privilege of the floor during the discussion of the National Energy Policy Act of 1991.

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

Mr. WIRTH. Mr. President, I want to commend Senator JOHNSTON for the introduction of a complex and important, vital piece of legislation. While I do not agree with everything in the bill—and none of us are going to, I am sure—I think he has done yeoman work in putting this together and putting in front of the Nation the extraordinary important of having a national energy policy. I have a feeling this is where I came in, Mr. President.

My first committee assignment as a freshman Member of the House of Representatives was on the Commerce Committee. We struggled for the next 6 years to begin to focus on and develop an energy policy and by 1980 had a pretty good template out there. Unfortunately, all of that changed, as we all remember, in 1981. We went through a decade in which the administration's policy was dedicated to low prices and low prices alone. That policy by the administration, Mr. President, was successful beyond their wildest dreams. Energy prices went down and President Reagan told us that the energy crisis was over.

Unfortunately, that strategy, Mr. President, neglected the fact that the Straits of Hormuz are as narrow in 1990 as they were in 1980, as they were in 1970. It is breaking into that oil dependency that Senator JOHNSTON'S legislation is addressed. The legislation I am introducing is part of the Johnston bill. I believe it is focused and upon which we have a great deal of work to do.

If there is, Mr. President, a silk purse to come out of this extraordinarily unhappy situation in the Persian Gulf, it will be energy policy, focused on national security, our own economic security, our environmental security, and our own moral responsibility, if nothing else, the morality of having more than 500,000 troops in the gulf and not acting to do something about it. We must do that.

The four issues of conservation: alternative energy programs, nuclear, and drilling in the North Slope of Alaska or off the California coast or Florida keys are going to be heavily debated, and it is not my intent to get into that at this point. Rather, the need for long-term energy policy, driven, I believe, in the coming decades by environmental considerations, more than anything else, is the thrust behind S. 324, legislation which I have introduced and for which the primary cosponsors are my distinguished colleagues, Senator GORE, from Tennessee, and Senator HEINZ, from Pennsylvania. The three of us worked on this legislation last year, and have cooperated in many endeavors such as this, and I am delighted to have them as the lead cosponsors and to announce to the Senate, Mr. President, that there are 48 cosponsors already of S. 324.

Mr. President, I was struck, during last week's State of the Union Address, by the President's eloquent discussion about the burden of leadership. Unquestionably, we in the United States have taken on that burden in the conduct of world affairs during this century. Unfortunately, Mr. President, in the area of the environment, this administration is in danger of abdicating the American legacy of leadership. We are bucking that burden and isolating ourselves outside the community of nations lined up to take on the greatest environmental challenge we face—global warming. It is to that that S. 324 and the attention of so many Senators is addressed.

Yesterday, the United States began hosting the first round of what will be a long series of negotiations designed to develop a binding international agreement to address the global warming threat. These negotiations build on the work of the Intergovernmental Panel on Climate Change, which worked for 18 months to develop state

of the art assessments of the science, impacts and policy options associated with global warming.

In response to the IPCC work, a number of countries have been compelled by the scientific evidence to develop specific emissions reduction targets—Germany, Australia, Canada, France, Great Britain, Italy, Japan, Sweden and the Netherlands to name only a few. But the United States firmly opposes specific emissions reductions targets and timetables, and has yet to articulate any policy position on emissions of carbon dioxide and other greenhouse gases.

Yesterday, as was reported in this morning's papers, the United States unveiled an "action agenda" as the negotiating meetings got underway. The administration's "action agenda," as pointed out by the majority leader, covers the actions of the past—reductions in CFCs and energy efficiency benefits associated with passage of the Clean Air Act amendments, something we did last year, the reduction of the CFCs coming out of the Montreal Protocol, some years ago. It is encouraging to know that our work in the past will limit our contribution to the greenhouse problem in the future. But make no mistake about it, putting a new label on old initiatives is no substitute for strong leadership and a comprehensive, clearly articulated statement of policy from our government.

In essence, the United States entered the first negotiating session with no policy, just new packaging. Unfortunately, the sense of urgency surround these negotiations has increased in recent months as more and more nations have clearly annunciated positions on emissions reductions and as the U.N. General Assembly considered and issued a resolution calling for immediate negotiation of an agreement.

Therefore, Mr. President, the contrast beween the lack of development of a comprehensive U.S. policy on the one hand and the movement of the international community and the development of science on the other hand, has been startling. Last month, it was widely reported that 1990 was the warmest year on record. Taken by itself, one warm year would not trouble us. But last year was not an anomaly. Instead, it is only the latest in a string of hot years. Seven of the warmest years ever recorded have occurred during the past decade. Instinctively, we understand that a trend is developing. It is clear that the Earth is warming.

The scientific community is rapidly refining its ability to understand and predict the so-called greenhouse effect has improved. The most recent report from the Intergovernmental Panel on Climate Change [IPCC]—the internationally recognized body tasked with studying this issue—reported unambiguously that:

> There is a natural greenhouse effect * * * (and that) emissions resulting from human activities are substantially increasing the atmospheric concentrations of the greenhouse gases will enhance the greenhouse effect, resulting in an additional warming of the Earth's surface * * * the long-lived gases would require immediate reductions in emissions from human activities of over 60 percent to stabilize concentrations at today's levels.

To some, these may sound like mild encouragements from the scientific community. On the contrary, however, these are urgent warnings that the global climate is going to change, with potentially devastating results, unless we change course.

It is a situation not unlike that in which we find ourselves in terms of energy policy. The warning signs of growing dependence have been around for years, and yet it is only recently that we have been shaken from the complacency invoked by cheap energy prices.

It was only 15 years ago, in response to our heavy dependence, that we enacted a broad national energy policy to secure an independent energy future. During the 1980's, those objectives were systematically compromised by an administration that failed to acknowledge the problem—a steady, but inexorable increase in dependence on foreign oil.

Similarly, we are now conscious that steadily and inexorably we are changing the composition of the Earth's atmosphere. And the Earth will warm as a result of this trend. We hear so much from the administration, particularly the President's Chief of Staff, about the uncertainties associated with this issue. The only question is how much the Earth will warm and how fast. The IPCC scientists I referred to earlier believe that we are currently headed toward a rate of warming greater than has been seen in 10,000 years, when ice a mile thick covered New York City.

And what is the response of our Government to these frightening projections? The administration's response has been characterized by delay, denial, and outright deception. As a candidate, George Bush pledged to use the "White House effect" to combat the greenhouse effect. And the initial rhetoric was promising. In his first major speech as Secretary of State Baker said: "Time will not make the problem go away," and urged specific and commendable steps that might be taken to fight global warming.

In May 1989, however, the administration censored the testimony of one of this Nation's most respected Government scientists—Jim Hansen of NASA-Goddard. Hansen, in testimony before the Senate, wanted to give his honest assessment that global warming is a serious threat to the long-term interests of this Nation and the world. But, the administration gutted his testimony to reflect the perception of a few political appointees that the problem is not serious at all.

At the 1989 economic summit in Paris, the President signed a final communique which said that "decisive action is urgently needed to understand and protect the Earth's ecological balance. * * * We strongly advocate common efforts to limit emissions of carbon dioxide and other greenhouse gases."

Later that year, the administration tried to block its own EPA Administrator, Mr. Reilly, from attending a major conference in Europe. Mr. Reilly was eventually allowed to go, but his hands were tied at these negotiations. At that conference dozens of nations said that we should freeze emissions of carbon dioxide, but not the United States, which led the effort to scuttle the final conference statement.

In February of last year, President Bush, addressed the Intergovernmental Panel on Climate Change—whose work the administration has repeatedly endorsed—and gave a very cautious and poorly received speech. He called for more science. Hardly the White House effect. Indeed, Marlin Fitzwater, the President's spokesman, said that "the people who think this is a problem that needs to be solved today don't understand it. They're wrong." Asked about the President's pledge to use the White House effect, Fitzwater said: "I don't know if he said those words during the campaign, but if so, he's changed his mind." (New York Times, Feb. 6, 1990.)

Again in March at a much delayed White House conference, the President cautioned the scientists to do more research. His speech was so poorly received, he had to go back to the conference the next day to clarify himself, stating the United States "commitment to action, to sound analysis and sound policies." Disgracefully, it was disclosed the next day that the administration had distributed a briefing to its representatives instructing them on "Debates to Avoid." It is, the warning said, "not beneficial to discuss whether there is or is not warming, or how much or how little warming. In the eyes of the public we will lose this debate. A better approach is to raise the many uncertainties that need to be understood on this issue." "Don't let reporters positoin this conference as an attempt to delay serious decisions on this issue." A reprehensible display of hubris. (Washington Post, Mar. 19, 1990.)

In the intervening time, the Europeans, the Japanese, governments around the world have taken steps to stabilize emissions at 1990 levels by the year 2000 or to actually reduce emissions early in the next century. Most recently, the European Community announced a plan to stabilize emissions.

Last summer, it was revealed that the United States was scuttling the major international effort to develop

global warming prevention strategies. The IPCC, which the administration endorsed, has three working groups—one on science, one on effects, one on policy responses, which the United States chairs. Consider the disconnect between the science and policy panels. The science panels says "with certainty" that there is a natural greenhouse effect and that greenhouse gas emissions are increasing and that therefore the Earth will warm. The science panel estimates that the Earth will warm by 3 to 9 degrees in the next century and faster than at any time in more than 10,000 years. The U.S. chaired policy panel reports that "The information available to make sound policy analyses is inadequate." What more can we ask for: the IPCC science panel says this is a problem, half our Nobel laureates and half of the members of the National Academy of Sciences say this is a problem, but not the administration.

Last November, U.S. intransigence reached its nadir. The United States, and the United States alone, blocked consideration of a common agreement to stabilize emissions at 1990 levels. Even the Japanese have come around to accept stabilization. Indeed, the Japanese, like all of the European governments, have found that there are enormous economic efficiencies to be achieved in reducing greenhouse gas emissions and that there are huge markets for "greenhouse friendly" energy technologies. And A.I.D. report last year found that the developing world will need an additional 300 to 900 billion dollars' worth of energy technology in the next 20 years. The U.S. position is summed up accurately in this quote from Bill Reilly to the U.S. representative—himself a third level representative as compared with Margaret Thatcher and the French Prime Minister: "Roll up your sleeves and give blood. We're just going to be beaten black and blue."

Yesterday, the administration repackaged a number of old initiatives into a so-called action agenda. It is time to change course. It is time to take on the "burden of leadership." So I have introduced, together with 48 of my colleagues, and with Senator GORE and Senator HEINZ as lead cosponsors, legislation that will slow down the U.S. contribution to the mindless buildup of greenhouse gases in the atmosphere. This broad-based, bipartisan legislation, is virtually identical to the global warming bill passed by the Senate last year.

This legislation focuses on the nexus between energy policy and environmental policy and on the need to reduce emissions of carbon dioxide, the primary greenhouse gas. It is increasingly clear that our greatest environmental challenges are also our greatest energy challenges. My bill begins with the premise that the Department of Energy should develop a national least-cost energy plan, which equally balances our supply-side resources with the enormous potential that exists in this country to reduce the demand for energy. And that is what least-cost planning is all about, putting energy efficiency on a level playing field with supply-side alternatives. We task the Department of Energy with coming up with low-cost strategies that will reduce our carbon dioxide emissions 20 percent by the year 2005.

This bill also strengthens the Nation's commitment to energy efficiency by building a variety of new programs to realize the full potential of energy conservation in the industrial and buildings sector. This legislation builds on last year's proposals to strengthen the Nation's commitment to natural gas, the cleanest burning of the fossil fuels. Our bill also proposes to step up the effort to develop electric vehicles, which have promise for reducing emissions of greenhouse gases and local air pollutants. Moreover, my bill would strengthen U.S. efforts to provide clean energy technologies to the nations of the developing world.

Finally, Mr. President, I want to comment briefly on a resolution that is being circulated by the distinguished majority leader. This resolution urges the administration to develop a specific set of targets and timetables for reducing greenhouse gases by the United States. Nations around the globe are developing these kind of programs and we are outside the mainstream in these efforts. As we enter the first phase of negotiations on an international agreement to protect the global environment, it is essential that the United States take the lead. As always, the majority leader is at the forefront of this effort, and I urge all of my colleagues to support his resolution.

I ask unanimous consent, Mr. President, that the full text of the bill, a summary of the bill and other material be printed in the RECORD.

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

S. 324

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, together with the following table of contents, may be cited as the "National Energy Policy Act of 1991".

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TITLE V—NATURAL RESOURCE POLICY
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Sec. 502. National Forestation Initiative.
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SEC. 3. FINDINGS.—The Congress finds that—

(1) scientific evidence indicates that the atmosphere of the earth is being affected by the generation from natural and man-made sources of carbon dioxide and other greenhouse gases;

(2) trends in the concentration of such greenhouse gases in the atmosphere may result in global changes in climate, with potentially significant economic, social and environmental implications for human-kind;

(3) a scientific understanding of the causes and economic effects of global climate change is necessary to formulate effective policies;

(4) the formulation of domestic and international energy and natural resource policies may be necessary in order to reduce the generation of carbon dioxide and other greenhouse gases and mitigate or adapt to potential adverse consequences of human-induced global climate change;

(5) the formulation of such policies by the Government will include an effort involving the private sector and the laboratories of the Department of Energy; and

(6) the United States should pursue a framework convention on global climate change by the year 1992 through the Intergovernmental Panel on Climate Change (IPCC) of the United Nations Environmental Program and the World Meteorological Organization.

SEC. 4. PURPOSES.—The overall purposes of this Act is to establish a national energy policy that will fully consider the contribution of energy use to potential changes in global climate and will include cost-effective strategies to lessen the generation of energy-related greenhouse gases consistent with the achievement of other domestic energy, economic, social, and environmental goals. The specific purposes of the Act are to—

(1) improve scientific understanding of the natural and man-made sources of greenhouse gases and their relative contributions to global climate change;

(2) evaluate the environmental, social, and economic consequences of global climate change;

(3) evaluate the environmental, social, and economic consequences of domestic and international policies for mitigating or adapting to global climate change;

(4) identify the actions required to mitigate current trends in atmospheric concentrations of greenhouse gases and analyze their relative cost-effectiveness;

(5) identify the actions necessary to mitigate or adapt to adverse consequences of global climate change;

(6) identify and evaluate the domestic policies required to mitigate or adapt to the possible adverse social and economic consequences of a reduction or stabilization in the generation of greenhouse gases;

(7) encourage the formulation of effective domestic and international energy and natural resource policies that will mitigate adverse consequences of human induced global climate change;

(8) foster the development of technologies that will advance the goals and purposes of the Act and the transfer such technologies to lesser-developed countries; and

(9) establish programs within the Department of Energy for the achievement of these purposes.

SEC. 5. GOALS.—(a) The goals of this Act are to—

(1) foster the identification of an appropriate mix of policies referred to in subsection (b) that have the potential, if fully implemented, to stabilize the generation of carbon dioxide and other greenhouse gases in the United States;

(2) assess the feasibility of further limiting, or reducing, the generation of carbon dioxide and other greenhouse gases not controlled by the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer;

(3) investigate the feasibility and economic, energy, social, and environmental implications of achieving a 20 per centum reduction in the generation of carbon dioxide by the year 2005 as recommended by the 1988 Toronto Scientific World Conference on the Changing Atmosphere;

(4) investigate the feasibility and economic, energy, social, and environmental implications of stabilizing carbon dioxide emission by the year 2005; and

(5) evaluate the potential social, economic, energy, and environmental implications of implementing the policies mentioned in paragraphs (1), (2), (3), and (4) in order to enable the United States to comply with any obligations under an international global climate change framework convention or agreement.

(b) Policies to be considered in section 5(a) for the stabilization or reduction in the generation of carbon dioxide and other greenhouse gases include, but are not limited to, policies that—

(1) implement standards for more efficient use of fossil fuels;

(2) increase the energy efficiency of existing technologies;

(3) encourage technologies, including clean coal technologies, that generate lower levels of carbon dioxide and other greenhouse gases;

(4) promote the use of renewable energy resources, including solar, geothermal, sustainable biomass, hydropower, and wind energy;

(5) affect the development and consumption of energy and energy efficiency resources and electricity through tax policy;

(6) encourage investment in energy efficient equipment and technology;

(7) encourage the development of energy technologies, such as advanced nuclear fission and nuclear fusion, that produce energy without carbon dioxide other greenhouse gases as byproduct, and encourage the deployment of nuclear electric generating capacity; and

(8) encourage afforestation and reforestation.

(c) The reduction of the generation of chlorofluorocarbons shall be in according with the provisions of the Montreal Protocol, unless subsequent Federal legislation is enacted establishing new guidelines for the reduction or elimination of the use of chlorofluorocarbons.

(d) In order to promote international cooperation in addressing potential global climate change, it is the goal of the United States to establish by 1992, an international framework convention on global climate change through the activities of the Intergovernmental Panel on Climate Change of the United Nations International Environmental Program and the World Meteorological Organization and secure the commitment of the community of nations to such convention.

SEC. 6. DEFINITIONS.—For the purposes of this Act, the term—

(1) "Department" means the Department of Energy;

(2) "energy efficiency resource" means energy saved through improvements in the efficiency of energy production, transportation, or utilization;

(3) "energy resources" includes, but is not limited to, supplies of natural gas, crude oil and petroleum products, coal, nuclear energy, and renewable energy;

(4) "global climate change" means changes in the climate of the earth that result from increases in the atmospheric concentrations of greenhouse gases;

(5) "greenhouse gases" means carbon dioxide and other gases such as chlorofluorocarbons, methane, ozone, and nitrous oxides that contribute to global climate change;

(6) "lesser-developed countries" shall include, but not be limited to, Eastern Europe and the Soviet Union; and

(7) "Secretary" means the Secretary of Energy.

TITLE I—ENERGY POLICY INITIATIVES

Subtitle A—National Energy Strategy

SEC. 101. LEAST-COST ENERGY STRATEGY.—(a)(1) The First National Energy Policy Plan (the "Plan") under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) prepared and submitted by the President to Congress after the date of the enactment of this Act, and each subsequent such Plan, shall include a least-cost energy strategy prepared by the Secretary.

(2) The Secretary need not prepare and submit a least-cost energy strategy with the National Energy Plan scheduled to be submitted in April of 1991.

(b)(1) The least-cost energy strategy shall identify Federal priorities for the encourage-

ment of the use of energy and energy efficiency resources. In developing the least-cost energy strategy, the Secretary shall take into consideration the economic, energy, social, and environmental consequences of his choices. Such strategy shall be designed to achieve to the maximum extent practicable and at least-cost to the Nation—

(A) the energy production, utilization, and conservation objectives of the Plan; and

(B) the stabilization and eventual reductions in the generation of carbon dioxide and other greenhouse gases mentioned in section 5(a).

(2) The least-cost energy strategy shall include—

(A) a comprehensive inventory of available energy and energy efficiency resources and their projected costs, taking into account all costs of production, transportation, and utilization of such resources, including—

(i) coal, clean coal technologies, coal seam methane, and underground coal gasification;

(ii) energy efficiency, including existing technologies for increased efficiency in production, transportation, and utilization of energy, and other technologies that are anticipated to be available through further research and development; and

(iii) other energy resources, such as renewable energy, solar energy, nuclear fission, fusion, geothermal, biomass, fuel cells, hydropower.

(B) a proposed two-year program for assuring adequate supplies of energy and energy efficiency resources under paragraph (1), and an identification of actions that can be undertaken within existing Federal authority; and

(C) recommendations for any new Federal authority needed to achieve the purposes of this Act.

(c)(1) The relative costs of energy and energy efficiency resources under this section shall be determined based upon a comparison of the estimated system costs of other similarly reliable and available resources.

(2) System costs under paragraph (1) are all direct and quantifiable net costs for the resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(3) When comparing an energy efficiency resources to an energy resource, a higher priority shall be assigned to the energy efficiency resource whenever its estimated system cost is equal to the estimated system cost of the energy resource.

SEC. 102. CONFORMING AMENDMENTS.—(a) Section 801 of Public Law 95-91 is amended in subsection (c)(1) by inserting "cost estimates," after "whatever data and analysis are necessary to support the".

(b) Title III of the Energy Security Act (42 U.S.C. 7361, et seq.) is hereby repealed.

Subtitle B—Director of Climate Protection

SEC. 111. APPOINTMENT.—(a) Within six months after the date of the enactment of this Act, the Secretary shall appoint within the Department, a Director of Climate Protection (the "Director"). The Director shall—

(1) in the absence of the Secretary, serve as his representative for interagency and multilateral policy discussions of global climate change;

(2) monitor domestic and international policies for their effects on the generation of carbon dioxide and other greenhouse gases; and

(3) have the authority to participate in the planning activities in relevant Departmental programs.

(b) Beginning eighteen months after the date of the enactment of this Act, and annually thereafter, the Director shall participate in the formulation of the least-cost energy strategy under section 101, research and development priorities under section 301, and the management plan under section 302.

Subtitle C—National Academies of Science and Engineering

SEC. 121. REVIEW.—(a) Within ninety days after his appointment under section 111, the Director, in consultation with the Office of Science and Technology Policy (the "Office"), shall seek to enter into an agreement with the National Research Council to use the services of the National Academy of Sciences and the National Academy of Engineering (the "Academies") to conduct an ongoing review of current knowledge regarding—

(1) trends in the atmospheric concentrations of greenhouse gases, including current capabilities to model such trends with sufficient reliability to support international, domestic, and regional policy formulation;

(2) the causes of global climate change and the relative contribution of various sources of greenhouse gases including, but not limited to, fossil fuel production and use, forest management practices, agricultural practices, and other sources;

(3) the climatic, physical, economic, social and environmental consequences of current trends in atmospheric concentration of greenhouse gases;

(4) actions that might be taken to mitigate or adapt to possible adverse economic, social, and environmental consequences of global climate change and the relative cost-effectiveness of these actions;

(5) the generation and disposition of greenhouse gases into the environment including the relative contribution of the oceans, clouds, and biosphere; and

(6) current knowledge on the relationship between those policies that mitigate or abate stratospheric ozone depletion and those policies that mitigate or abate global climate change.

(b) In conducting such review, the Academies are encouraged to consult with international scientific and technical entities to determine where there is a consensus in current knowledge with respect to paragraphs (a) (1) through (6).

(c) The Secretary, the Secretary of Commerce, the Secretary of the Interior, the Secretary of Transportation, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Director of the National Science Foundation shall, upon request, furnish to the Office and the National Research Council any information that such Office or Council determines to be necessary for purposes of conducting the review required under subsection (a).

SEC. 122. REPORT TO THE CONGRESS.—(a) Within one year after the date of the enactment of this section and periodically thereafter the Academies shall submit a report containing the findings and recommendations resulting from the review conducted under section 121 to the Office and the Congress. The findings and recommendations contained in such report shall not be subject to any prior clearance or review, nor shall any prior clearance conditions be imposed on the National Research Council, as part of the agreement made by the Office.

(b) Within six months after the transmission of such report to the Congress, the President shall transmit to the Congress his assessment of the findings and recommendations in the report pursuant to subsection (a) and any recommendations therein.

TITLE II—ENERGY EFFICIENCY INITIATIVES

Subtitle A—Energy Efficiency

SEC. 201. REPORT.—The Secretary, in consultation with the Council of Economic Advisors, shall submit to the Congress within one year after the date of the enactment of this Act, and every three years thereafter through the year 2004, a report evaluating energy efficiency policy options that would be necessary to produce decreases of 1, 2, 3, and 4 per centum per-year per-unit of GNP through the year 2005, below the projected energy consumption for 2005. The Secretary shall evaluate, describe and rank these policy options according to their cost-effectiveness and their feasibility of implementation.

SEC. 202. ENERGY-INTENSIVE INDUSTRIES.—(a) The Secretary, acting in accordance with authority contained in the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901-5920) and other applicable laws, shall—

(1) pursue a research and development program intended to improve energy efficiency and productivity in energy-intensive industries and industrial processes; and

(2) in accordance with the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218), undertake joint ventures to encourage commercialization of technologies developed under paragraph (1).

(b)(1) The Secretary shall—

(A) conduct a competitive solicitation for proposals from specialized private firms and investors for such joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five such joint ventures.

(2) The purpose of the joint ventures shall be to design, test and demonstrate changes to industries and industrial processes that will result in improved energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries so long as demonstration of energy efficiency improvements is the principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall consider—

(A) whether the research and development efforts under this section (i) improve the quality and efficiency of industries or industrial processes, and (ii) reduce the generation of carbon dioxide and other greenhouse gases into the atmosphere;

(B) the regional distribution of energy-intensive industries and industrial processes; and

(C) whether the joint-venture projects are located in the region in which the energy-intensive industries are located.

(c) There is authorized to be appropriated to the Secretary $5,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.

SEC. 203. FEDERAL ENERGY MANAGEMENT.—Part 3 of title V of the National Energy Conservation Policy Act (NECPA) (42 U.S.C. 8251 et seq.), as amended, is further amended as follows:

(a) In section 543:

(1) Strike subsection (a) and insert the following new text in lieu thereof:

"(a) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL BUILDINGS.—(1) Not later than January 1, 2000, each Federal agency shall, to the maximum extent practicable, install

in Federal buildings under the control of such agency in the United States, all energy conservation measures with payback periods of less than ten years as calculated using the methods and procedures developed pursuant to section 544. By January 1, 1993, each agency shall submit to the Secretary a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved. Subject to the availability of appropriated funds, each Federal agency shall have substantially completed at least 25 per centum of the projects on the list or projects on the list that would account for 25 per centum of total energy savings, by January 1, 1995. If any agency has not met this requirement, such agency shall spend no funds in States where this requirement has not been met for the construction or acquisition of a Federal building except to meet the requirements of this section. If any agency has not met the requirements of this section for the year 2000, then such agency shall spend no funds in States where this requirement has not been met for the construction or acquisition of a Federal building except to meet the requirements of this section. The Secretary may waive the requirements of this section if the Secretary finds that an agency is taking all practicable steps to meet the requirement and that the sanctions of this section will pose an unacceptable burden upon the agency. If the Secretary waives the requirements of this section, he shall notify Congress promptly.

"(2) An agency may exclude from the requirements of paragraph (1) any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with the requirements of paragraph (1) would be impractical. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, and the unique character of many facilities operated by the Departments of Defense and Energy. Each agency shall identify and list in each report made under section 548 the Federal buildings designated by it for such exclusion. The Secretary of Energy shall review such findings for consistency with the impracticability standards set forth herein, and may within ninety days after receipt of the findings, reverse a finding of impracticability, in which case, the agency shall comply with the requirements of paragraph (1). This section shall not apply to an agency's facilities that generate or transmit electric energy, nor to the uranium enrichment facilities operated by the Department of Energy.";

(2) In subsection (b):

(A) after the words "subsection (a)," insert the following: "The Secretary of Energy shall consult with the Secretary of Defense and the Administrator of the General Services Administration in developing guidelines for the implementation of this Part, and";

(B) strike the phrase "Federal Energy Management Improvement Act of 1988," in paragraph (1) and insert in lieu thereof "National Energy Policy Act of 1991, and submit to the Secretary of Energy";

(C) after the words "high priority projects;" insert the following: "and such plan shall include steps to take maximum advantage of contracts authorized under title VIII of this Act (42 U.S.C. 8287 et seq.), financial incentives, and other services provided by utilities for efficiency investment and other forms of financing to reduce the direct costs to the government;";

(D) at the end of paragraph (2), strike the semicolon and insert the following: ", and update such surveys periodically, but not less than every three years;";

(E) replace paragraph (3) with the following new paragraph:

"(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;"; and

(F) insert a new paragraph (4) as follows, and renumber paragraph (4) as "(5)".

"(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in Section 544, and".

(b) In section 544:

(1) Strike "National Bureau of Standards," in subsection (a) and insert in lieu thereof "National Institute of Standards and Technology,"; and

(2) strike all after the word "each", in paragraph (b)(2) and insert in lieu thereof: "agency shall, after January 1, 1994, fully consider the energy efficiency of all potential building space at the time of renewing or entering into a new lease. Further, all government owned and leased space constructed after January 1, 1994, shall meet model Federal building standards for energy efficiency.".

(c) In section 545, add after the word "measures" the following: "as needed to meet the requirements of section 543.".

(d) In section 546, strike subsection (b) and insert in lieu thereof the following:

"(b) IMPLEMENTATION.—To facilitate the financing of energy conservation energy measures, each Federal agency shall promote the use of contracts authorized by title VIII of this Act (42 U.S.C. 8287 et seq.). The Secretary, in consultation with the Secretary of Defense and the Administrator of the General Services Administration, within six months after the date of the enactment of the National Energy Policy Act of 1991, shall develop appropriate procedures and methods for use by Federal agencies to select energy service contractors that will achieve the intent of this section in a cost-effective manner. Notwithstanding any other procurement laws and regulations, such procedures and methods shall apply to the selection of energy service contractors by each Federal agency.".

(e) In section 548:

(1) strike the word "Each" in subsection (a) and insert in lieu thereof the following: "In addition to the plan required to be submitted to the Secretary pursuant to Section 543(b)(1), each";

(2) insert the phrase "by April 2 of each year," after the word "annually" in subsection (b); and

(3) insert the words "by each agency", after the words "under this part" in subsection (b)(1).

SEC. 204. FUEL CELLS.—Subsection 6(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 Public Law 101-218) is amended by adding a new paragraph (6) as follows:

"(6)(A) The Secretary shall solicit proposals for, and provide financial assistance to, at least one joint venture for the demonstration of fuel cells technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the production of electric energy from fuel cells in order to accelerate commercial application of fuel cells.

"(C) There are authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out this paragraph.".

SEC. 205. REPEAL OF PROHIBITIONS ON SUPPLY AND INSTALLATION OF RESIDENTIAL ENERGY CONSERVATION MEASURES BY UTILITIES.—Section 216 of the National Energy Conservation Policy Act (42 U.S.C. 8217) is repealed and subsequent sections are renumbered accordingly.

SEC. 206. ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS.—(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of the enactment of this Act, the Secretary shall, in consultation with the National Fenestration Rating Council and appropriate industry representatives, provide financial and technical assistance to support the voluntary development of a national window rating program to establish energy efficiency ratings for windows and window systems. Such program shall set forth information and specifications that will enable purchasers of windows or window systems to make more informed purchasing decisions based upon the potential cost and energy savings of alternative window products.

(b) SECRETARIAL ACTION.—If a national window rating program, consistent with the objectives of subsection (a), is not established within two years of the date of enactment of this Act, then the Secretary shall, in consultation with the National Institute of Standards and Technology, develop, within one year, a rating program to establish energy efficiency ratings for windows and window systems under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293).

(c) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission (hereinafter in this section, the "Commission") shall prescribe labeling rules for the rating program established pursuant to either subsection (a) or (b) under section 324 of the Energy Policy and Conservation Act (42 U.S.C. 6294) unless, the Commission determines that labeling in accordance with subsections (a) or (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of window or window system (or class thereof).

(d) COVERED PRODUCTS.—For purposes of sections 323 and 324 of the Energy Policy and Conservation Act, windows and window systems shall be considered covered products under section 322 of such Act (42 U.S.C. 6292) unless excluded by the Commission pursuant to subsection (c).

(e) AUTHORIZATION.—There are authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 207. ENERGY EFFICIENCY INFORMATION.—(a) Within one year after the date of the enactment of this section, the Administrator of the Energy Information Administration shall report to Congress on the information being collected or otherwise acquired by the Administrator with respect to the efficiency of energy consumption. The report shall estimate future needs for collection of additional information related to energy efficiency and environmental impacts. The report shall also consider the feasibility of—

(1) increasing the frequency of collection of information on the utilization of energy;

(2) including additional energy-using classes and sectors in surveys conducted; and

(3) collecting additional information to assist in the analysis of barriers to improvement in energy efficiency.

(b) The report shall take into account reporting burdens and the protection of proprietary information under law.

(c) The Administrator shall periodically publish measures of energy efficiency in classes, sectors, and regions that consume significant amounts of energy.

SEC. 208. COMPACT FLUORESCENT LAMPS IN FEDERAL FACILITIES.—Not later than one hundred and eighty days after the date of the enactment of this section, the Secretary shall submit to the Congress a report on the feasibility and effectiveness of requiring some or all Federal facilities to use compact fluorescent lamps instead of incandescent lamps in order to reduce the use of electrical energy and thereby reduce the generation of carbon dioxide and sulfur dioxide.

SEC. 209. DEMONSTRATION OF NEW TECHNOLOGY.—(a) Within one year after the date of the enactment of this Act, the Secretary shall submit a plan to Congress for the demonstration in Federal facilities, or by Federal agencies, of renewable energy and energy efficiency resource technologies that have received Federal financial assistance for research and development. The technologies shall be those that are ready for commercial demonstration but are not widely commercially available. The Plan shall include—

(1) a listing of those technologies with specific candidate sites for the demonstration;

(2) the energy; environmental, cost savings or other expected benefits;

(3) a timetable for implementation; and

(4) a process for evaluation of the performance of the technologies.

(b) The Plan shall be updated every two years.

SEC. 210. RESIDENTIAL ENERGY EFFICIENCY RATINGS.—(a) Title II of the National Energy Conservation Policy Act is amended by adding a new Part 6 as follows:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"SEC. 271. RATINGS.—(a) Within twelve months after the date of the enactment of the National Energy Policy Act of 1991, the Secretary, in consultation with the Secretary of Housing and Urban Development and State governments, shall, by rule, promulgate guidelines for procedures to be implemented by State governments that would enable the assignment of an energy efficiency rating to residential buildings.

"(b) The guideline under subsection (a) shall—

"(1) provide for a numerical rating of the efficiency with which any residential building may be supplied with heating and cooling energy on an annual basis, and evaluate the practicality of including major energy consuming appliances in such rating;

"(2) provide that all residential buildings can receive a rating at time of sale;

"(3) ensure that the rating is prominently communicated to potential buyers and renters; and

"(4) ensure that the rating system is designed to facilitate its use by lenders and the secondary mortgage markets to promote energy efficiency.

"SEC. 272. TECHNICAL ASSISTANCE.—Within twelve months of the date of the enactment of this section the Secretary shall establish a program to provide technical assistance for State and local governments adopting energy efficiency rating systems or building codes. The program shall utilize the Federal Government's experience in developing Federal building energy performance standards and shall provide compliance methods, educational materials for builders and code officials, and other technical support.

"SEC. 273. AUTHORIZATION.—There are hereby authorized to be appropriated such funds as are necessary to carry out the purposes of this subtitle.".

(b) The National Energy Conservation Policy Act should be further amended by adding in the table of contents at the end of title II—Residential Energy Conservation, the following items:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"Sec. 271. Ratings.
"Sec. 272. Technical Assistance.
"Sec. 273. Authorization.".

Subtitle B—Amendments to the Public Utility Regulatory Policies Act of 1978

SEC. 211. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES AND STUDY OF CERTAIN STATE RATEMAKING POLICIES.—(a) The Public Utility Regulatory Policies Act of 1978 (92 Stat. 3117), as amended, is further amended by inserting the following new paragraph at the end of section 111:

"(7) ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES.—

"(A) The rates allowed to be charged by a State-regulated electric utility shall be such that the utility's investments in and expenditures for energy conservation, energy efficiency resources and other demand-side management measures are at least as profitable as its investments in and expenditures for the construction of new generating facilities.

"(B) For purposes of implementing the provisions of this paragraph, any reference contained in this title to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of the National Energy Policy Act of 1991.".

(b) Not later than two years after the date of the enactment of this Act, the Secretary shall submit a report to the President and to the Congress containing—

(1) a survey of all State laws, regulations, practices, and policies under which State regulatory authorities require or permit rates charged by an electric utility to reflect least-cost planning;

(2) an evaluation by the Secretary of whether, and to what extent, least-cost planning is likely to result in:

(A) higher or lower electricity costs to an electric utility's ultimate consumers or to classes or groups of such consumers;

(B) enhanced or reduced reliability of electric service; and

(C) increased or decreased dependence on particular energy resources.

(3) an evaluation by the Secretary of whether, and to what extent, ratemaking methodologies implementing least-cost planning adequately take into account the impact of such measures on electric utilities' costs, operations, and rate of return on investment.

(c) For purposes of subsection (b), the term "least-cost planning" means any standard, regulation, practice, or policy by which a State regulatory agency considers, or requires an electric utility to consider, actions (including, but not limited to, the construction of or purchase of electric energy from new generation facilities and investment in or expenditures for conservation, energy efficiency resources, or other demand side management measures) taken by a State regulated utility to provide adequate and reliable service to its electric consumers with the incurrence of lowest costs by such utility and its customers.

Subtitle C—Fuel Cells

SEC. 221. AMENDMENT.—Title V of the National Energy Conservation Policy Act (42 U.S.C. 8251–8261) is amended by adding the following new part after section 569:

"PART 5—FUEL CELLS

"SEC. 571. DEFINITIONS.—For purposes of this subtitle the term—

"(1) 'Federal building' shall mean 'Federal building' as defined by Section 549(6); and

"(2) 'Task Force' shall mean the Interagency Energy Management Task Force established pursuant to section 547, except that, for purposes of this subtitle, the term 'Task Force' shall include the Environmental Protection Agency.

"SEC. 572. FUEL CELL PROGRAM.—The Secretary, in consultation with the Task Force, shall conduct a program to promote the early commercial application of fuel cell systems for the production of electricity by the demonstration of such systems in Federal buildings.

"SEC. 573. PURPOSES.—The purposes of this program are to—

"(1) improve the efficiency and reduce the environmental consequences of the nation's electric generation capability;

"(2) stimulate the creation of new industries and job opportunities in efficient and environmentally sound energy technologies; and

"(3) develop cost, efficiency, performance, environmental, and reliability data on fuel cell systems used in the production of electricity.

"SEC. 574. IMPLEMENTATION AND ACQUISITION.—(a) In preparing or updating the plan required by section 543(b)(1), each agency on the Task Force shall identify at least two potential projects for the demonstration of the application of fuel cells systems for the production of energy to satisfy electrical and other energy requirements of such buildings.

"(b) Not later than 6 months after the submission to the Secretary of such plan, including the list of potential projects required under subsection (a), the Secretary, in consultation with the Task Force, shall identify a minimum of ten projects for implementation pursuant to subsection (c) and shall make a report of his selection including the basis therefor, to the Congress.

"(c) The Secretary may provide financial assistance to agencies sponsoring projects, identified under subsection (b), to acquire and install fuel cells systems manufactured in the United States and any associated equipment which may be necessary for the implementation of any of the listed projects. In order to receive financial assistance from the Secretary, a project identified under subsection (b) must meet the ten-year payback criterion of section 543. The calculation of such ten-year payback period shall take account of cost benefits associated with cogenerated energy to the extent provided under section 544. In selecting qualified projects for financial assistance, the Secretary, in consultation with the Task Force, shall also consider the cost of the electricity to be generated; the extent of cost-sharing provided by other agencies for the acquisition of new equipment; the appropriateness of the locations, sites, and structures in question; the adaptability of facilities to program requirements; whether Federal buildings undergoing new construction or

renovation offer advantages of cost-efficiency or ease of installation over existing Federal buildings; and such other factors that, in the judgment of the Secretary and the Task Force, may affect the benefits or costs of the fuel cell program.

"(d) Not later than January 1, 1996, the Secretary, in consultation with the Task Force, shall submit a report to Congress on the program authorized by this subtitle, which shall include information comparing the cost, efficiency, performance, environmental advantages, and reliability of fuel cells to other existing technological means of generating electricity, using data obtained from the operation of fuel cells acquired under this program. Such report shall also contain a discussion of all technical and economic issues which, in the judgment of the Secretary, might prevent the commercial use of fuel cells or restrict the use of fuel cells in certain applications and an analysis, including recommendations, of the steps needed to overcome such restrictions. A copy of such report shall be provided to each agency for further implementation of fuel cell projects consistent with the provisions of section 543(a), as appropriate.

"SEC. 575. AUTHORIZATION.—There is authorized to be appropriated to carry out the provisions of this subtitle a total of $15,000,000 for fiscal year 1992 through 1994.".

TITLE III—ENERGY RESEARCH AND DEVELOPMENT INITIATIVES

Subtitle A—General

SEC. 301. ENERGY RESEARCH AND DEVELOPMENT PRIORITIES.—The Secretary shall establish priorities for research and development activities. These priorities shall include consideration of the following criteria:

(a) the potential to reduce generation of carbon dioxide and other greenhouse gases sooner than alternative projects;

(b) the projected cost-effectiveness of the energy or energy efficiency resource to be produced or saved, including an evaluation of the likelihood of the activities contributing to the achievement of commercialization of new energy technologies for the purposes of this Act;

(c) the comparative environmental and public health impacts of the energy to be produced or saved by the specific activities;

(d) the national security impact of the energy produced or saved, including its projected contribution to the reduction of oil imports and to the diversity of the domestic energy resource mix;

(e) the obstacles inherent in private industry's development of new energy technologies and steps necessary for establishing or maintaining technological leadership in the area of energy and energy efficiency resource technologies, including, but not limited to, solar, fuel cells, fusion, clean-coal technologies, and hydrogen;

(f) the contribution of a given activity to fundamental scientific knowledge;

(g) the anticipated impact of the results of these activities on special or targeted populations, including low-income or aged persons; and

(h) the contribution to U.S. competitiveness.

SEC. 302. MANAGEMENT PLAN.—(a) The Secretary, in consultation with the Energy Advisory Board to the Secretary, shall prepare a management plan for the conduct of research, development, and commercialization of energy technologies that is consistent with the purposes of this Act and guided by the priorities set forth in section 301.

(b) The management plan under subsection (a) shall contain proposals for—

(1) investigation of promising energy and energy efficiency resource technologies that have been identified as potentially significant future contributors to the least-cost energy strategy under section 101;

(2) development of contingency energy and energy efficiency resource technologies that have the potential to minimize adverse impacts on the environment, the global climate, and the economy and to reduce energy supply vulnerability; and

(3) creation of opportunities for export of energy and energy efficiency resource technologies from the United States that can make a substantial contribution to reducing the impact on the global climate of the energy resource supply and use patterns of foreign nations.

(c) Within one year after the date of the enactment of this section, the Secretary shall submit the first management plan under this section to Congress. Thereafter, the Secretary shall submit a revised management plan biennially at the time of submittal of the President's annual budget submission to the Congress.

SEC. 303. JOINT VENTURES.—Joint ventures authorized under this Act shall be conducted pursuant to the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218).

Subtitle B—Engine and Vehicle Fuel Research

SEC. 311. VEHICLE ENGINE FUEL RESEARCH.—The Secretary shall establish and carry out a program of research, development, and demonstration on advanced vehicle engine systems (including engine systems that rely on alternative fuels, reformulated gasoline, or advanced, high efficiency materials) that offer the potential to reduce the generation of greenhouse gases and improve the efficiency of energy in transportation uses.

SEC. 312. HIGH EFFICIENCY HEAT ENGINES.—(a) The Secretary shall carry out a program of research, development, demonstration and commercialization of high efficiency heat engines. The Secretary shall emphasize advanced gas turbine cycles, and the incorporation of energy efficient materials in advanced gas turbine cycles for high efficiency electric and automotive power generation, such as—

(1) advanced combined cycle turbine;

(2) steam-injected gas turbines; and

(3) intercooled steam-injected gas turbines.

(b) The Secretary may enter into joint ventures with the appropriate parties to construct and demonstrate high efficiency heat engines.

(c) There is authorized to be appropriated not more than $25,000,000 for each of the fiscal years 1992, 1993, and 1994, for purposes of this section.

SEC. 313. NATURAL GAS COFIRING RESEARCH, DEVELOPMENT AND DEMONSTRATION.—(a) DEFINITIONS.—For the purposes of this section, the term—

(1) "cofiring" means the injection of natural gas and pulverized coal into the primary combustion zone of an electric utility unit or an industrial boiler and shall include gas reburn technologies; and

(2) "gas reburn" means the injection of natural gas into the upper furnace region of an electric utility unit or an industrial boiler to produce a fuel-rich zone thereby reducing nitrogen oxide emissions.

(b) The Secretary shall conduct a program of research, development and demonstration of cofiring in electric utility units and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits.

(c) The Secretary may provide financial assistance under this section to public entities or interested or affected private firms to perform the research, development and demonstration of cofiring technologies.

(d) The Secretary may enter into cooperative agreements with, and provide financial assistance under this section to, public entities or interested or affected private firms willing to provide at least 50 per centum of the costs of such programs to perform the research, development and demonstration of cofiring technologies.

(e) For purposes of this section, there is authorized to be appropriated to the Secretary not more than $9,000,000 for each of the fiscal years 1992, 1993 and 1994.

Subtitle C—Technology Development Program

SEC. 321. PROGRAM.—The Secretary shall establish a program to develop technologies originating with the Department that is directed to the stage of technology development beyond the basic research stage. The purpose of such program shall be to develop technologies, determined by the Secretary to have significant promise for commercial and public benefit to the Nation, to a point where private industry will undertake further scientific and commercial development. Technology development programs may be conducted at any Department facility and would be intended to enhance the commercial development and transfer to private industry of technologies originating with the Department, consistent with the technology transfer mission of the Department. As a condition for supporting specific projects, the Secretary may require a private sector commitment to future, and wholly non-Federal, funding of commercial development of particular technologies.

SEC. 322. AUTHORIZATIONS.—For the purposes of carrying out this subtitle, there are authorized to be appropriated such sums as are necessary for fiscal years 1992, 1993, and 1994.

Subtitle D—Fusion

SEC. 331. PROGRAMS.—(a) The Secretary shall conduct research, development, and demonstration programs to address in a timely fashion questions concerning the development of magnetic and inertial confinement fusion for the production of electricity consistent with the purposes of this Act. Such programs shall be designed to demonstrate by the year 2010—

(1) a demonstration of the achievement of ignition conditions in both magnetic and inertial confinement fusion test facilities; and

(2) a demonstration of the technological feasibility of magnetic and inertial confinement fusion for the production of electricity.

(b) In the event such feasibility is determined for a fusion technology pursuant to subsection (a), the Secretary shall prepare a design for a prototype commercial fusion reactor using such technologies, including associated cost estimates and specifications shall be in sufficient detail to permit bids for construction.

Subtitle E—Coal

SEC. 341. COAL PROGRAM GOALS.—(a) The Secretary shall establish research, development, and demonstration goals to assure the timely development of technologies for the production, transportation, and utilization of coal consistent with this Act.

(b) The Secretary shall establish a research, development, and demonstration program within the Department designed to as-

sure the timely development of cost-effective advanced coal-based technologies to be available for widespread commercial use after the year 2010, which are capable of achieving the control of sulfur oxides and oxides of nitrogen at levels of proficiency greater than currently available commercial control technology. The coal technology development program shall also be designed to assure the timely development of cost-effective technologies or energy production processes or systems utilizing coal which achieve greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal and the control of emissions from coal.

(c) The Secretary shall develop the program described herein, for technologies that include, but are not limited to, the following:

(1) advanced integrated gasification combined cycle;

(2) pressurized fluidized bed combustion technology capable of achieving higher conversion efficiency than can be achieved through on-going demonstration projects;

(3) direct and indirect coal-fired turbines;

(4) coal refining processes capable of efficiently producing or utilizing the energy contained in coal and also utilizing the by-products thereof;

(5) technologies for the cost-effective control and disposition of carbon dioxide produce during the combustion of coal;

(6) magnetohydrodynamics;

(7) molten carbonate and solid oxide fuel cells; and

(8) other coal-based technologies or processes on systems that are capable of achieving conversion efficiency greater than currently available technology.

SEC. 342. NON-FUEL USE OF COAL.—(a) Not later than one hundred and twenty days after the date of the enactment of this Act, the Secretary shall submit to Congress a plan for research, development, and demonstration with respect to technologies for non-fuel use of coal, including—

(1) production of coke and other carbon products derived from coal;

(2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;

(3) production of chemicals from coal-derived synthesis gas;

(4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and

(5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) As part of the plan under subsection (a), the Secretary may propose specific joint ventures to accelerate the development and commercialization of technologies for nonfuel uses of coal.

(c) The plan under subsection (a) shall address and evaluate:

(1) the known and potential products and processes for the use of coal for products in the chemical, utility, fuel, and carbon-based materials industries;

(2) the costs, benefits and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;

(3) the economics of coproduction of products from coal in conjunction with production of electric power, thermal energy, and fuel;

(4) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(5) the steps that can be taken by the public and private sectors to bring about commercialization of research results produced by the research program recommended; and

(6) the past development, current status, and future potential of coal products and processes associated with nonfuel use of coal.

(d) The Secretary shall conduct a program of research and development under the plan under subsection (a).

(e) The Secretary may provide financial assistance for a research project under the plan using funds authorized by section 343(b) to the extent he finds that such project—

(1) furthers achievement of the goals and purposes of this Act;

(2) offers promise for commercial application; and

(3) has a reasonable prospect of support in at least 50 per centum of its direct costs from non-Federal funds.

(f) In preparing the plan and carrying out research under this section, including evaluating the technical progress, feasibility, and most effective means for utilizing the results of research, the Secretary shall consult with the private sector.

SEC. 343. AUTHORIZATIONS.—(a) There is authorized to be appropriated such sums as are necessary for each of fiscal years 1992, 1993, and 1994 for purposes of implementing the program pursuant to section 341.

(b) There is authorized to be appropriated to carry out section 342, a total of $20,000,000 for fiscal years 1992 through 1994.

Subtitle F—Natural Gas and Other Alternative Fuels

SEC. 351. MASS TRANSIT PROGRAM.—(a)(1) The Secretary, consistent with this Act, in consultation with the Administrator of the Urban Mass Transit Administration, may, consistent with the Alternative Motor Fuels Act of 1988 (P.L. 100-494), enter into cooperative agreements and joint ventures proposed by any municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility, including safety of specific vehicle design, of using natural gas or other alternative fuels for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(b)(1) The Secretary may not enter into any cooperative agreement or joint venture under subsection (a) with any municipal, county or regional transit authority unless such government body agrees to provide at least 25 per centum of the costs of such demonstration.

(2) The Secretary, at his discretion, may grant such priority under this section to any entity that demonstrates that the use of natural gas or other alternative fuels used for transportation would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(c) There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 352. NATURAL GAS AND OTHER ALTERNATIVE FUEL USE IN FLEET VEHICLES.—(a) The Secretary, consistent with the Alternative Motor Fuels Act of 1988 (Public Law 100-494), and in consultation with the Administrator of the United States Environmental Protection Agency and the Secretary of Transportation, shall establish and carry out a program, and provide financial assistance to encourage the development and commercialization of natural gas and other alternative fuels for use in passenger fleets, light-duty trucks, and heavy-duty trucks consistent with the purposes of this Act. Such assistance shall provide for the purchase and construction of vehicles dedicated to the use of natural gas or other alternative fuels and of vehicles dually fueled by natural gas or other alternative fuels and gasoline or diesel, and associated refueling equipment.

(b) Public and private fleets may be eligible for financial assistance under this section.

(c) The Secretary, at his discretion, may grant such priority to those fleets where the use of natural gas and other alternative transportation fuels would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(d) To facilitate the use of natural gas and other alternative fueled vehicles, the conversion of a vehicle from either gasoline or diesel alone to natural gas or other alternative fuels alone, or to natural gas or other alternative fuels and either gasoline or diesel, shall not be considered a violation of any anti-tampering provisions of the Federal law and implementing regulations: *Provided*, That the conversion complies with emissions standards issued by the Administrator of the Environmental Protection Agency.

(e) Any program established under this section that applies to existing vehicles shall take into consideration the safety of specific vehicle design and the compatibility of natural gas or other alternative fuel use with the original components of such existing vehicles.

(f) There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994, for purposes of this section.

SEC. 353. TRAINING PROGRAM.—(a) The Secretary of the Department of Labor shall establish and carry out a training and certification program for technicians who are responsible for vehicle installation of equipment that converts gasoline or diesel-fueled vehicles to the capability to run on natural gas or other alternative fuels alone, or on natural gas or other alternative fuels and either diesel fuel or gasoline, and for the maintenance of such converted vehicles. Such training and certification programs shall provide these technicians with instruction on the correct installation procedures and techniques, adherence to specifications, vehicle operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these vehicle conversions.

(b) The Secretary, may enter into cooperative agreements with, and provide financial assistance to, under this section, appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(c) The program under this section shall be consistent with the Alternative Motor Fuels Act of 1988 (Public Law 100-494).

(d) There is authorized to be appropriated not more than $5,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 354. VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.—(a) The Secretary shall carry out a program of research, development, and demonstration on techniques related to improving natural gas and

other alternative fueled vehicle technology including, but not limited to, the following areas—

(1) fuel injection;
(2) carburetion;
(3) manifolding;
(4) combustion;
(5) power optimization;
(6) efficiency;
(7) lubricants and detergents;
(8) engine durability;
(9) ignition, including fuel additives to assist ignition;
(10) multifuel engines;
(11) emissions control, including catalysts;
(12) novel gas compression concepts;
(13) advanced storage systems;
(14) advanced gaseous fueling technologies; and
(15) the incorporation of advanced materials in these areas.

(b) The Secretary, consistent with the Alternative Motor Fuels Act of 1988 (Public Law 100-494), may enter into cooperative agreements with, and provide financial assistance to, under this section, public entities or interested or affected private firms willing to provide 50 per centum of the costs of such programs to perform the research and development necessary to improve natural gas vehicle and other alternative fuel vehicle technology.

(c) There is authorized to be appropriated not more than $10,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 355. NATURAL GAS RECOVERY, RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.—(a) The Secretary shall expand and continue a program of research, development, and demonstration on techniques to increase the availability of natural gas from—

(1) intensive recovery of natural gas in place in discovered reservoirs or formations; and

(2) economic recovery of unconventional natural gas, including gas from tight sands, Eastern shales, gas from less permeable formations, coal-bed methane, and geopressured reservoirs.

(b) The Secretary shall seek to enter into joint ventures with persons engaged in the production, transportation, distribution, or major use of natural gas to implement the program under subsection (a).

(c) There is authorized to be appropriated not more than $25,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 356. NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.—(a) The Secretary shall expand the program for research, development, and demonstration for natural gas and electric hearing and cooling technologies for residential and commercial buildings.

(b) The natural gas heating and cooling program shall increase research on thermally-activated heat pumps including:

(1) absorption heat pumps; and
(2) engine-driven heat pumps.

(c) The electric heating and cooling program shall increase research on:

(1) advanced heat pumps;
(2) thermal storage; and
(3) advanced electrically-driven HVAC (heating, ventilation, and cooling) and refrigeration systems that utilize replacements for chlorofluorocarbons, including HCFC-22.

(d) There is authorized to be appropriated to the Secretary, not more than $15,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section in addition to current authorizations.

SEC. 357. VEHICLE AND BATTERY RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.—(a) The Secretary shall conduct a program of research, development, and demonstration on techniques related to improving electric vehicle and battery technology including, but not limited to, the following areas:

(1) high efficiency electric power trains, including advanced motors and hybrid power trains for vehicle range improvement;
(2) light-weight body structures for vehicle weight reduction;
(3) advanced batteries with high specific energy and specific power for electric vehicle application; and
(4) primary batteries and fuel cells for hybrid vehicle application.

(b) The Secretary shall enter into joint ventures with, and provide financial assistance under this section to, public entities or interested or affected private firms willing to provide at least 50 per centum of the costs of the joint ventures.

(c) There is authorized to be appropriated not more than $10,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 358. DEFINITIONS.—For purposes of this subtitle natural gas includes natural gas derived fuels.

Subtitle G—Hydropower

SEC. 361. PROGRAM.—The Secretary, in consultation with the Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of the Army, the Secretary of Agriculture, and the Secretary of Commerce shall undertake an assessment of the statutory, economic, and regulatory barriers to expanded hydroelectric capacity development at existing dams. The assessment shall quantify the contribution that expanded hydroelectric power development could reasonably be expected to make to national energy needs and a reduction in the generation of greenhouse gases.

SEC. 362. REPORT.—The Secretary will submit a report to Congress containing the results of the assessment by December 31, 1991.

Subtitle H—Electric Vehicle Technology Development and Demonstration

SEC. 371. SHORT TITLE.—This subtitle may be cited as the "Electric Vehicle Technology Development and Demonstration Act of 1991".

SEC. 372. FINDINGS.—The Congress finds that:

(1) electric vehicles may be recharged primarily during times of nonpeak use of electricity, which will permit the most efficient utilization of electrical generating capacity, produce economic benefits for purchasers and producers of electricity, and improve the quality of air;

(2) the development, demonstration, and commercialization of electric vehicles in the United States will enhance the energy security of the United States and will encourage electric vehicle production in the United States;

(3) the use of electric vehicles rather than vehicles powered by conventionally fueled internal combustion engines could significantly improve the quality of air by allowing areas of the country that have not attained a quality of air that meets minimum health standards to meet such standards;

(4) because initial production of electric vehicles will not have economies of scale associated with mass production, the price to a user or owner may be so high as to discourage vehicle purchase and use; and

(5) because the substantial potential environmental and domestic energy security benefits that will result from the commercialization of electric vehicles are so great for the United States, it is in the public interest for the United States Government to assist in the development, demonstration, and commercialization of domestically produced, cost competitive, electric vehicles.

SEC. 373. DEFINITIONS.—For purposes of this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "conventionally fueled vehicle" means a vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source;

(3) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, and that may include a nonelectrical source of power designed to charge batteries and components;

(4) "eligible nonattainment area" means a nonattainment area that the Secretary designates as an eligible nonattainment area under section 374(b);

(5) "life cycle costs" means all costs associated with the purchase, operation, maintenance, and disposal of a vehicle; and

(6) "nonattainment area" means a nonattainment area identified by the Administrator pursuant to section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

SEC. 374. IDENTIFICATION OF NONATTAINMENT AREAS.—(a) The Secretary, in consultation with the Administrator, shall identify, not later than thirty days after the date of the enactment of this Act, the nonattainment areas in the United States in which the use of conventionally fueled vehicles contributes significantly to that nonattainment and in which the use of electric vehicles could contribute to attainment of applicable National Ambient Air Quality Standards. The Secretary shall provide notification to those nonattainment areas identified under this section.

(b) The Secretary, after consultation with the Administrator and not later than thirty days after notification of the nonattainment areas identified under subsection (a), shall designate nonattainment areas eligible to participate in the program authorized by this subtitle.

SEC. 375. APPLICATIONS FROM MANUFACTURERS.—(a) Not later than thirty days after the Secretary designated the eligible nonattainment areas under section 374(b), the Secretary shall make an initial request for applications from manufacturers to develop, demonstrate, certify, manufacture, sell, warranty, and service electric vehicles in one or more eligible nonattainment areas. Additional requests for applications may be made if the Secretary determines that the responses to the initial request are inadequate.

(b) The request for applications shall require a manufacturer to identify the following:

(1) SALES AREA.—Any eligible nonattainment area in which the electric vehicles will be sold;

(2) QUANTITY.—The quantity of vehicles that will be available for sale in each area;

(3) DISTRIBUTION.—The dealership network or other means to be used by a manufacturer to distribute, market, and sell vehicles;

(4) TYPE.—The type of vehicle (which may include light to medium duty cargo or passenger vehicles);

(5) CHARACTERISTICS.—The specifications and performance characteristics of each vehicle;

(6) SERVICE.—The maintenance and other support services that will be available to a purchaser;

(7) PRICE.—The selling price of a manufacturer for varying volumes of production of each type of vehicle;

(8) LIFE CYCLE COSTS.—Information regarding the life cycle costs, including projected costs of operating and maintaining an electric vehicle in comparison with operating and maintaining a conventionally fueled vehicle;

(9) STATE AND LOCAL INVOLVEMENT.—The level of involvement (cost-sharing or otherwise), if any, that State or local government entities will have in the manufacturer's proposal, and how that involvement will affect the level of Federal cost-sharing required; and

(10) OTHER.—Other information that the Secretary deems necessary.

SEC. 376. SELECTION OF MANUFACTURERS.—(a) After consulting with the Secretary of Commerce, the Secretary of Transportation, and the Administrator, and not later than one hundred eighty days after the initial request for applications is made under section 375, the Secretary may select one or more manufacturers eligible to receive reimbursement payments for the development, demonstration, manufacture, and sale of electric vehicles.

(b) The Secretary shall select a manufacturer based upon the overall quality of the proposal, including the following:

(1) CAPABILITY.—The ability of a manufacturer, directly or indirectly, to develop, demonstrate, manufacture, distribute, sell, and service a significant number of electric vehicles;

(2) GEOGRAPHIC DIVERSITY.—The commitment of the manufacturer to distribute, sell, and service electric vehicles in various regions of the country;

(3) SUITABILITY.—The suitability of the vehicles for use as a cargo or passenger vehicle;

(4) SAFETY AND ENVIRONMENTAL BENEFIT.—The quality of the vehicle with respect to safety and environmental considerations;

(5) VIABILITY.—The long-term technical viability of the vehicle, and the ability of the manufacturer to incorporate subsequent advancements, modifications, and technology;

(6) LIFE CYCLE COST REDUCTION.—The ability and commitment of a manufacturer to reduce the life cycle costs of electric vehicles over a period of five years or less after selection to a level at least equal to comparable conventionally fueled vehicles;

(7) PRICE.—The selling price of a manufacturer for varying volumes of production of vehicles, the proposed discount (as defined in section 377), and life cycle costs of the electric vehicles;

(8) STATE AND LOCAL SUPPORT.—The extent to which the involvement of State or local government in the program will permit the reduction of the Federal cost share per vehicle to be supported or will otherwise be used to leverage the Federal cost-sharing to be provided among a greater number of vehicles; and

(9) OTHER.—Other criteria that the Secretary deems necessary.

SEC. 377. DISCOUNTS TO PURCHASERS.—(a) A manufacturer selected by the Secretary shall offer a purchaser a discount equal to either:

(1) LIFE CYCLE COST DIFFERENTIAL.—An amount which represents the excess of the estimated life cycle costs of the electric vehicle over the life cycle costs of a conventionally fueled vehicle of comparable type; or

(2) PURCHASE PRICE COST DIFFERENTIAL.—An amount by which the selling price of the electric vehicle exceeds the suggested retail price of a conventionally fueled vehicle of comparable type.

In no case shall the discount be greater than 50 per centum of the selling price by varying volumes of production.

(b) The Secretary, not later than thirty days after a manufacturer has provided notice in the form and manner specified by the Secretary of the sale of an electric vehicle, shall pay a manufacturer a payment not to exceed the discount for each electric vehicle sold.

(c) To be eligible for payment under subsection (b), a manufacturer shall certify to the Secretary the following:

(1) PURCHASER DISCOUNT LIMITATION.—The discount to the purchaser does not lower the selling price of each electric vehicle below the suggested retail price of a conventionally fueled vehicle of comparable type;

(2) DISCOUNT PASSTHROUGH.—The actual selling price of the vehicle is equal to the selling price specified in the manufacturer's proposal to the Secretary reduced by the full amount of the discount received, calculated as specified above, unless the Secretary agrees to a request by the manufacturer to adjust the selling price as specified in the contract to reflect higher costs actually incurred in production;

(3) NONATTAINMENT AREA USE.—The vehicle will be used primarily in the eligible nonattainment area in which the vehicle will be purchased;

(4) INFORMATION FROM PURCHASER.—The purchaser has agreed to provide the manufacturer with information regarding operation, maintenance, and usability of the vehicle for five years after purchase; and

(5) INFORMATION FROM MANUFACTURER.—The manufacturer will provide such information regarding the development, demonstration, manufacture, sale, and maintenance of electric vehicles that the Secretary requests for a period of five years, beginning in fiscal year 1992.

(d) The Secretary may enter into contracts with manufacturers of electric vehicles for purposes of carrying out this Act.

SEC. 378. REPORTS TO CONGRESS.—The Secretary shall report to Congress in fiscal years 1992 and 1994 on the programs and projects supported under this subtitle and the progress being made toward accomplishing the goals of this subtitle.

SEC. 379. AUTHORIZATIONS.—There is authorized to be appropriated for purposes of this subtitle $10,000,000 for each of the three fiscal years following the date of enactment of this Act.

Subtitle I—Advanced Nuclear Reactor Study

SEC. 381. REPORT.—Within one hundred and eighty days after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report on whether, and to what extent, continued or increased use of energy generated from nuclear fission can contribute substantially to safe and reliable supplies of electricity and reduce the generation of carbon dioxide and other greenhouse gases in the United States and internationally. The report shall include data on the extent to which additional increments of nuclear-generated electricity can reduce the generation of greenhouse gases and over what period of time. In preparing such report, the Secretary shall consider and make recommendations on the appropriate level of Federal support for research, development, and demonstration of advanced nuclear reactor technologies to support these objectives. Such report shall also include the recommendations of the Secretary regarding the necessary restructuring of existing nuclear fission research programs to achieve these objectives and the role of joint funding and cost-sharing in these activities.

TITLE IV—MISCELLANEOUS

Subtitle A—Methane Assessment

SEC. 401. OBJECTIVE.—The objective of this subtitle is to identify and analyze options to reduce the risks of global climate change by—

(1) reducing worldwide generation of methane;

(2) identifying and analyzing the relationships between methane and other greenhouse gases to determine the synergies that may contribute to global climate change;

(3) promoting additional analyses of the factors causing methane concentrations to increase, and of the sources of methane generation, and the opportunities for reducing such generation; and

(4) identifying options for the reduction of methane generation that are economically as well as environmentally advantageous.

SEC. 402. DOMESTIC METHANE SOURCE INVENTORY AND CONTROL OPTIONS.—(a) Not later than two years after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture and the Secretary of the Interior, shall submit to the Congress reports on:

(1) methane emissions from biogenic sources such as

(A) tropical, temperate, and subarctic forests;

(B) tundra; and

(C) freshwater and saltwater wetlands;

(2) changes in the generation of methane from biogenic sources that may occur as a result of predicted increases in temperatures and atmospheric concentrations of carbon dioxide;

(3) methane generation associated with natural gas extraction, transportation, distribution, storage and use, including an inventory of methane generation associated with such activities within the United States, information on accidental and intentional methane releases from natural gas and oil wells, pipelines, processing facilities, and gas burners;

(4) methane generation associated with coal extraction, transportation, storage, and utilization, including, but not limited to, an inventory of methane generation associated with such activities within the United States, information on accidental and intentional releases from mining shafts, degasification wells, gas recovery wells and equipment, and from the processing and use of coal; and

(5) other sources of methane generation associated with human activities that are deemed by the Secretary to be significant.

(b) Not later than two years after the date of the enactment of this Act, the Secretary shall submit to the Congress a report that outlines measures that could be implemented to reduce the growth in atmospheric concentrations of methane from sources within the United States. This report shall identify and evaluate the technical options for reducing the generation of methane from each of the sources listed in paragraph (a) as well as other sources deemed by the Secretary to be significant, and shall include an evaluation of costs.

SEC. 403. INTERNATIONAL STUDIES.—Not later than two years after the date of the enactment of this Act, the Secretary, in con-

sultation with the Secretary of State, shall submit to Congress a report on methane emissions from countries other than the United States. Such report shall include inventories of methane generation associated with the activities listed in section 402(a). The report shall also identify the United States and international lending agency programs, and an itemization of the costs of each category of reductions, that may be used to induce lesser-developed countries to undertake measures that could reduce the generation of methane and the resource needs of such programs.

Subtitle B—Committee on Renewable Energy Commerce and Trade

SEC. 411. DUTIES OF CORECT.—Section 256(d) of title II part B of the Energy Policy and Conservation Act is amended by striking the existing text and inserting the following in lieu thereof:

"(d)(1) DUTIES.—There shall be established an interagency working group (hereafter in this subsection referred to as the Committee on Renewable Energy Commerce and Trade (CORECT)) which, in consultation with the representative industry groups and relevant agency heads, shall make recommendations to coordinate the actions and programs of the Federal Government to promote the export of United States renewable energy and energy efficiency products and technologies. The Secretary of Energy shall be the Chairman of such group. The heads of appropriate agencies may detail such personnel and may furnish such services to such working group, with or without reimbursement, as may be necessary to carry out its functions.

"(2) ADDITIONAL DUTIES.—CORECT shall promote the development and application in lesser-developed countries of renewable energy and energy efficiency resource technologies that—

"(A) promote more efficient use of fossil fuels;

"(B) reduce dependence on the importation of fossil fuels by encouraging the use of sustainable biomass, wind power, hydropower, solar, geothermal and other energy and energy efficiency resource technologies;

"(C) foster rural and urban energy development and energy self-sufficiency through the use of reliable and economical renewable energy and energy efficiency resource technologies;

"(D) explore mechanisms for assisting in the domestic manufacturer, particularly by small business manufacturers, of energy-efficiency and renewable energy technologies, for export; and

"(E) increase staffing to support the new authority and responsibilities described in this section.

"(3) TRAINING AND ASSISTANCE.—In furthering the purposes of this section, CORECT shall—

"(A) provide aggressive in-country technical training for local users and international development personnel;

"(B) provide financial assistance to support nonprofit institutions designed solely and specifically to support the efforts of domestic renewable energy and energy conservation companies to market their products, and to develop environmentally responsible projects in developing nations;

"(C) establish feasibility and loan guarantee programs to facilitate access to capital and credit; and

"(D) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency resource technologies.

"(4) OUTREACH.—CORECT may establish renewable energy industry outreach offices in the Pacific Rim and in the Caribbean Basin for the purpose of providing information concerning renewable energy and energy efficiency technologies and industries of the United States to governments, industries, and others outside of the continental United States.".

SEC. 412. INFORMATION AND TECHNICAL PROGRAM.—Section 256(c)(2)(D) title II part B of the Energy Policy and Conservation Act is amended by striking clause (ii) and inserting in lieu thereof the following new clause:

"(ii) information on the specific energy technology needs of lesser developed countries, the technical and economic competitiveness of various renewable energy and energy efficiency resource technologies, and the status of ongoing technology assistance programs shall be provided. Information from this program shall be made available to industry, Federal and multilateral lending agencies, nongovernmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.".

SEC. 413. COMPREHENSIVE ENERGY TECHNOLOGY EVALUATION.—Section 256 of title II part B of the Energy Policy and Conservation Act is amended by adding at the end a new subsection (e) as follows:

"(e)(1) Not later than June 1, 1991, and biennially thereafter, the Secretary shall prepare and submit to Congress, a report evaluating the range of energy efficiency and renewable energy technologies available to meet the energy needs of developing countries. This report shall also provide information on the specific energy needs of lesser developed countries, an inventory of United States technologies and services to meet those needs, and an update on the status of ongoing bilateral and multilateral technology assistance and renewable energy resource programs.

"(2) The report should also include an evaluation of current programs and their priority for meeting program objectives as well as recommendations for future programs that:

"(A) develop and promote sustainable use of indigenous renewable energy resources in lesser developed countries;

"(B) given the credit and capital restrictions in lesser developed countries, focus on technologies that are both appropriate and economically viable;

"(C) meet the needs of lesser developed countries for energy rather than creating new needs, in order to ensure immediate income-generating use of the power generated;

"(D) work with local individuals to assure that programs and projects meet specific national and local needs;

"(E) use indigenous materials and associated hardware, wherever possible, in order to reduce costs and ensure project duplication;

"(F) provide examples of cost-effective systems and applications for in-country nongovernmental organizations and project technical personnel;

"(G) provide mechanisms for assisting United States manufacturers, particularly smaller manufacturers, of energy-efficient and renewable energy technologies, in exporting their goods and services;

"(H) expand technical and administrative training programs, as well as distribution of multilingual technical training manuals and related materials; and

"(I) examine the potential for using economic incentives to promote technology transfer (e.g., shared savings contracts, loan guarantees, tax incentives, etc.) to lesser developed countries.

SEC. 414. JOINT VENTURES IN DEVELOPING, DEMONSTRATING, AND MARKETING ENERGY EFFICIENT AND RENEWABLE ENERGY TECHNOLOGIES IN KEY LESSER DEVELOPED COUNTRIES.—(a) FIVE-YEAR PLAN.—The management plan under section 9(b) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) shall include a five-year implementation plan for:

(1) pursuing joint ventures with United States manufacturers for the development, demonstration, or marketing of energy efficient and renewable energy technologies for application of use in key lesser developed countries; and

(2) providing mechanisms to assist United States manufacturers, particularly smaller manufacturers of energy efficient and renewable energy technologies, in identifying and pursuing opportunities for sales or joint ventures.

In developing the implementation plan required under this subsection, the Secretary shall consult with the Agency for International Development.

(b) The Secretary shall solicit proposals for joint ventures in the areas described in subsections (a)(1) and (a)(2) as if such joint ventures were required by, and subject to the requirements set forth in, section 6 of Public Law 101-218. The Secretary shall select a total of at least three joint ventures, except that the Secretary may reduce this requirement to the extent that the proposals received do not meet the Secretary's qualifications.

(c) For the purposes of this section, a lesser-developed country shall be considered a key lesser-developed country if direct export or use of United States manufactured energy efficient and renewable energy technologies in such country is inhibited by cultural, or other factors.

SEC. 415. AUTHORIZATIONS.—(a) Section of title II part B of the Energy Policy and Conservation Act as amended, is amended by adding at the end a new subsection (f) as follows:

"(1) There is authorized to be appropriated for purposes of carrying out the programs under sections (d) and (e) $10,000,000 for fiscal year 1992, including $2,000,000 to carry out the purposes of subparagraph (d)(2), and such sums as may be necessary for fiscal year 1993 and 1994 to carry out the purposes of this subtitle except for subparagraph (d)(4).

"(2) There is authorized to be appropriated for the purposes of subparagraph 256(d)(4), in addition to the amount specified in the previous sentence, $2,750,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 and 1994.".

(b) There is authorized to be appropriated for the purposes of section 414, in addition to the amount specified in sections (a), $1,000,000 for fiscal years 1992, 1993, and 1994.

Subtitle C—Fuel Cycle Costs Analysis

SEC. 421. PROGRAM.—The Secretary shall undertake a comparative analysis of United States, European and Asian fuel cycle costs. The analysis shall be undertaken for five fuel cycles: coal, oil, natural gas, nuclear, and renewable energy. The renewable energy fuel cycle shall include solar, hydro, wind, and biomass. The analysis shall be based on comparable assumptions, data, and methodologies and will explicitly address the extent to which environmental and other externalities are, or are not, reflected in the energy prices paid by consumers in the United States, Western Europe, and in the market economies of Asia.

SEC. 422. REPORT.—The Secretary will submit a report to Congress containing the results of the comparative fuel cycle cost analysis by December 31, 1991.

Subtitle D—United Nations Conference

SEC. 431.—1992 UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT.—(a) FINDINGS.—The Congress finds that—

(1) the 1992 United Nations Conference on Environment and Development will play a crucial role in advancing efforts to protect the global environment;

(2) international preparations for 1992 Conference have already begun; and

(3) the effectiveness of United States participation in the 1992 Conference would be greatly enhanced by the establishment of a secretariat within the Department of State to coordinate United States preparations for the Conference.

(b) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of State for fiscal year 1992, $350,000 for the purpose of establishing within the Department of State a secretariat to prepare for the 1992 United Nations Conference on Environment and Development. Such funds shall remain available until expended.

TITLE V—NATURAL RESOURCE POLICY

SEC. 501. ECOLOGICAL AND ENVIRONMENTAL RESOURCE STUDY.—(a) The Secretary of the Interior, in consultation with the Secretary of Agriculture, shall conduct a study of the ecological and environmental resources in the United States that could be affected by a global climate change. The study should include implications for wildlife habitat preservation, coastal protection, inland rivers and lakes, irrigation and reclamation, ground water protection, and the natural resources within the boundaries of the Nation's wildlife refuges and parks, national forests, and other Federal lands.

(b) The study should—

(1) include specific regional climatic and resource base information useful in anticipatory and mitigatory planning;

(2) identify actions that, if taken, could help mitigate the effects of global climate change; and

(3) evaluate the cost-effectiveness, including the environmental effects of possible action.

SEC. 502. NATIONAL FORESTATION INITIATIVE.—The Secretary of Agriculture, in cooperation with the Secretary of the Interior, shall report to the President and the Congress on the feasibility of a National Reforestation Initiative. Such report shall include—

(a) in coordination with the Resources Planning Act of 1974, an inventory of Federal, State, and private forested lands;

(b) an evaluation of the status of timber harvesting on those lands, including the extent to which those lands are being reforested;

(c) an assessment of the extent to which Federal, State, and private lands can be reforested, including lands not necessarily suitable for timber harvesting such as urban areas;

(d) an evaluation of the potential of a national reforestation initiative for mitigating climate change, and the measures needed to achieve that potential; and

(e) an assessment of the potential economic and environmental benefits and costs of such an initiative, the measures available to mitigate such costs, and an evaluation of the effectiveness of such measures.

SEC. 503. URBAN FORESTRY AND ENERGY SAVINGS.—(a) The Secretary, in consultation with the Secretary of Agriculture, and other relevant Federal agencies, shall conduct a study of the potential for reducing carbon dioxide emissions by undertaking targeted urban tree and vegetative plantings, including landscaping and the use of natural windbreaks, designed to reduce the air-conditioning and heating needs of buildings. The study shall provide estimates of the cost-effectiveness of such a program and shall outline a range of Federal, State, and local public policies and incentives that would encourage public and private efforts to undertake such plantings.

(b) Within eighteen months after the date of enactment, the Secretary shall complete the study and transmit it to the Congress.

Amend the title so as to read: "A bill to establish a national energy strategy for the United States that reflects concern for the global environmental consequences of current trends in atmospheric concentrations of greenhouse gases, and for other purposes.".

SUMMARY OF THE NATIONAL ENERGY POLICY ACT OF 1991

The overall purpose of this Act is to establish a national energy policy that fully considers the contribution of energy use to potential changes in global climate. The goal of the Act is to foster the identification of an appropriate mix of policies that have the potential, if fully implemented, to stabilize the generation of carbon dioxide and other greenhouse gases. It is anticipated that such policies would include cost-effective strategies consistent with the achievement of other domestic energy, economic, social and environmental goals.

The bill focuses on programs within the jurisdiction of the Committee including: least-cost planning, energy efficiency, innovative clean-coal and renewable energy technologies; reforestation and natural resource management policies; and international energy technology transfer in order to help ensure sustained economic growth and development, achieve a secure domestic energy supply, and protect against potential global climate change.

Least-Cost National Energy Strategy—Requires the Department of Energy to include a "Least-Cost National Energy Strategy" designed to meet the aforementioned goal in the formulation of a National Energy Plan. The Strategy is designed to outline policies and assign priorities among the energy resources that the Secretary determines to be the most cost-effective, taking into consideration the impact of the production and use of these energy resources on global climate change, and the economic, energy, social, and environmental consequences of these policies.

Director of Climate Protection—Requires the Secretary of Energy to appoint a Director of Climate Protection (hereafter the "Director") to serve as the Secretary's representative on all interagency and multilateral policy discussions regarding global climate change.

Review by National Academies of Science and Engineering—Calls for the Director, in consultation with the Office of Science and Technology Policy, to contract with the National Academies of Science and Engineering to conduct an extensive review of the current scientific knowledge regarding global climate change. Upon completion, the report will be presented to Congress and the President for use in establishing energy and natural resource policies for dealing with global climate change.

Energy Efficiency Initiatives—Directs the Secretary to give energy efficiency high priority in the areas of planning, research and development, private assistance, and Federal procurement. The Secretary is directed to prepare a report which evaluates energy efficiency policies and their relative contribution to a decrease in overall U.S. energy use per unit of GNP.

Energy Intensive Industries—Directs the Secretary to pursue a research and development program and joint venture program to improve efficiency in energy intensive industries and industrial processes. Authorizes $5 million for 1992, $15 million for 1993, and $25 million for 1994.

Federal Energy Management Programs—Amends NECPA to strengthen the existing Federal Energy Management Program by requiring, to the extent funding is available, Federal agencies to install energy efficiency improvements with payback periods of 10 years or less. The Act also amends the policy for leasing buildings for Federal use by setting criteria for improvements in energy efficiency.

Fuel Cells—Authorizes $15 million for the Secretary to use in conducting a program for the promotion of the early commercial applicaiton of fuel cells systems through demonstration of such systems in Federal buildings.

Repeal of Prohibitions on Supply and Installation of Residential Energy Conservation Measures—Repeals section 216 of NECPA to permit utilities to participate in the supply and installation of residential conservation measures.

Energy Efficiency Labeling for Windows and Window Systems—Requires the Secretary to provide financial assistance to support the voluntary development of a nationwide program to develop energy ratings and labels for windows and window systems and authorizes the Secretary to develop such a program if it is not developed voluntarily.

Energy Efficiency Information—Directs the Administrator of the Energy Information Administration to expand the scope and frequency of data collection under the National Energy Information System in order to improve the ability of the Department of Energy to evaluate the effectiveness of energy efficiency policies and programs.

Home Energy Efficiency Ratings—Directs the Secretary to provide financial assistance to States and local organizations to support a national program to develop energy rating systems for residential buildings. Under this provision, all residential buildings would receive an energy efficiency rating at the time of sale.

Compact Fluorescent Lamps in Federal Facilities—Requires the Secretary to submit a report on the feasibility of using compact fluorescent lights in Federal facilities.

Amendments to PURPA/Encouragement of Least-Cost Investments—Reformulates certain ratemaking standards in Title I of PURPA applying to regulated electric utilities and adds a requirement for the Department to perform a study of State laws and policies regarding least cost energy planning.

Energy Research and Development Priorities—Directs the Secretary to set priorities and prepare a management plan for research and development programs consistent with the purposes of the Act. The subtitle authorizes the Department to conduct joint ventures pursuant to the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989. (P.L. 101-218)

Engine Vehicle and Fuel Research—Instructs the Secretary to establish and carry out a program of research, development and demonstration on advanced vehicle engine systems, including those engines which run on natural gas and alternative fuels.

High Efficiency Heat Engines—Instructs the Secretary to establish and carry out a program of research, development and demonstration on high efficiency heat engines including advanced gas turbin cycles. Authorizes $25 million for each of fiscal years 1992, 1993, and 1994.

Natural Gas Cofiring—Incorporates provisions of S. 1848, the Natural Gas Cofiring Promotion Act of 1989, directing the Secretary to conduct a 3-year, $27 million program for research, development and demonstration of cofiring technologies.

Fusion—Directs the Secretary to establish research and development goals and prepare program plans for magnetic and inertial confinement fusion for the production of electricity.

Coal—Directs the Secretary to establish research, development, and demonstration goals and develop a program plan for the development of coal technologies which meet the goals of the Act.

Non-fuel Uses of Coal—Authorizes research into the uses of coal as a feedstock for processes other than fuel or energy production. The legislation also provides for the submission of a report to Congress on the potential for further developments in the area of non-fuel uses of coal.

Advanced Nuclear Reactor Study—Directs the Secretary to submit to Congress within 180 days a report evaluating the extent to which continued or increased use of nuclear energy can reduce the generation of carbon dioxide and contribute to safe and reliable supply of energy.

Electric Vehicle Demonstration Program—Authorizes a $50 million program to address the cost penalty between electric and conventional vehicles. The program is designed to overcome technical and economic barriers to widespread use of electric vehicles.

Natural Gas and Other Alternative Fuels/Mass Transit Program—Provides for cooperative agreements and financial assistance to municipal, county, or regional transit authorities in large urban areas to demonstrate the feasibility of using natural gas or other alternative fuels as fuels for mass transit. Authorizes $30 million for each of fiscal years 1992, 1993, and 1994.

Natural Gas and Other Alternative Fuel Use in Fleet Vehicles—Establishes a joint program to provide financial assistance to encourage the development and commercialization of natural gas and other alternative fuel use in passenger fleets, light duty trucks, and heavy duty trucks. Authorizes $30 million for each of fiscal years 1992, 1993, and 1994.

Natural Gas and Other Alternative Fuel/Training Program—Establishes a Department of Energy training and certification program for technicians who install equipment that converts gasoline or diesel powered vehicles to those vehicles capable of running on natural gas or other alternative fuels. Authorizes $5 million for each of the fiscal years 1992, 1993, and 1994.

Vehicle Research, Development, and Demonstration Program—Establishes a program of research, development, and demonstration on techniques related to improving natural gas or other alternative fueled vehicle technology. Authorizes $10 million for each of the fiscal years 1992, 1993, and 1994.

Natural Gas Recovery, Research, Development and Demonstration Program—Directs the Secretary to continue and expand a program of research, development, and demonstration on techniques to increase the recovery of natural gas. Authorizes $25 million for each of the fiscal years 1992, 1993, and 1994.

Natural Gas Heating and Cooling Technologies—Expands the program for research, development, and demonstration for natural gas heating and cooling technologies for residential and commercial buildings. Authorizes $10 million for each of the fiscal years 1992, 1993 and 1994.

Methane Assessment—Eastablishes national goals for the assessment and reduction of methane emissions. Directs relevant Federal agencies to prepare reports outlining domestic and international measures necessary to reduce methane generation associated with various energy and natural resource sectors.

Committee on Renewable Energy Commerce and Trade (CORECT)—Designates additional duties for CORECT to foster U.S. policies which will enhance economic development in less-developed countries and reduce the generation of carbon dioxide and other greenhouse gases through the increased transfer of energy efficient and renewable energy technologies. Authorizes $1 million for assisting U.S. manufacturers of energy efficiency and renewable energy technology and equipment in exporting their goods and services to lesser-developed countries. Authorizes $12,750,000 for 1992 and such sums as may be necessary thereafter.

Hydropower—Directs the Secretary, in consultation with other relevant agencies, to assess the statutory and regulatory barriers to expanded hydroelectric capacity development at existing dams, and submit a report to Congress on the findings of such an assessment.

Fuel Cycle Cost Analysis—Directs the Secretary to undertake a comparative analysis of fuel cycle costs in the United States, Europe, and Asia for coal, oil, natural gas, nuclear, and renewable energy and submit a report to Congress on the findings of such an analysis.

Technology Transfer—Requires the Secretary to establish a program to develop those technologies that are beyond the basic research stage but not yet widely available and focuses primarily on moving promising new energy efficiency and renewable energy resource technologies into the private sector.

Ecological and Environmental Resource Study—Directs the Secretary of the Interior to conduct a study of the ecological and environmental resources that may be affected by global climate change.

Secretariat—Authorizes $350,000 to the Secretary of State for the purposes of establishing a secretariat to prepare for the 1992 UN Conference on Environment and Development.

National Forestation Initiative—Calls for a report on the feasibility of a National Reforestation Initiative designed to help stabilize or reduce the build-up of carbon dioxide in the atmosphere.

Urban Forestry and Energy Savings—Directs the Secretary to conduct a study regarding the potential for reducing the generation of carbon dioxide through urban tree plantings designed to reduce the air-conditioning needs of buildings.

U.S. GETS MIXED REVIEWS ON GLOBAL WARMING PLAN—"ACTION AGENDA" LACKS CARBON DIOXIDE TARGET

(By Michael Weisskopf)

The Bush administration yesterday announced what it called an "action agenda" to combat global warming, predicting that it will cut emissions of some climate-warming gases to 1987 levels by the turn of the century.

But the plan, unveiled at the first day of a U.N.-sponsored conference on global warming remedies, is essentially a repackaging of policies devised for other purposes and contains no assurances that emissions will not resume growing after the year 2000.

Nor does the plan set targets and timetables for control of carbon dioxide emissions—the principal warming gas—that most of Europe, Japan and Canada have pledged to stabilize or reduce early next century. U.S. emissions of carbon dioxide, produced when any fuel is burned, would increase by 15 percent under the plan.

Criticized by some European delegates as disingenuous, the plan was praised by other conference officials as a positive step for an administration that previously has talked more of scientific uncertainties than of remedies.

"We are united in the belief that despite large uncertainties, the potential threat of climate change justifies taking action now," Michael R. Deland, chairman of the White House Council on Environmental Quality, told the conference.

"If this is their program, it signifies a shift," said Mostafa K. Tolba, executive director of the United Nations Environment Program. "They are stabilizing" warming gases.

More than 130 nations are participating in the conference, which is supposed to meet intermittently over the next 18 months to draft a strategy to fight global warming. Tolba convened the nations after an international scientific panel concluded last summer that heat-trapping gases from industry and farming will raise world temperatures 2 degrees by 2025 and 6 degrees by 2100.

With the United States responsible for one-quarter of world carbon dioxide emissions, diplomatic pressure has been building for U.S. policies to match the commitments of other countries. But because of the economy's reliance on fossil fuels—chiefly coal and oil—the administration has been slow to move beyond the research stage.

Yesterday's announcement by Deland speaks of a "comprehensive strategy," which shifts the focus of control efforts from carbon dioxide to other warming gases.

The strategy, outlined in a pamphlet called "An Action Agenda," includes the phaseout of chlorofluorocarbons (CFCs), a policy that Washington agreed to last summer as part of the treaty to protect the stratospheric ozone layer.

Provisions of the new Clean Air Act, which Congress passed last October, also are included in the plan. Under the act coal-burning utilities were to adopt energy-conserving measures to combat acid rain. The same measures would reduce carbon dioxide emissions. The act also sets tougher limits on auto and industrial pollution to reduce smog, which acts as a warming gas.

Deland said the plan would result in the emissions of global warming gases in 2000 "being equal to or below 1987 levels." He did not use the verb "stabilize," which advocates of tougher measures prefer to characterize more ambitious programs to permanently cap emissions at current levels.

Environmentalists accused the administration of "double-counting," noting, for example, that the CFC phaseout alone will account for 85 percent of the global warming gases to be reduced by the plan.

Willem Kakebeeke of the Dutch Ministry of the Environment said the U.S. program was "hiding a little bit" by taking credit for CFC phaseout and failing to target carbon dioxide for controls. "They should come out in the open and say what they are going to do with carbon dioxide."

UNITED STATES ACCEPTS GREENHOUSE TARGET

(By Keith Schneider)

CHANTILLY, VA, February 4.—The Bush Administration today opened an international conference on global warming with the declaration that the United States will stabilize its overall production of the gases that have been linked to rising world temperatures.

According to the Administration's plan, introduced in a 22-page "action agenda" prepared by the White House, the United States will hold down the production of gases thought to cause the earth's warming to roughly 2.3 billion tons annually by the year 2000, the same amount produced in 1987.

The Administration also said for the first time in an international setting that it believed global warming was a problem.

The White House is proposing no new steps to hold down carbon dioxide or other gases, however, saying it believes that measures already taken will put a cap on greenhouse gases. Environmentalists compare this position unfavorably with that of European nations, which have agreed to cut back carbon dioxide emissions.

"The old White House position was this isn't a problem and we're not going to do anything about it anyway," said Dr. Michael Oppenheimer, an atmospheric physicist at the Environmental Defense Fund in New York. "The new position is yes, this is a problem, but we're still not going to do anything about it."

Michael Deland, chairman of the White House Council on Environmental Quality, told delegates to the international conference today, "Despite huge uncertainty, the potential threat for climate change justifies taking action now," said:

The Administration's plan and Mr. Deland's call to action came today at the first session of an international meeting to begin work on a treaty to curb emissions of carbon dioxide and several other gases that trap heat in the atmosphere, like the glass panes of a greenhouse.

The 10-day meeting, which attracted delegates from 130 nations, is the first of 5 scheduled to culminate in Rio de Janeiro in June 1992 with the signing of a treaty to take new economic, environmental and scientific steps to curb the warming.

RELIEF AND DERISION

Mr. Deland's remarks and the White House proposal were greeted today with a mixture of relief and derision. Leaders of American environmental groups and some delegates said they indicated a new willingness by the Bush Administration to pursue strategies to reduce the threat of global warming. Other Administration officials, notably William K. Reilly, administrator of the Environmental Protection Agency, have voiced alarm over threatened global warming, but until now the White House position was that the threat had not been proved.

The critics of the Administration also noted that the White House proposals appeared to be more of a public relations move because they did not commit the United States to take any actions to reduce carbon dioxide, the most important of the gases involved in global warming. In fact, under the proposal, the production of carbon dioxide would rise by the year 2000 to 1.5 billion tons a year from 1.3 billion tons in 1987.

Three-quarters of the roughly five billion tons of carbon dioxide released into the atmosphere from human activiity is produced by the industrialized countries, and the United States is responsible for nearly a quarter of the total.

CUT IN CHLOROFLUOROCARBONS

The increase in production of carbon dioxide, according to the Bush Administration's plan, would be offset by a reduction in the production of chlorofluorocarbons, a chemical used as a coolant and linked to the destruction of the atmospheric ozone shield. Almost four years ago in Montreal, the United States and other industrialized countries agreed to cut the production of chlorofluorocarbons by 50 percent. Last summer, the same nations agreed to phase out the chemical's production by the turn of the century.

Dr. Oppenheimer of the Environmental Defense Fund said: "This plan does not commit the United States to anything painful that hasn't been done already. But what is important is that we have a specific plan that the Administration says it's committed to. It's conceptually important that for the first time they are accepting targets. It is significant from a political perspective."

Before the conference ends on Feb. 14, delegates are scheduled to designate the members of three or four committees that will draft specific recommendations for reducing the threat of global warming. The committees are expected to consider proposals to reduce greenhouse gases and to preserve forests, which absorb carbon dioxide; ways to help less developed nations conform to a treaty, and the proposed legal text of the treaty.

The United States has proposed that a fourth committee be formed to provide the other committees with the latest research data on global warming.

Officials of other nations, especially the Europeans, oppose the proposal, saying that the best source of data is the Intergovernmental Panel on Climate Change, 300 of the world's leading climate experts, organized by the United Nations to provide such research data.

NATIONAL ENERGY GUIDE

As part of its new plan for stabilizing the production of the gases that are linked to the changing climate, the White House today said that it was relying on aspects of its long-awaited national energy strategy. Conserving energy would reduce the production of such gases, the White House said.

Among the proposals outlined today was a plan by the White House to press for new standards to make appliances more efficient. Such standards could reduce the consumption of energy 7 to 8 percent by the turn of the century, and 15 percent by the year 2010. Large appliances, the White House said, account for more than two-thirds of the energy used in homes.

The White House also wants to increase its program to train engineers who can audit and improve the consumption patterns of more than 350,000 industrial plants in the United States.

The Federal Government will also be pressed to come up with new programs to reduce the consumption of energy for lighting. A quarter of the Government's energy consumption is for lighting offices, factories, military bases, and other installations, according to the White House. Improving lighting could reduce the production of the gases linked to the greenhouse effect by an amount equivalent to 1.4 million metric tons of carbon.

[From Scripps Howard News Service, Jan. 9, 1991]

IT'S OFFICIAL: 1990 WARMEST YEAR ON RECORD

(By Robert Engelman)

WASHINGTON.—NASA and British government scientists reported Wednesday that 1990 was the warmest year on record worldwide, surpassing 1988 and several other very warm years in the 1980s.

Those reports, based on thermometers around the world, were bolstered by a separate finding that less ground was covered by snow in the Northern Hemisphere last year than at any time since snow-cover measurements began 19 years ago.

The year thus appeared to continue a gradual and erratic warming trend, evident since 1965, that made the 1980s the warmest decade ever recorded. At least the four warmest years on record have occurred since 1980, according to both the NASA and British records.

The manmade enhancement of the atmosphere's heat-trapping "greenhouse effect" may not be related to the warming trend, the British Meteorologic Office said in a statement. But "it is likely that it has played some role in contributing to the recent warmth."

Two space scientists who monitor global satellite data on atmospheric temperatures contested last year's record warmth. They reported measurements of the lower atmosphere—from the surface to about 30,000 feet up—showed 1990 to be the fourth-warmest year since their satellite began keeping records in 1979.

"It's possible that both are correct," Roy Spencer, a NASA scientist, said of the discrepancy. With a University of Alabama colleague, Spencer maintains the satellite data.

The Earth's surface could have experienced record warmth in 1990 while temperatures closer to normal prevailed in the atmosphere above it, which Spencer's satellite measures, he said.

"We're getting a little better at understanding the climate, but the more we understand the more confused we get," Spencer said.

Both the British scientists and James Hansen, director of NASA's Goddard Institute for Space Studies, reported that 1990 temperatures on land and at sea were on average 0.7 degrees Fahrenheit above those recorded from the 1950s through the 1970s.

The year also was about 0.1 of a degree warmer than 1988, the previous warmest year, by the thermometer records.

James Angell, a National Oceanic and Atmospheric Administration climatologist who measures atmospheric temperatures with balloons at 63 weather stations worldwide, also declared the year the warmest on record.

"Yes, it's a record, but barely so in my record," Angell said. He found the year to be just four hundredths of a degree warmer than 1988.

At the same time, David Robinson of Rutgers University reported that satellite data showed North America, Europe and Asia had less snow cover—fewer acres under snow on fewer days—in 1990 than at any time since 1971. That continued an overall trend he has

identified of declining snow cover over the 2 decades.

NOAA's National Climate Center reports that 1990 was the seventh warmest since 1895 in the U.S. record, and the warmest year in the Southeast.

All the scientists conceded that no conclusions about global warming or the greenhouse effect can be drawn on the basis of a single year's record.

"The results of a single year are less significant than the trend over a period of years," said Hansen.

[From the New York Times, Jan. 10, 1991]

SEPARATE STUDIES RANK 1990 AS WORLD'S WARMEST YEAR

(By William K. Stevens)

The earth was warmer in 1990 than in any other year since people began measuring the planet's surface temperature, separate groups of climatologists in the United States and Britain said yesterday.

A third group, in the United States, reported record temperatures from one to six miles above the earth's surface. These were recorded from balloons from December 1989 through November 1990.

Some scientists said the new reports, taken together with the series of very warm years in the 1980's, strengthen the possibility that the feared greenhouse effect, a global warming caused by an increase of heat-trapping atmospheric gases, had already begun.

The 10 warmest years since 1880 and average temperatures in Fahrenheit.

1990	59.81
1981, 1988	59.64
1987	59.56
1980, 1983	59.51
1989	59.45
1973	59.31
1977, 1986	59.30

Source: NASA Goddard Institute for Space Studies.

MAN OR NATURE?

These gases, chiefly carbon dioxide, chlorofluorocarbons and methane, are increasing, mostly as a result of human activity. A greenhouse warming could cause drastic changes in climate, agriculture and even sea levels.

Other scientists noted the difficulty of detecting the tiny initial signal of greenhouse warming amid the much greater temperature swings caused by nature.

"I would agree that it is of concern that we've had these hot periods," said Tim Barnett, a climatologist at the Scripps Institution of Oceanography in La Jolla, Calif. "But at this point you can't attribute it to any single cause. Is it the greenhouse gases, or is it natural variability?" It is impossible, he said, to draw any conclusion based on the average global temperatures alone.

The seven warmest years since 1880 all occurred in the last 11 years, according to climatologists at the space agency's Goddard Institute for Space Studies in New York. And six of the seven warmest years since 1850 have all occurred since 1980, according to a somewhat different set of surface measurements by scientists at the University of East Anglia in England and at the British Meteorological Office. The Goddard team analyzed temperatures recorded on land and on oceanic islands; the British team also included temperatures taken by ships at sea.

"The case for a cause-and-effect relationship" between the recent warming and a human-induced greenhouse effect "is becoming harder to deny," said James E. Hansen of the Goddard Institute. Dr. Hansen made a well-publicized statement in 1988 that the greenhouse effect was probably the cause of the observed rise in global temperatures.

A SKEPTIC BEGINS TO WAVER

His group reported yesterday that 1990, with an average global temperature of 59.8 degrees, was the warmest year globally since the records used by the group began in 1880.

"I wouldn't disagree with that," James K. Angell of the National Oceanic and Atmospheric Administration's Air Resources Laboratory in Silver Spring, Md., said of Dr. Hansen's comment. Dr. Angell reported the balloon measurements. "I've been a skeptic, but as these warmish years come one upon the other, you begin to waver a little bit."

Nevertheless, he said, "we still may have to wait a decade longer to make sure."

The British groups headed by Phil Jones at East Anglia and David Paker of the meteorological office, reported 1990 to be the warmest year since comparable records were first kept in 1850.

"Although it is still too early to confirm whether the recent exceptional warmth is related to the greenhouse effect," the British scientists said in a statement, "international scientific opinion strongly supports the reality of this enhanced greenhouse effect, and it is likely that it has played some role in contributing to the recent warmth."

SATELLITES MEASURE WARMTH

A fourth analysis, of data from satellite measurements of the entire lower atmosphere through the first 11 months of 1990, showed the year could turn out to be the fourth warmest since the satellite measurements began in 1979. The analysis was made by John R. Christy of the University of Alabama and Roy Spencer of the space agency's Marshall Space Flight Center, both in Huntsville.

The Goddard group found that the record average surface temperature for the globe was eight-tenths of a degree Fahrenheit above the 1951–1980 average of 59 degrees. The British group found it seven-tenths of a degree higher than the 1951–80 average.

The warming was particularly pronounced over the eastern United States, where record temperatures were also set in 1990, and across the entire Eurasian land mass the Goddard team discovered. The only region with temperatures substantially below normal was Greenland and the neighboring Canadian archipelago. The British group found the warmth of 1990 "particularly evident" over Europe, western Siberia, the Far East and most of the United States and southern Canada.

The Federal Government reported last week that 1990 was the seventh warmest year in the United States since record-keeping began in 1895. In New York City, it was the warmest year recorded since the Government began measuring the temperature in Central Park in 1869.

Dr. Hansen's group calculated that the 1980's were about one degree warmer, globally, than the 1880's, and that 1990 was about 1.25 degrees warmer. By way of comparison, the world's average temperature is about 9 degrees warmer now than it was in the last ice age. Dr. Hansen said that the figures were corrected to take account of the "urban heat island effect," in which the growth of cities have caused land masses to warm by about two-tenths of a degree.

The Goddard analysis also found that the rate of global warming for the past quarter-century was greater than at any other time since 1880. Scientists believe that natural climate variation may have produced higher global temperatures at other junctures since the last ice age, but they have no reliable way of making comparisons between then and now.

"LOADING THE DICE"

Dr. Hansen said that if the global climate rises only about another two-tenths of a degree and remains there, the odds of warmer than normal winters and summers will increase substantially, and that this will be readily noticeable. "Seasonal temperature is still a crapshoot," he said, "but the global warming is loading the dice."

He calculates that with the two-tenths of a degree further warming, the chances for a warmer than normal season will increase from 1 in 3 to 2 in 3 and that the chances for a normal or colder than normal season decrease from 2 in 6 to 1 in 6.

"We're already close to there," he said.

While many scientists say it is not possible to conclude that the warming is being caused by increased greenhouse gases emitted as a result of human activity, Dr. Hansen said that the temperature increase "is roughly on the track" of what is predicted by computer models of the climate that try to predict the course of a greenhouse warming.

An international group of scientists convened under United Nations auspices found last year that if greenhouse gases continued to be emitted at the current rate, the earth's temperature would increase by about 2 degrees by the year 2025 and by more than 5 degrees by the end of the next century.

Given that range, scientists cannot say whether the warming would be mild or catastrophic, or which regions of the earth might be most affected.

A group of 16 Senators led by Al Gore, Democrat of Tennessee, yesterday signed a letter to President Bush citing the findings and saying that the data "illustrates clearly that global climate changes is real, that global warming is not a problem that will disappear if we ignore it and that there is an increasingly urgent need for policies that address these issues."

[From the Washington Post, Jan. 10, 1991]

GLOBAL WARMING CONTINUES, BUT CAUSE IS UNCERTAIN—BUILDUP OF POLLUTANTS IN EARTH'S ATMOSPHERE STUDIED; DEFINITIVE EVIDENCE IS LACKING

(By William Booth)

The average temperatures on Earth in 1990 were the highest since record keeping began, continuing a warming trend first detected in the 1980s.

The world's two leading authorities on global surface temperatures reported these findings jointly yesterday, but said it is not clear that the cause of the warming is the buildup of pollutants in the atmosphere.

The analyses were done by the British Meteorological Office and the National Aeronautics and Space Administration's Goddard Institute for Space Studies in New York, using a network of thermometers on land and sea.

Most climate experts say they lack definitive evidence that the observed global warming is caused by pollutants such as carbon dioxide, a gas that has been steadily increasing in the atmosphere because of the burning of forests and fossil fuels, and which acts like a blanket to trap heat close to the Earth's surface.

The observed warming may instead be some completely natural, though poorly understood, phenomenon. But there is a growing feeling among many researchers that the warming trend may be fueled by human pollutants.

"I have been skeptical about saying it's an enhanced greenhouse effect," said Jim Angell, a climate expert at the National Oceanic and Atmospheric Administration's Air Resources Laboratory in Silver Spring. "But it's getting harder to defend that skepticism."

While uncertain about the cause of the warming, both the British and American researchers yesterday agreed that 1990 beat out 1988, which was previously the hottest year on record. Indeed, six of the seven warmest years in more than a century occurred in the 1980s. In descending order the seven warmest years on record are 1990, 1988, 1983, 1987, 1944, 1989 and 1981.

Angell and his colleagues, however, believe that it may take another decade to know for certain whether pollutants are causing the warming.

Based on computer simulations on how the planet operates, an international group of researchers sponsored by the United Nations predicted that the average global temperatures would increase between 2 and 6 degrees Fahrenheit by the end of the 21st century, if gases such as carbon dioxide continue to accumulate at projected rates.

The United States will host an international meeting in February to discuss possible responses to global warming. In past discussions, the Bush administration has resisted attempts to reduce carbon dioxide emission, arguing that more research is needed to prove that warming will occur.

James Hansen, head of NASA's Goddard Institute, stressed that a single record-breaking year was meaningless. Rather, he said, scientists were most interested in—and concerned about—what they view as a warming trend.

The warm weather was most evident over the United States and southern Canada, Europe, western Siberia and the Far East.

Readings taken with weather balloons launched by Angell and colleagues at NOAA confirmed that 1990 was the warmest year not only at the Earth's surface but in the planet's atmosphere, from about 5,000 to 30,000 feet. Similarly, Angell said, the warming trend of the 1980s was also observed in the atmosphere.

Satellite data collected by Roy Spencer at NASA's Marshall Space Flight Center in Huntsville, Ala., also confirmed that the atmosphere was warm in the 1980s. However, Spencer's satellites showed that 1990 was not the hottest year, but the fourth warmest. Spencer is not sure why his temperature record is different.

Spencer said scientists don't really understand natural fluctuations in climate. Records have been kept only since the late 1800s. Indeed, there was a distinct warm peak in the 1930s and 1940s, which gave way to 20 years of relatively cool temperatures, followed by the warming of the 1970s and 1980s.

"If it was a purely scientific thing, I'd say I'm not convinced. I'm skeptical," Spencer said. "But I'm just glad I'm not a policymaker. There is so little proof, but the possible consequences are so severe."

Last year also had by far the lowest annual snow cover ever recorded for the Northern Hemisphere, according to analyst David Robinson of Rutgers University.

Robinson said he is not sure whether the decreased snow cover was a result of higher temperatures, or the cover actually contributed to the warming. The less snow cover, the more the Earth's surface heats up. The more snow cover, the more sunlight is reflected back into space.

Mr. WIRTH. Mr. President, in closing, I again thank my colleagues who have worked long and hard on this issue. I point especially to the distinguished Senator from Tennessee, Senator GORE, and Senator HEINZ, the distinguished Senator from Pennsylvania, who have worked on this issue.

This is a broad, bipartisan move on this enormously important global issue. Forty-eight Senators have sponsored this legislation. I look forward to its early passage.

Mr. President, I yield the floor.

Mr. HEINZ. Mr. President, I am pleased to join my distinguished colleague from Colorado in introducing legislation which carries today a new imperative. The Persian Gulf crisis has served to dramatize many facets of national life, not the least of which is the way Americans use, perhaps abuse, energy resources. And the environmental effects of our relentlessly increasing use of petroleum products continues to generate alarm and controversy.

The geologic record is quite clear in some respects. We know the planet has periodically cooled then warmed. What continues to alarm scientists is the present rate at which Earth is warming and to what ends our current warming cycle will bring us. There is no dispute about the massively increased loading of greenhouse gasses into our atmosphere. There is disagreement among those same scientists about what the actual effect of this man-made change will be. The scenarios range, literally, all over the imaginable list of possible outcomes. The worst of those scenarios is nothing short of catastrophic. Given the length of time necessary for Earth's systems to respond to meteorological change, it seems only reasonable and prudent, Mr. President, that we assume that the majority opinion of our scientific community is correct and that we should move now to alter the inevitability of that outcome. Our National Energy Policy Act represents a crucial first step to alter our energy use activities and turn the worst-case debate, hopefully, into an academic exercise.

But here is another, I believe equally imperative and compelling, reason to act on this legislation. Increasing concentrations of atmospheric carbon dioxide not only pose the potential for catastrophic global warming rates, but signals a continued reliance on petroleum energy which may well have reached dangerous proportion. Carbon dioxide is believed to account for about half of the warming effect of all the greenhouse gases. In the past 30 years alone, concentrations of CO_2 in the atmosphere have increased by 25 percent and, without changes, the world will experience an 80 percent increase in the next two decades. And that increase will come, almost exclusively, from increased use of oil—oil which we now import at nearly 50 percent of our daily requirement. Our national security and our planet's security are two very good reasons why we must use energy more efficiently and conservatively.

The legislation we are introducing today contains a variety of provisions to require greater energy efficiency practices by Government and the private sector. The bill encourages research and development regarding alternative energy sources including renewables. And provides that least-cost planning methodologies used by States and utilities be evaluated and revamped if necessary. I want to stress that the overall purpose of this legislation is to establish a national energy policy that fully both considers the contribution of energy use to potential changes in global climate and lays some very essential groundwork toward building energy efficiency and conservation into our work ethic.

Mr. President, the road to real reduction in greenhouse gases emissions promises to be nothing if not controversial and acrimonious. but to leave the road untravelled is to tempt a worst fate. In 1979, the national academy of sciences reported that there is no reason to believe that global climate changes will be negligible if CO_2 concentrations continue to rise. The academy warned us then that a wait and see policy might well result in our waiting until it is too late. The scientific debate goes on Mr. President, and no doubt will for some time. That is the nature of scientists—to debate, to shift data through the various prisms of interpretation. That debate should not be ours—ours should address the social scenarios of action, or inaction if you will. The data are not conclusive, only suggestive with regards to global warming. But the consequences of guessing wrong are unacceptable and the energy use numbers are real, and alarming.

Mr. President, I urge my colleagues to support S. 324 and to join in an aggressive effort to set responsible policy with regards to the increasingly critical issue of global climate change and energy use.

Mr. COHEN. Mr. President, I am very pleased to be joining Senator WIRTH in introducing S. 324, the National Energy Policy Act. I would like to take this opportunity to commend Senator WIRTH for his diligence and leadership in addressing the need for a national energy policy.

I am cosponsoring S. 324 because I believe this Nation needs to expend a good deal of its resources on examining existing, under-utilized and alternative energy resources with the aim of developing a sound approach to national energy use. The impetus for the drafting of the National Energy Policy Act is the need to reduce the emission of carbon dioxide into the atmosphere—a key component of the global warming phenomenon. By conducting indepth re-

search into various energy sources and alternatives, the bill seeks to provide us with a variety of approaches—a menu of sorts—that we may review as we prepare to deal with the changes brought on by global warming.

In addition, this bill is important from another standpoint, and that is energy independence. By encouraging greater energy conservation and efficiency in both the Federal Government and the private sector, we can begin to move away from complete dependence on finite or unstable sources of energy before a real crisis of supply is upon us.

The Persian Gulf situation has raised awareness of our energy insecurity, and we should not squander this opportunity to address some of the fundamental shortfalls in our energy use patterns and policies.

We have to face the fact that we are hopelessly addicted to foreign oil, and that this particular form of substance abuse is weakening the Nation. As long as we refuse to conserve oil and take other steps to free ourselves from foreign suppliers, we will be caught in the stranglehold of international oil interests.

By promoting least-cost energy plans, as we already do in Maine; by requiring greater energy efficiency in Federal planning, construction, and procurement; by focusing on home energy efficiency ratings and efficient lighting; by requiring intensified research into more efficient heat engines; and by encouraging greater examination of alternative fuels, S. 324 will push the Federal Government in the right direction.

Now is the time to examine the options that are or should be available to us so that we can reduce our over-dependence on oil, which leads to environmental and energy-related problems. I am very pleased that Senator WIRTH has offered us the opportunity to use that time wisely by reintroducing the National Energy Policy Act, which first passed the Senate last summer. This bill gets us pointed in the right direction, and I hope it will be supported by the full Senate in the near future.

Mr. GORE. Mr. President, I am proud to cosponsor the legislation which has been introduced earlier by the Senator from Colorado, Senator WIRTH, the National Energy Policy Act of 1991.

I wish to commend him on the introduction of this important piece of legislation, and note for the Senate how hard the Senator from Colorado worked in the last Congress on the predecessor to this initiative, and express my hope that we will see this bill signed into law during this Congress.

For many reasons—economic competitiveness, national security, protection and preservation of the environment—this country needs the National Energy Policy Act now.

I am very proud to be the lead cosponsor on this measure. I am very proud that the Senator from Colorado agreed to be the lead cosponsor on legislation entitled the World Environment Policy Act of 1991, which I introduced earlier on the first day of this Congress. We have worked together for quite some time on this set of issues affecting and threatening the global environment, and obviously these issues are going to have to be addressed with more effectiveness because the problems are getting more severe.

Mr. President, for too long we have let the vagaries of world oil prices dictate our attention—and more typically, our inattention—to energy policy. The cost is becoming intolerably high. We are jeopardizing our security, compromising our economic competitiveness, and threatening the Earth's climatic balance.

Over the course of the last decade, we have allowed our investment in clean energy technologies to plummet down to less than 20 percent of the level of commitment we saw early in the last decade. We once led the world in the development of solar and wind technologies, and now we are net importers of those technologies.

The Japanese, for example, are gearing up to exploit the major new market throughout the world in these new technologies. Many of us had hoped that President Bush would provide leadership on this issue.

Indeed, we had every right to expect that he would. Not long ago the President promised the Nation that he would produce a new energy strategy that would enable us to "bequeath a legacy to the next century of a cleaner, more prosperous, and, yes, more secure America." By all accounts that promise has been an empty one. If we are to see a comprehensive policy at all from the White House, it will amount merely to a plan maintaining the status quo—it will not chart a course that is promising both for our economy and our environment. I wish it were otherwise, but the evidence is by now all too clear. On this issue, as on others of critical importance to the continued vitality of our country, it is clear that President Bush is seeking counsel not from experts but from his political cronies in the White House and at the Office of Management and Budget.

White House fervor to resist progress is nowhere more apparent than in the administration's disgraceful handling of the climate change negotiations. Today's headlines may make it appear as though the administration has had an about face and that their intransigence is turning to cooperation and a willingness to act. Unfortunately, that is simply not so. What we are seeing is one more environmental shell game by an administration still trying to fast talk its way out of real commitments.

Yesterday, at the opening session of the negotiations in Chantilly, VA, Michael Deland, the Chairman of the President's Council on Environmental Quality, welcomed the delegates and, in his speech, affirmed that the administration is committed to action, action even in the face of uncertainty. The strong tone of Mr. Deland's address encouraged some delegates who had expected to hear a replay of the administration's oft-repeated refrain that more research is needed before action can be undertaken. That much was chained in the rhetoric. But the euphoria soon faded as it became clear that the actions the administration was committing itself to would accomplish nothing more than holding emissions during a single year, the year 2000, at the levels of 1987.

This is one of the trickiest commitments I have ever heard. That is saying something, Mr. President. But I want to underscore exactly what the administration said and what the language it used means because some mistakenly got the impression that the administration was committing to stabilize our greenhouse gas emissions by the year 2000, holding them at that level for all of the years after 2000.

Most of those who heard the administration's position would be surprised when they read the fine print to find out that it is all a shell game, and that actually the emissions will go up before 2000. They will be stabilized for that one 12-month period, and then after the year 2000 they will continue to go up. How is that possible? Well, the scientists and experts who were there studying the fine print explained how it works.

Before the year 2000, emissions will still be dangerously high because we, unlike nations who have committed to phasing out chlorofluorocarbons well before the year 2000 deadline mandated by the Montreal Protocol, will still be producing these ozone-destroying chemicals throughout the remainder of this decade. They are also potent greenhouse gases.

The administration's plan calls for us to meet our commitment to eliminate CFC's right at the year 2000. That will give us a temporary drop in the overall greenhouse gas emissions right at the turn of the century. But then after the year 2000, our emissions will again soar because the administration's plan does nothing to control carbon dioxide emissions. In fact, it allows CO_2 emissions to rise by some 15 percent by the year 2000.

So it is a shell game. It is a pretense of action. It is not substantive action.

So while it was perhaps more artfully presented, the administration's message is again hollow.

While the White House has been laboring to craft such artful obfuscation, it has taken no time to prepare for the substance of meetings which are now

upon us in Chantilly. Indeed, just last Friday, the last business day before the negotiations were to begin, my staff was told by the State Department that it was premature to ask for the administration's position on the critical issues to be addressed. In fact, aside from presenting a paper calling for more research, the administration was preparing to offer not a single constructive new idea.

So, clearly concerns over national security, the environment, public health, competitiveness have not been viewed as pressing enough for either the Bush or the Reagan administration to face up to our energy problems and to work on real solutions. But the threat of global warming and the severe economic and environmental impacts it implies will no longer allow us or any other nation to remain complacent. Nature is forcing us to do what markets and policies thus far have not. We need leadership to meet this problem.

Energy efficiency and conservation are the best, the cheapest, and environmentally safest means for meeting the challenges of continued economic development in the near term. Efficiency gains and conservation will also buy us the critical time required to develop other alternatives and to reduce greenhouse gas emissions. Although great strides were made in the developed world after the oil shocks of the 1970's, U.S. efficiency gains leveled off in 1986. In the past 2 years, U.S. energy demand has increased more than 8 percent. Global and U.S. energy use reached all time highs in 1988 and 1989 and continue to increase. Greenhouse gas emission rates are accelerating, not diminishing. We are in the process right now of doubling CO_2 levels in the atmosphere of the entire world in less than 40 years' time.

Contrary to what the administration would have us believe, the strong implementation of conservational strategies and renewable energy technologies need not come only at the expense of the economic growth. Quite to the contrary, history shows we can both expand the economy and contract energy consumption. During the 13-year period from 1973 to 1986, we achieved a 36-percent increase in gross national product and fueled that dynamic rate of growth with a zero net increase in energy use. Innovative conservation strategies were largely responsible for our strong performance during this period, and if we muster the will to support their development and implementation, conservation and renewables offer even more promise for the future.

Important studies are now showing that we can achieve significant reductions in the carbon dioxide emissions produced by fossil fuels at zero net cost and sometimes at a net savings. The reason is simple. Conserving a unit of energy is often a lot cheaper than constructing or expanding a power plant to produce that unit of energy. It is just these kinds of initiatives that my friend, the Senator from Colorado, offers for our consideration in the bill that he has recently introduced. The legislation is not just a good idea; it is essential to the continued vitality of our environment and our economy, and I urge my colleagues to join us in support of the bill.

Mr. WIRTH. Will the Senator yield?

Mr. GORE. I yield.

Mr. WIRTH. I again thank the distinguished Senator from Tennessee for both his bill and his support of this legislation, and our distinguished colleague from Connecticut, Mr. LIEBERMAN, who has also been of great assistance in this. His comments are right on the button. This has been a shell game downtown. It is really not fair to the future of our children, grandchildren, and everything on the globe that it is our responsibility to preserve. We have to keep pushing on this front. I think it is yet another step in that overall effort. I thank the distinguished Senator from Tennessee.

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

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, in the areas of energy efficiency and pollution prevention, this Nation has a great need to put its house in order. Our dependence on foreign imports to meet out voracious energy appetite has wreaked havoc with our lives; and the sheer bulk of our energy use has placed great burdens on our fragile environment.

I am proud to be an original co-sponsor of the National Energy Policy Act. I worked on this legislation last Congress with Senators WIRTH and JOHNSTON and I am pleased that the bill incorporates two provisions which I authored in close cooperation with these Senators and the committee.

The volatile situation in the Middle East underscores the continued vulnerability our Nation faces in powering our massive economic engine with imported oil—our energy trade deficit looms ever larger; we are subject to price and supply disruptions outside of our control; and our international competitiveness in new energy technology is in jeopardy. Add to this the continuing stuggle we are waging with our environment, and you have a situation crying out for a solution. Mr. President, a solution is available if we have the will to implement it. We must make conservation, energy efficiency, and alternative clean energy technology the cornerstones of our national strategy if we are to successfully address our growing economic, energy supply, and environmental problems.

The last 10 years have seen an 80-percent decrease in the Department of Energy's funding of research and development in renewable energy sources and energy conservation, at a time when oil imports have increased dramatically, reversing a downward trend in the early part of the decade. This record is appalling. The Federal Government is the largest consumer of energy in this country, spending some $4 billion to power Federal facilities in the United States each year, and it ought to take the initiative. It should be pursuing, right now, a forward-looking energy policy geared toward the early commercialization of clean and efficient alternative sources of energy, using our energy-guzzling Federal facilities as a proving ground. Instead, there has been a declining trickle of Federal support for basic research in renewable and alternative clean energy, and a lack of resolve to follow through with the funds needed to provide the final boost toward commercialization.

Promising technologies now exist which would reduce America's dependence on imported oil, while offering tremendous environmental benefits. Major research advances have occurred in fuel cells, photovoltaic cells, solar thermal systems, and geothermal, wind, and biomass systems. Most of these technologies are pollution-free and compare favorably with traditional energy sources when the very real environmental costs of the latter sources are factored in. For example, fuel cells produce virtually pollution-free energy without combustion, achieving overall efficiencies which can exceed 80 percent, when congenerated heat is recaptured. In contrast, traditional power generating sources have efficiencies in the neigborhood of 30 percent. Yet, fuel cell manufacturers and other innovative energy industries are struggling in this country because they lack the Federal support that prudent energy policy would dictate.

Even as they struggle in this country, however, alternative energy industries form the basis of aggressive energy strategies in Japan and West Germany, countries whose economies are world models for efficiency and productivity. It is no accident that both of these countries have ambitious energy conservation programs and are right now making massive investments in alternative energy technology. Japan plans to satisfy up to 15 percent of its electric power requirements from fuel cell technology by the year 2000. To that end, it is actively pursuing alliances with U.S. companies to capitalize on technological developments which our country pioneered. Japan and West Germany are both enthusiastically embracing solar energy, and each has made major investments in American solar concerns.

It is a time to seek our new ways to meet our energy requirements which are more efficient and less harmful to

the environment. This legislation takes very important steps forward to address this situation. I will focus, Mr. President, on the provisions which I authored.

First, section 203 of the legislation amends the National Energy Conservation Act to require Federal agencies to adopt cost-effective energy conservation programs at federally owned or leased facilities. It provides a specific procedure for Federal facility managers to use to enter into shared savings, energy conservation contracts.

In the short term, simple conservation measures hold great promise for improving our energy and environmental picture, with comparatively little effort. And this is the area which is particularly appropriate for Federal leadership. In the wake of Iraq's invasion of Kuwait, President Bush identified energy conservation, for the first time in my memory, as an important step to address potential oil supply shortfalls. It should not take an act of blatant aggression in the international arena to elicit support from the administration for energy conservation. Common sense ought to suffice. The truth is that energy conservation requirements for Federal facilities have been on the books for several years now, and they have been largely ignored.

Our Government has failed to implement conservation measures in its facilities which would ultimately save the taxpayers billions of dollars in energy savings. The Department of Energy has admitted that just reducing Federal lighting energy needs by 25-percent would save taxpayers up to $930 million per year. This is not a pipe dream, Mr. President—savings of this magnitude are easily achievable today, with new compact fluorescent bulbs which use about one quarter as much energy as typical incandescent bulbs and which can be installed in existing fixtures. In addition, various conservation programs sponsored by electric utilities boast large payoffs and are literally available for the asking, because they would involve no up-front costs but would instead provide utilities a share of the savings. Unfortunately, the administration has been slow to implement these and other beneficial programs.

Not only must energy conservation and efficiency be the centerpiece of the Nation's energy policy but they are an integral part of the solutions to our Nation's clean air problems—acid rain, smog, air toxics.

The solutions to acid rain and smog are intrinsically tied to the demand, supply, and consumption of energy. As a result, the line between energy and environmental policy has become blurred.

The demand for and generation of electricity from traditional fuel sources is at the heart of not only the acid rain problem, but also global warming. As the largest single consumer of electricity, the Federal Government is part of the problem. This legislation takes steps to reduce the contribution of the Government to acid rain as well as to overall carbon dioxide emissions.

Energy conservation is, quite simply, the most effective, cost-efficient, and natural resource protective technology available to prevent acid rain. Conservation reduces electric demand. Reduced electric demand leads directly to reduced electric generation. It saves money, reduces our dependence of fossil fuel and foreign sources, and protects the environment. It is that simple.

In the Clean Air Act we have required private industries to reduce emissions. But instead of playing a leadership role, the Government is remaining part of the problem of acid rain and global warming. This legislation directs the Government to do its part by practicing electric energy conservation.

Section 203 may require some upfront investment to implement. But overall, it is a big money-saver. A 25-percent reduction in Federal energy consumption can save the taxpayers $1 billion a year.

The shared savings provisions in the bill—discussed below—can significantly reduce initial investments.

The legislation only requires Federal agencies to adopt conservation measures that are cost effective. It requires each Federal agency to install energy conservation and efficiency improvements that have a pay back time of 10 years of less.

Section 203 directs Federal agencies to use the cost-effectiveness formula developed by the National Institute of Standards and Technology. This formula allows the Department of Energy to incorporate environmental externalities in its life-cycle cost methodology. The determination of these values is an important step that is already being implemented by the New York State Public Utility Commission and is under consideration in other states. Further, the incorporation of environmental externalities is a high priority of the Conservation Committee of the National Association of Regulatory Utility Commissioners. The best incentive for true efficiency in the energy sector is an honest accounting of all costs associated with energy generation. Determining the value of environmental externalities provides the market with the information it requires to meet our energy needs in the most efficient manner.

The problem is that too many perceive these technologies as still being in the idea stage with little application in the real world. We are continually told that these technologies are unproven, prohibitively expensive, and, if they're ever going to be available, it's in the far, distant future. But the truth is that we are much further along. A recent DOE initiative focused on energy conservation in Federal and commercial buildings, solar energy and similar energy saving innovations. DOE projects that, with an investment of $336 million over 5 years, the potential total payback for the country is $32 billion over 20 years. That represents savings of some $100 for every $1 of investment.

The DOE initiative also indicates that it will assist other Federal agencies in developing innovative financing options that would minimize the need for upfront Federal investments. Section 203 establishes a general statutory framework for procurement officials in all agencies to use these innovative share energy savings contracts. For the last 15 years, State and local governments have been retrofitting Government buildings with energy conservation improvements without any capital investment. Our friends at the State and local level have been taking advantage of alternative funding arrangements. However, the Federal Government has only limited involvement in these beneficial public-private partnerships.

Shared savings contracts have two important features that are of particular interest to the Federal Government:

First, an energy services company installs and pays for the energy conservation measures. It does not require an expenditure by the Federal Government; and

Second, it immediately reduces the amount the Federal Government has to pay for electricity.

That is as close to a win/win situation as I've ever seen.

With these contracts, private capital will finance conservation improvements in public buildings, under section 203, with no requirement for a Federal budget commitment. Aggressive energy conservation is good energy policy, and it's good environmental policy. The least we can do is ensure that the Federal Government is a model energy consumer. Section 203 of this bill goes a long way toward making the Federal Government a leader in energy conservation.

Section 221 of the bill also takes some significant steps forward to meet our energy requirements in ways which are both more efficient and less harmful to the environment by providing for the use of fuel cells to meet electrical requirements in Federal buildings.

Fuel cells are essentially large-scale batteries which use hydrocarbon fuels, without combustion, to produce electricity, but they are remarkable batteries indeed. They are superlative energy producers, reaching efficiencies of over 80 percent if heat energy is recovered, compared to about 30 percent for traditional powerplants. They are vir-

tually pollution free and, because of their great efficiency, emit far less carbon dioxide per unit of energy produced than do traditional power-generating devices. They are quiet and modular, making them ideal for use onsite and in situations where variable power demands allow fuel cells to be combined or separated as needed. In short, the widespread use of fuel cell technology promises to reduce the Nation's energy consumption, clean up our air, reduce the threat of global warming, and improve the versatility of our energy base.

Mr. President, these are only some of the numerous benefits offered by fuel cell technology. This section provides that the Secretary of Energy, in consultation with various agencies, to conduct a program to promote the early commercial application of fuel cell systems for the production of electricity by the demonstration of such systems in Federal buildings. Section 221 requires the installation of fuel cell systems to meet energy requirements in at least 10 Federal facilities. This should do much to highlight the attributes of this technology.

The section first requires selected agencies, within 6 months of enactment of the legislation, to provide a list of candidate facilities to the Secretary of Energy. Within 6 months of receiving the list of potential projects, the Secretary, in consultation with other interested officials, is required to select project sites for installation of fuel cell systems. The Secretary is authorized to provide financial assistance to agencies sponsoring projects to acquire and install fuel cells manufactured in the United States and any associated equipment. The bill authorizes $15 million for fiscal years 1992 to 1994. It also requires the Secretary to prepare a comprehensive report detailing the results of the program, so that we are provided information which might point the way to wide-scale commercial application.

Mr. President, I like to think of a day when our Nation comes to grips with our collective energy wastefulness and environmental despoliation. Programs to decrease the consumption of energy are vital, but they are not enough. We need also to increase the efficiency of the energy we do use and to positively influence the environmental consequences of that energy use. Fuel cells are one of the promising technologies that can achieve these goals, if only we reach out for them. With the introduction of this legislation, I hope we can begin to work toward these goals.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Hawaii is recognized.

THE FISCAL YEAR 1992 BUDGET

Mr. AKAKA. Mr. President, the President is preoccupied with the war in the Persian Gulf, as he should be. We expect that the war would receive his full energy and attention at a time when half-a-million American service men and women are stationed overseas.

However, an unfortunate casualty of the war appears to be the Federal budget. The fiscal year 1992 budget is a document without much ambition—or exciting new ideas. It reflects some minor reshufflings, but no bold new initiatives.

If it were not for the unprecedented size of the proposed deficit—$318 billion—it might be called the low-profile budget.

The block grant proposal serves as a good example. It is not big news. Block grants have been around since the early 1970's.

What we are witnessing is an effort to take existing programs and repackage them with different wrapping paper. Despite assurances to the contrary, there is no guarantee that the Federal contribution to fund these programs will continue at the rate initially proposed. It may sound like a good idea now, but States could wake up some day and find that they will have to do the same work with less money in their programs.

True, there are some modest gains in the areas of law enforcement and space programs. But these gains are overshadowed by losses in the area of housing, a number of vital education programs, and programs for the elderly. And in the field of energy, the budget falls far short of what the American public needs, and expects, from Washington.

Over the past decade, renewable energy research was cut by 80 percent. With a floundering energy policy that is adrift, it is no wonder that we are fighting to safeguard Mideast oil supplies.

It is not my intent to question the President's Persian Gulf strategy. I am, however, criticizing the absence of a coherent domestic energy policy. America is preoccupied with the war. But the recession is producing casualties at home. As our troops fight in the Persian Gulf, we must think about getting America in shape for their return.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

GLOBAL WARMING

Mr. SIMPSON. Mr. President, I have been listening to some of the debate with regard to global warming. I am very concerned about the environment. I serve on the Environment and Public Works Committee. I have served there for 12 years. It is an interesting place. It gets pretty emotional sometimes. It gets a little partisan sometimes. That is the way we do our work.

As we address the issue of global warming, I think it is very important that we try to maintain a good bit of common sense. It should not develop simply into a "bash the President" exercise, which I have very distinct feelings it is becoming.

I have heard various participants in the debate today speak with some passion about environmental shell games. They assert that the administration says it will do certain things, but, to paraphrase them, that is not true. I guess something that is not true is just like a lie.

We hear a lot of inflammatory rhetoric:

"Some nations are phasing out CFC's faster than the United States." I will challenge that one in a minute. Here's another:

"We are allowing CO_2 emissions to soar." This is the administration that successfully put together a Clean Air Act. I was deeply involved in that legislation as was our majority leader, and Senator BAUCUS, and Senator CHAFEE, and a lot of other Senators on both sides of the aisle who did fine work.

"The administration is crafting artful obfuscation, not offering a single constructive idea." And on and on and on.

That kind of statement makes good copy, but it is not true.

So, as I have said, I am on the committee. I notice those speaking with the most volatility are not on the Environment and Public Works Committee. I wish they would have joined us in our cause as we tried to do the heavy work in so many controversial areas. We do some heavy work in that committee. Chairman QUENTIN BURDICK, Senator JOHNSTON, Senator CHAFEE, the ranking member, you can go through the list of those who participate on the Environment and Public Works Committee and it is a fine crosssection of people in this body.

The reason the global warming issue does not get the attention that those who continue to be obsessed with it would like, is because it is a very difficult issue to deal with, and it gets more difficult the more frustrated one becomes.

It is much like agent orange. One blind alley leads to another. Finally, after frustration you go try to put presumptions together. I see the same frustration with global warming. You just cannot continue to do press con-

ferences. You finally have to do some reasonable legislating. However, the biggest problem with this issue is that there is not enough honest information to rely on.

Scientists do not have a good handle on the role of industrial emissions and what is causing warming. Many scientists disagree about the cause and effect relationships. Models developed so far are incomplete. That is the way it is.

There was some discussion recently that a global warming resolution might be introduced. I do not think one has been presented yet. I believe the Chair could advise me. Has there been a resolution presented before the body?

The PRESIDING OFFICER. No such resolution has been presented.

Mr. SIMPSON. I thought not. Yet that proposed resolution has been circulating for over a week or 10 days. The reason it is still circulating is that there is enough contention and controversy on the other side of the aisle as there is on this side of the aisle on the issue of global warming.

So that is not yet before us in the nature of a resolution. Therefore the frustration level is ratcheted up two notches, or three. But what that controversial resolution says is that there should be reductions in the natural emission of carbon dioxides and other greenhouse gases by a date certain.

I would observe that it is inappropriate for any Senate resolution to set out what U.S. administration policy is in any case. The discussion of the proposed resolution suggests some statements that do not represent a scientific consensus. It is replete with leaps of faith regarding scientific findings about global warming.

We are also ignoring some very positive steps—I think this is very unfortunate—as we discuss this issue. Some very positive steps have been taken by the administration and Congress that will help to address the global warming issue. One of the most important things that this whole activity ignores is the passage of the Clean Air Act last year. That was a noble effort by a lot of thoughtful Democrats and Republicans.

The EPA has estimated the passage of the Clean Air Act can result in the stabilization of greenhouse gases by the year 2000, and that a reduction is possible by 2010.

The proposed resolution seems to call for a unilateral action by the United States without requiring any similar action by other countries. How unfortunate.

Tropical deforestation may actually affect global climate more than industrial activities, and yet this aspect of the issue is not even mentioned in the resolution.

It just does not make sense for the United States to take actions to reduce carbon dioxide when there is no scientific consensus about the cause and effect relationship between industrial and automotive carbon dioxide emissions and global warming.

There are a number of interest groups—and Lord knows, they were present during the Clean Air Act deliberations, huddled in great little enclaves all over the Capitol Building at 2 or 3 in the morning, while we met in the majority leader's office. With his patience, we worked through everyone's complaint about the Clean Air Act, and I mean everyone's complaint.

We would come out of that room at 2 in the morning, and find nine of the heavy-hitter, "big timer" groups out there wailing away on how they were going to exact retribution upon Senator MITCHELL or Senator CHAFEE or Senator BAUCUS or Senator SIMPSON; whoever. Theirs was not to really participate with any great, unselfish interest. Theirs was simply to figure out who they could do in during the next election because they had not followed the particular interest group's agenda.

In fact, we knew there were going to be five votes on this floor where six or seven of us in the core group knew that by those votes we would be listed as the "Dirty Dozen" in America. Well, they did award me that trophy. I'm a member of the so-called Dirty Dozen.

I asked the folks who compiled that list: "Could you tell me how that comes about?"

"Well, your five votes here put you on the scorecard."

And I said, "You know, when you go hit the sack tonight, just remember that for 12 years, we have not had a Clean Air Act. Every year that has passed, progress could have been made toward a 10-million-ton reduction. So why do you not think about that, because I hold you directly responsible for that activity. No one else. It was never good enough for you."

Well, enough of that.

But I can tell you that we did some vitally important things that will be seen when the Clean Air Act cranks in.

I would add, too, that there are a number of these interest groups, and we all know them now; who pride themselves on their zealotry. I believe that is their central and significant activity, zealotry. They have another great attribute. If you do not agree with them, they label you as an idiot or a lightweight or a fool, or one who would befoul the universe.

So I have already been through a lot with them. But they use some of the most extraordinary worst-case scenarios to whip up fear, alarm, anguish, horror, terror—you name it—among the general public about global climate change.

I would also add that the media has been less than responsible about its coverage of this issue. We often read regular doomsday reports—they are almost edged in black—about climate change. They make good copy, but they are not based on scientific fact. And this is a very disturbing trend.

I have said it before, and I will say here one more time, the first duty of a responsible press in a free nation is to educate the public, not to see how they can frighten them, terrorize them, or mislead them.

Then finally, there does a time or two creep in a bit of a partisan angle to all of this. Some would like to indicate that the White House has not responded properly to the concerns of its citizens about the possibility of global climate change.

It was the President of the United States that presented Congress with a clean air bill, and much of its was incorporated into the Clean Air Act that was passed last year. This will result in a phaseout of CFC's. It will reduce CO_2 and SO_2 and other greenhouse gases in a major way.

It is the President who proposed a program to plant a billion trees a year, and that has the potential to reduce net emissions of greenhouse gases by 50 million tons of carbon equivalent by the year 2010.

So let us not fall into this anguish of frustration, the "Chicken Little syndrome." The sky is not falling. And if CO_2 is causing dramatic global warming, we will have a chance to respond by having a worldwide reduction in greenhouse gases, so that the burden is shared. We are already ahead, far ahead of the rest of the world in that regard. And we should demand that others pass their own clean air acts in their own legislatures, in their own nations, and get one as strong as ours before we take any more action.

I am not personally going to ascribe to that, but that is something we could in good faith express if we felt so inclined.

As I wind up my remarks I would say that there are many reputable scientists, such as Lou Ellisiar from Lawrence Livermore Laboratory, who says that it is much too soon to conclude that global warming is here. The temperature increase seen so far is still no greater than the natural year-to-year and decade-to-decade temperature variability.

Global warming is already here, because the Earth has been warming since the Ice Age 10,000 years ago. And this warming occurred in the absence of industrial activity. The problem is trying to separate natural warming from warming caused by human activity. And I think that it is critically important to do that.

Anthropogenic climate change on a global scale has simply not been conclusively demonstrated. I am ready to join in a constructive debate. I promise and pledge to do it.

The possibility, indeed, of increased warming caused by human activities is being taken very seriously by the Bush

administration, and certainly is being taken very seriously by the Committee on Environment and Public Works.

I think it was Bertrand Russell who once said that "the most savage controversies are those about matters as to which there is no good evidence either way."

And that is going to be true with the greenhouse debate, just as it was true with regard to acid rain controls. Computer models have not been able to predict with any certainty what will happen to the global climate if greenhouse gases continue to increase. And the geological and ice sheet records do not shed much light on this issue, either.

Scientists will all agree that the planet has warmed slightly over the last century, but they do not know if that is a natural fluctuation, or if it has been increased by industrial activity.

The most recent data show that between 1979 and 1989, average global temperatures did not increase. And, yet, during that same time, man-made pollution did increase. Scientists do tend to agree that if we keep increasing pollution at current rates, obviously some increased warming may ocur. But working groups of international scientists now say that existing uncertainties make it very difficult to determine which responses to potential climate change make sense.

Yet now we hear persons in this Chamber advocating a commitment to unilateral action on the part of the United States with regard to setting CO_2 reduction targets by a date certain. I just do not think that makes any good sense. What we need is enhanced levels of research that will complement what we have already done with regard to the passage of the Clean Air Act. We are already going to phase out CFC's, significantly reducing other greenhouse gases. I have provided those figures. Let us take a close look at tropical deforestation. I am ready to work in that. Deforestation in the Southern Hemisphere could be more significant in terms of global warming than all the industrial activity in the rest of the world. Let us take some steps to help these countries to curb this activity. But let us not indicate that the President of the United States is not concerned or does not care or has not done anything, because that is simply untrue.

THE THIRD PHASE OF THE NATIONAL DRUG CONTROL STRATEGY

Mr. SIMPSON. Mr. President, late last week, the President announced his plan for the third phase of our country's war on drugs. I support the fine efforts of President Bush and Senator STROM THURMOND regarding what needs to be done with regard to the third phase of our national drug strategy and I rise today to voice my strong support and respect for the President's leadership and continuing commitment to eliminate this menace from our society.

This has been our Nation's first comprehensive drug policy—aimed at both the supply side with tougher law enforcement and on the demand side with better treatment and more sources for treatment. The strategy is sound and the strategy works! Communities all across the country are a part of this war on drugs and, as the President told us last week, the signs of progress are unmistakable.

The first phase of the drug strategy was released only 1½ years ago—in that strategy, the President set a number of 2-year goals. We now know that those goals have been met—and in some cases surpassed.

Our young people are turning away from drugs because they are being educated about the danger of drug use. Drug use among high-school age young people is at its lowest point in many years. Current overall drug use is down by 11 percent; current adolescent drug use is down by 13 percent; and current adolescent cocaine use is down by 49 percent.

Drug-related emergencies in our hospitals are down by 18 percent and hospitals are reporting fewer cocaine related deaths.

Frequent cocaine use is down by 23 percent. That is especially significant because the original goal—considered optimistic by some when the strategy was first released—the original goal was to simply reduce the rate of increase by 50 percent. We see now an actual decrease in use by 28 percent.

We are seeing an important and encouraging shift in drug use, but our war on drugs is not over.

The third phase of the President's drug control strategy commits even more resources to the drug war. The President has asked Congress to provide even more law enforcement personnel and resources, more prison space, and more assistance treatment and education.

We should all support the President's plan. I would urge my colleagues—Members who are every bit as dedicated to fighting this war as the President—I would urge them to resist the temptation to play politics with the drug menace or to try and upstage the President's initiatives by simply throwing more money at the problem.

I have often said that the strongest substance addiction in politics is the substance of money—all too often Congress addresses a problem by simply throwing more money at it. That is the drug that poisons this body—the body of Congress.

But money alone, as we know too well, is not a solution. Money is only a tool we give the administration to use to reach a desired objective. President Bush has used the tools we have provided him effectively, responsibly, thoughtfully, and with astounding results.

These are very troubling times for our country. We are at war at home and overseas. Our military battles overseas while we in Congress face yet another battle over the budget. The President has sent a budget to Congress asking for $11.7 billion dollars to continue the war on drugs at home. This is an 11-percent increase from last year and an 82-percent increase since President Bush took office.

Eighty two percent, Mr. President. This is proof that the leadership of our country is strongly committed to winning the war on drugs. I strongly urge my colleagues to resist the urge to play politics with the war on drugs and to join the fight with our President so we can win this war during our children's lifetimes.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. I thank the Chair.

(The remarks of Mr. METZENBAUM pertaining to the introduction of S. 340 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. I thank the Chair.

(The remarks of Mr. HEINZ pertaining to the introduction of S. 346 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BENTSEN. Mr. President, America's credit crunch is jeopardizing the recovery and threatening to put our key real estate industry into a deep depression. Bank lending has dried up, causing the money supply to shrink since September. Banks have abandoned the real estate market, dumping assets—compounding the downward spiral in prices. Home prices are being dragged down, cutting household wealth, consumer confidence and hopes for a speedy recovery.

The administration and the Federal Reserve have woken-up to the credit crunch. The longer term answer may rest with the banking reforms being presented to Congress today. But that debate will take time—time we cannot spare. Now, today, banks are reluctant to make loans in the wake of the S&L crisis—a crisis which has spread confusion and conflict among bank officials and regulators.

We need action now—a change in the attitude of skittish bankers and bank regulators—to resolve the credit crunch.

The S&L crisis is the worst financial disaster in American history. When the ledger is finally closed, total taxpayer losses could exceed one-half-trillion dollars—comparable to spending on the Vietnam war, and perhaps a thousand

of our 2,500 thrifts will disappear. It makes me angry to contemplate how fruitfully America could be utilizing that money—from drug treatment and AIDS research, to rebuilding our education system and highways.

There is plenty of blame to go around. A decade ago, thrifts pleaded with the White House and Congress for deregulation. They were saddled with long-term, fixed-rate assets—but forced to pay short-term, variable-rates for capital—a sure recipe for bankruptcy during inflation. Diversification into commercial real estate glimmered like a pot of gold. So the White House proposed the Deposit Institution Deregulation and Control Act. At the same time, it threw open the doors to a new breed of inexperienced S&L operators.

The final component of this witch's brew of deregulation was reduced S&L regulatory oversight. Just when the need for prudent oversight increased, the Reagan administration, during its first term, cut financial regulatory staffs by 15 percent. Between 1980 and 1983, the number of audits fell one-third, and the number of audits per-dollar-of-thrift-asset fell a startling 60 percent.

But the pot of gold from deregulation proved ephemeral. The reach of thrifts'—their ability to prudently assess new, deregulated investments opportunities—far exceeded their grasp. Congress bears its share of blame. But, in the poisoned atmosphere where the White House dismissively viewed Congress as just another intrusive regulator, it took years for Congress to ferret out the full magnitude of speculative excesses—and for the self-dealing crooks managing some thrifts to finally be brought to justice.

Most Americans think of the S&L crisis in immediate terms of deeper deficits, higher interest rates, and an erosion of faith in Government. But the most enduring legacy is vast numbers of overbuilt, see-through office buildings—and a credit crunch which has been made worse by regulatory overreaction to the overbuilding.

In the eighties, we added 2.1 billion square feet of top-grade office space, an amount equivalent to more than three New York Cities, 14 Bostons or 28 Seattles. It will take years to absorb that supply. Some analysts expect to see construction drop as much as 90 percent in the next few years. Office rents—and the industry itself—are not expected to rebound until 1993, according to a study by the Real Estate Research Corporation.

Real estate is a cyclical business, its fortune tied to interest rates and the business cycle. America has endured real estate recessions before. Some lasted months; others lasted years. Indeed, real estate—along with autos—is the quintessential credit-dependent industry, at the tip of the monetary policy whip.

But there is a major difference in the real estate cycle this time around. The real estate recession is threatening to turn into a real estate depression, and dramatically slow the recovery. The reason is that, for the first time since the Great Depression, the major source of funds for construction—the banking industry itself—is also in a recession, producing a credit crunch of historic proportions.

Buffeted by overzealous real estate lending, stiff competition from Japan and the commercial paper market, and eroding asset values—bank losses and failures began to soar a year ago. Robert Reischauer, Director of the Congressional Budget Office, predicted last week that 596 banks would close in the next 3 years. Losses may dry up the Federal deposit insurance fund later this year. And perhaps $11 billion in additional congressional appropriations will be needed to carry that bank insurance fund through 1994.

Dr. Reischauer is quick to draw a sharp distinction between the recession in banking, and the collapse of the thrift industry. Even so, alarmed bank regulators have been clamping down hard for nearly a year, reacting to S&L horror stories. Anthony Downs, senior fellow at the Brookings Institution, puts it this way: "The Comptroller of the Currency has tightened the screws of the bank examination process to an extraordinary degree."

Examiners have plenty of incentive to get tough. Banks became lax during the eighties in setting real estate loan standards. They aggressively sought origination fees from optimistic developers, and loaded up with real estate loans. Sixty percent of all bank loans were real estate between 1985 and 1989, compared to the historic rate of 30 percent.

But now, bankers have gone too far in the other direction. Fearing the wrath of bank examiners, most banks have determined that it is better to stop making almost all real estate loans. They are rejecting perfectly sound real estate loan applications and extensions. They are refusing credit to viable transactions, proposed by long-time customers, supported by adequate credit or collateral—transactions such as refurbishing existing, occupied buildings enjoying positive cash flows.

Moreover, banks have been hastily making down collateral to current, illiquid market values—to distressed-sale values. They are ignoring the cyclical nature of real estate and the longer term, inherent earning value in these assets in normal, liquid markets. And banks have labeled collateral assets, uneconomic, on the basis of currently depressed rents and cash flow. As a result, a number of performing loans—which are not delinquent—are being treated as classified assets, giving rise to the infamous category of "nonperforming performing loans." That is, loans which can't be fully serviced from depressed rents are being classified as nonperforming, even when owners continue servicing them, drawing on other income.

Finally, banks are dumping real estate assets, hoping to improve the looks of their balance sheets to market analysts and shareholders.

The Brooking's Anthony Downs describes today's regulatory credit crunch this way:

> This is causing a larger cutback in real estate activity than is fully justified by market conditions alone—although those conditions are admittedly very bad. It also will cause many developers and owners who probably could operate their properties successfully ***to lose those properties to lending institutions, because that restraint was not forthcoming.

When one bank pulls in its horns, it's a local problem. But when they all do it, it's called a credit crunch recession. Indeed, loan-shy banks have caused a credit crunch in housing, commercial real estate and construction so severe that the Nation's money supply itself actually shrank this fall—guaranteeing a recession. Despite repeated cuts in the Federal funds rate and the discount rate, the crunch continues. The lack of liquidity and wholesale dumping of real estate assets by financial institutions is pushing real estate values too low. Prices in today's liquidity-starved market are at unjustifiably low, liquidation levels. That threatens a swift downward spiral for real estate and banking—the credit crunch and falling prices feeding on one another—which can, and should, be headed off by monetary authorities. Alan Greenspan put it this way last Wednesday, "It is the cumulative effect of the credit crunch that I find increasingly disturbing."

The good news is that officials have become alarmed. President Bush touched on it in his State of the Union Address. Secretary Brady, Chairman Greenspan, Comptroller of the Currency Robert Clarke, FDIC Chairman William Seidman and Thrift Supervisor Chief Timothy Ryan met last week to consider action.

The solution is straightforward: Bank regulators must give a green light for institutions to renew lending to real estate and other creditworthy customers. And banks must reverse course and cease the blanket shedding of real estate assets. There should be no misunderstanding: Regulators have no business showing forbearance on bad real estate loans. More rigorous underwriting standards for future real estate lending and investment must be established as well. And, banks should view proposals for new commercial real estate projects with extreme skepticism.

Yet, regulators should caution banks against overreaction. They should make it clear that—while loan values must be written down—they should be tied to longer term values, not to short-term, fire-sale prices typical at

the bottom of the real estate cycle. Moreover, banks should examine cashflows over the longer term, not just on the basis of today's short-term, depressed conditions—keeping in mind that the measure of a good banker is the ability to work through short-term problems. And bankers should recognize that refinancing of loans—even on the basis of lower values and longer repayment periods—is preferable in most cases to bankruptcy.

There is something that Congress itself can do to ease the risk of future credit crunches. We have restrictions limiting the ability of pension funds to invest in real estate. Yet, pension funds have long-term liabilities tied to retirements which are 20, 30, even 35 years ahead. They may be in a unique position to invest in long payout assets like real estate. I believe England took a hard look at pension fund investments in real estate back in 1974, and perhaps it is time that the Finance Committee took a look, too.

The depressed real estate markets in New England, on the west coast and the South remind me of Texas in the mideighties. But we learned in the last few years that an economy can rebound and create new jobs even while the real estate cycle is working itself out. Yet, the Texas recovery was slowed dramatically by limited credit availability. We must apply that same Texas lesson to our national experience, and avoid a credit crunch. And we must act quickly.

Census data show that the wealth of American families, except for the richest 20 percent, declined 5 percent in real terms between 1984 and 1988. That is a major reason we saw savings erode, and consumer confidence wane. Home values are being written down in selected markets now. It is clear that the real estate cycle and credit crunch could slosh over to the residential market, and threaten home values. That would magnify the already discouraging drop in family wealth—and dash hopes for a speedy end to the recession.

There is a final reason for quick action. During the eighties, houses became less affordable, as residential construction struggled to keep pace with demand. The rate of home ownership fell across the board for young families—the first drop in home ownership since World War II.

Home ownership is an important part of the American dream. We should be pursuing policies to expand home ownership, not shrink it. And that means, among other things, changing the attitudes of bankers and bank regulators alike, so that we can put the credit crunch behind us.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Chair.

(The remarks of Mr. BUMPERS pertaining to the introduction of S. 349 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BUMPERS. Mr. President, I yield the floor; and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONSERVATION: INTO THE SECOND CENTURY

Mr. COCHRAN. Mr. President, this past December I had the great pleasure to be present at an annual dinner of the Boone and Crockett Club annual celebration. This was a dinner they held in the Smithsonian Institution here in Washington. The speaker on that occasion was R. Neil Sampson who is executive vice president of the American Forestry Association. This is an association with offices here in Washington.

I was particularly impressed with his speech on this occasion. Not only was he talking to the members of the club about the good legacy they were leaving to generations of Americans by virtue of their example of conservation, restoring wildlife habitat, conserving big game opportunities throughout America and the world, in fact, but he was also talking about the process we are seeing develop in the environmental and conservation movement that sometimes is unnecessarily adversarial.

I thought he made some good points on that occasion and a few I just want to share with the Senate and then put the entire statement in the RECORD. But he is talking about, at this point in the speech, about the strategy that some develop that is often very adversarial, often acrimonious, in search of solutions to some of the problems we are presented because of the huge explosion of population, the use of land and other natural resources for economic development.

He talks about this process as "a strategy we can ill afford in the future," because "it creates at least three problems. One," of course, "is the huge cost."

Think about the energy and the money that is used to fight each other over some of these issues, most of which we really, basically agree upon. These resources can better be directed to the work at hand, the challenge of proper management of natural resources, and the restoration of damaged ecosystems.

Second, he says that the strategy of constantly fighting, government against industry, group against group, trying to gain the upper hand, win a vote on a key amendment that may be not worth the battle in the long run—that is the point—it tends to focus the attention of the Nation "on political rather than scientific solutions * * * if you can identify a villain, and outvote him in the political arena. * * *" You do force your solution upon your adversary. But is this the best solution? Sometimes it turns out not to be.

The calm, cool search for realistic and rational solutions, he argues, is not easy in the heat of controversy.

And, "Third, and perhaps worse," he says, "is the tendency of these battles to disempower people, who are made to believe that the environment and its problems are the domain of government and industry—that Government and industry are solely at fault" if it is not handled right. "* * * and that only government and industry hold the key to the solutions." This is the misperception that is created.

Individuals are made to feel that they do not have a say-so; that they can't contribute, that it is up to somebody else, the big powers. They do not have the power, and that is wrong.

That's a terrible public attitude to create—one that is both destructive and wrong. But it is the overwhelming attitude, however, of Americans today.

So I share the thoughts that were expressed on this occasion at the Boone and Crockett Hunting Club, and I agree that "Our goal, instead, should be to empower people," and to do that in the environmental and conservation movement; "to help them realize," as individuals, "that they can, and must, make a difference."

I think we are going to be hearing more and more about this theme from the administration of President George Bush as it searches for a way to move Americans to positive action on a wide variety of fronts, including the environmental and conservation effort. It is a theme that the American Forestry Association, Mr. President, has adopted as its own several years ago. They are making great contributions in their Global ReLeaf Program, R-e-L-e-a-f Program, forestry, reforestation, restoration.

I hope we can, as an institution, here in the Senate, learn from examples like this and try to move our country along on this road in a more sensible way in the future.

Mr. President, I ask unanimous consent that the entire speech, "Conservation: Into the Second Century," be printed at this point in the RECORD.

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

CONSERVATION: INTO THE SECOND CENTURY

(By R. Neil Sampson)

A century or so ago, amind the national euphoria of continental expansion and growth, our great-grandparents decided that a new thrust was needed to counter-balance the all-too-prevalent tendency to use up re-

sources, destroy the land, and then move on. That new thrust was called conservation. Conservation embodies the concept that people have an ethical responsibility to use resources wisely—to fill needs and legitimate desires—while they preserve and protect the basic environmental structures upon which new renewable resources can thrive for generations to come.

There were many aspects to that concept of conservation, as it was applied to specific situations, and many different individuals and organizations who provided the inspirational and scientific leadership upon which it was based. It is a special privilege for me tonight to represent one of those organizations—the American Forestry Association—and its 115-year-old traditions—and to speak to the leadership and members of another of those pioneers—the Boone and Crockett Club. We all have good reason to be tremendously proud of the work of our pioneering fore-runners, and to celebrate the achievements that have followed in the wake of their work.

But we also have to recognize that we have significant challenges of our own today * * * that those challenges are, in many ways, equally or more difficult than those our predecessors faced in the past * * * and that we—as both individuals and organizations, must rise to meet these new challenges if we are to hand over a legacy to our grandchildren that contains a functioning natural resource base * * * an environment that includes wildness and diversity * * * an opportunity for a life that features quality as well as substance.

So my goal in speaking with you tonight is to celebrate our mutual history of achievement, but also to move quickly to try to convince you that we have unparalleled opportunities for new types of service, and partnership, and achievement, in our immediate future.

First, let's briefly review our accomplishments.

Without trying to make it sound like we have discovered the nirvana of natural resource management, let me remind you that Americans have done some amazing things. We meet the food and fiber needs of some 250 million residents of the United States—up from 63 million 100 years ago, along with a significant surplus that we can trade with other nations—and we still are able to see our resource base grow, and thrive.

America's forests are, by many measures, better than at any time in the past century. In the past 25 years, for example, the U.S. has built 46 million new homes and produced 1.7 billion tons of paper products, while increasing the amount of standing timber by 100 billion cubic feet! Clearly, we have demonstrated that the application of scientific management, guided by a conservation ethic, can have a significant effect upon natural resources.

In addition, we have maintained an unparalleled degree of freedom for the owners and managers of America's forest land. There were earnest people in the early years who thought we would need to regulate or nationalize all those resources in order to get good management, but they were proven wrong. We have demonstrated that we can create an atmosphere in which private owners meet their needs while also considering the long-term public good. That is an amazing accomplishment, taken in the context of the history of humankind!

How has this happened? Well, it is a complex story, but part of it has been written by the organizations that we represent here tonight. Our organizations have promoted the concept that responsible use and scientific management are part and parcel of the approach that is needed if we are to maintain a strong, healthy environment.

We promoted a conservation ethic, an entire set of attitudes, that regulated people's behavior much more strongly than any man-made law. You don't indiscriminately kill wildlife; you harvest it humanely and utilize it properly. You self-regulate the amount you take—meeting your legitimate needs, but remembering the needs of others, and of the species itself. You harvest a forest in such a way that the land and water are not violated, and that a new forest is encouraged to emerge.

We don't do those things because they are the letter of the law. We do them because we have been raised to believe that any right-thinking person would act in that manner. We believe, because our fathers and our grandfathers were taught to believe, and, in turn, taught us. We are now called to teach our sons and daughters those lessons, in words and examples that they find relevant in today's world.

A century ago, our two organizations saw the need to set aside public forest lands for multiple use—to provide a constant flow of forest values for both public and private use for generation after generation. The result is a national forest system—191 million acres of marvelously diverse resource land envied around the world. Those national forests contain so many values that the public battles over their management and protection in recent years have tended to obscure the most significant fact of all—we have the privilege of arguing over these values because our forebearers worked hard to set these lands aside, and to place them under the kind of scientific management that could assure not only their future, but their constant improvement.

Our organizations realized that wildlife populations could not withstand unregulated hunting, and helped fight for the establishment of modern wildlife management programs on both public and private lands. We worked for wildlife refuges, and for protection of critical habitats. The results are apparent. Many wildlife species enjoy population levels far higher than were historic. As a result, our generation, and many more to follow, should be able to enjoy hunting and fishing, both for recreation and sustenance.

It would be foolish to suggest that no problems remain. We are constantly challenged to improve the management of land, water, and natural resources. We don't always have the scientific information needed to know exactly what should be done in every situation. People don't always do the right thing, even when they know better, and we need to refine the regulations under which we all live in a civil society. Each generation must meet its conservation challenges in turn.

But it is fair to say that we have accomplished much in the past century—and it is also fair to say that both the Boone and Crockett Club and the American Forestry Association can be proud of the roles that their membership and leaders have played in that time.

But this is no time to rest on merits—no matter how substantial. The challenges ahead are formidable, and once again, our organizations are called to play a significant role. I am also convinced that this is a particularly critical time in history, and that we need to act immediately. Let me tell you why.

This decade, the final decade of the century, creates a significantly heightened sense of expectation in people's minds. We've talked all our lives about "the year 2000," speculating on what things will be like when we reach that magic year. For most of our lives, the turn of the century sounded very far into the future. Today, it does not seem far away at all. It sounds right around the corner. It is not as far into the future as Ronald Reagan's inauguration date is in the past. Think back to that event. How many remember it? Doesn't seem that long ago, does it?

Yet people are looking with great expectation toward the year 2000. And because of those expectations, they are willing to exert energies and force changes, much more than before. People are expecting great things, and many of those expectations deal with the environment, and its quality. In a nutshell, people expect us to reach the year 2000 with a larger population, enjoying a more comfortable and widespread quality of life, while maintaining a healthier, more stable environment.

Can that be done?

To be honest, we don't know. There's never been 5.25 or 6 billion people on this earth before. We don't know how well we will be able to meet their needs, while still retaining biological and ecological systems that function properly.

What we do know, however, is that unless people, and all their institutions, work together to manage natural resources properly, the future is not all that bright. Six billion people, if they are all working to destroy our planet, will succeed. The open question remains, what about 6 billion people who work to live in harmony with the natural world? What are their chances? Better, I would argue.

So this is the basis for a new "Environmental Decade" of the 1990's. Like the pioneering work in the 1890's, it will be pacesetting. It will establish many of the ground rules, and much of the potential, for the quality of life in the 21st Century.

If we are to meet this challenge, we have to change some things significantly. Much of the environmental movement of the 1970's pitted government against industry, or conservation organizations against both. In the process, we heightened awareness about environmental problems, and accelerated the search for solutions, but we did it in an adversarial, often acrimonious, atmosphere. Unfortunately, much of that continues to this day.

That may be a strategy we can ill afford in the future. It creates at least three problems. One, of course, is the huge cost in energy and money that we waste in fighting with each other. Those resources could be far better directed to the work at hand, the proper management of natural resources and the restoration of damaged ecosystems.

Second, it tends to focus our attention on political rather than scientific solutions. If you can identify a villain, and outvote him in the political arena, you simply force your solution upon him. Sometimes that may be the best solution; often it is not. The calm, cool search for realistic and rational solutions is not easy in the heat of controversy.

Third, and perhaps worse, is the tendency of these battles to disempower people, who are made to believe that the environment and its problems are the domain of government and industry, that government and industry are solely at fault for perceived environmental problems, and that only government and industry hold the key to solutions.

Individuals are made to feel that they can't contribute, that the problems are too immense for any one person to address. That's a terrible public attitude to create, one that is both destructive and wrong. But it is the overwhelming attitude of Americans today, according to a Roper Poll conducted just this past spring.

Our goal, instead, must be to empower people, to help them realize that they can, and must, make a difference. You will hear this theme coming more and more from the Bush Administration, as it searches for a message that can move Americans to positive action on a wide variety of fronts. It is a theme that we have been using at AFA in a variety of ways for several years, as we seek to address the environmental challenges of the 1990's. Let me give you two examples.

We have a campaign called Global ReLeaf that calls individuals, organizations, companies and governments into a cooperative effort to address reforestation and tree planting opportunities. We realize that the ills of the environment won't all be solved by planting a tree, but you'd be amazed at how many places exist where this is a positive, badly-needed action. And it is a people-sized action, one that a person can do alone or in combination with friends. Better still, it is an action where young and old can work together, bridging the gap between our history and our future as they plant a living organism that, with proper care and treatment, will outlive not just ourselves, but several generations.

In the process of designing the Global ReLeaf campaign, we wanted to develop a strong role for business and industry, as well as citizens and governments. For many of us, the most potent organization we belong to is the company for which we work. Whether that company is environmentally constructive or destructive is, in fact, an extension of our own lives, and a measure of our personal impact upon this world and its future.

We went to a company like Texaco with the following message. "Look, no matter how hard you work to meet minimal pollution requirements, that won't be enough. If increasing atmospheric carbon dioxide is a problem in connection with the greenhouse effect and global warming, then the use of fossil fuels will continue to contribute to that problem. You can't avoid it. What you can do, however, is become part of the solution. You can work to plant trees, conserve energy, and improve ecosystems,"

Their reaction was immediate, positive, and massive. They joined the Global ReLeaf campaign, focusing their efforts on improving urban and community forests, where additional trees are one of the most cost-effective energy saving opportunities open to Americans today. In addition to providing money for purchasing trees in three cities, they called upon Texaco employees to work as volunteers in helping to plant the trees. The result was over 1,600 new tree planting volunteers, and a marvelous boost in the morale and pride within those units of the company.

There was another reaction as well, thousands of citizens in Denver, New Orleans, and Houston got a new view of Texaco. Instead of seeing the company as some huge, monolithic, impersonal "it," they saw Texaco people, all sizes, shapes, and ages of people, who cared about the community, and who could work through the company, in the Global ReLeaf campaign, to do something positive. That company is now more human, more positive, and more committed to solving environmental problems in the eyes of thousands of people. Instead of serving to discourage them from taking action themselves, it is providing positive encouragement.

Texaco is far from alone in this effort, we have over 70 commercial partners in Global ReLeaf at this time, and the number is climbing at the rate of about one each week. Large and small, each has a role that they can play, when we re-define the environmental crisis as an agenda for action rather than a cause for despair.

My second example is a concept we called "Friends of the National Forest." Not a new idea, of course, but one based on the notion that the people who live in and around each national forest constitute a great group of partners who can, if the opportunity is made available, be a great help in supporting the good stewardship of those lands. We have seen several such groups get started, and the results have been just excellent. Where people work together to identify action opportunities, much can be done.

Now, where does this leave us?

The conservation movement has accomplished much in the past, and the natural resources of the United States, as well as many other parts of the world, are better as a result. But the incredible growth of population and demand threatens to outstrip the biological capacity of the earth unless dramatic changes are made. Those changes must be based on new ways of thinking, and new opportunities for positive action, if they are to have any chance of success.

What can our two organizations do in this climate to live up to the history of our forefathers of a century ago? I'd say we can do a whole lot.

Next year, 1991, is the Centennial celebration of the national forest system. We can join as partners to rekindle the sense of dedication and commitment that caused Americans to set these lands aside. We can refocus public attention on the need for scientific resource management, guided by the land stewardship ethic which has become such a strong part of our lives and heritage. We can demonstrate that our vision of multiple use, conservation, and stewardship is as critical to human survival in the 21st Century as it has been critical to framing the quality of life in the 20th.

We can mobilize our members, as individuals, and as members of great organizations. The Boone and Crockett Club has taken tremendous leadership in forming the public's attitude toward conservation and management of big game. Now, you have embarked on some significant habitat enhancement efforts. I hope you will continue and accelerate that effort, until every member gets deeply and personally involved in your mission and its work.

If you run into the need to re-forest ecosystems as a way of restoring environmental stability and quality, and have any hesitancy on how to do it effectively, we hope you will come to us and join as a partner in our Global ReLeaf campaign. We've created ways for everyone to contribute, in amounts that run from $1 to $10 million, and in equally different degrees of involvement. Together, we can show people that the land and its resources, just like the big game populations of North America, can be restored, rebuilt, renewed, and improved.

At the same time, I hope you will continue to work for positive ways in which your members can take their love of the land into the other organizations where they spend their lives. They work for companies and organizations that need to become more active in environmental action. They belong to service clubs, community groups, and alumni associations. The fight for tomorrow's environment is not just a fight for conservation groups to undertake, it is everyone's challenge. Your members, educated by their involvement in Boone and Crockett programs, can become conservation emissaries in many other aspects of their lives.

Conservation in its second century must become more than simply a way of slowing the deterioration of the world's resources, it must become the basis for people to rebuild and restore a new world, one that is far better than the one we inherited. Our history suggests that this is, indeed, possible; our future demands that it happen.

That is the new message, and the new challenge, that separates 1990 from 1890, and, for that matter, 1990 from 1970. Can we meet this new challenge? I think so. But clearly, that optimism is based upon one essential foundation, and that is the belief that you, the people in this room tonight, and your organization, the Boone and Crockett Club, are every bit as dedicated, and far more scientifically and organizationally sophisticated, than your great grandfathers. I'm convinced that this is true, and that together, organizations such as yours and mine can lead a broad coalition of partners to that new height of responsible stewardship upon which the future of all humanity depends.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Kansas.

PROGRESS IN SOUTH AFRICA

Mr. DOLE. Mr. President, the past week has been an historic one in South Africa's movement toward full democracy. Two important events occurred, as a result of the leadership and courage of three men: President de Klerk, Nelson Mandela, and Dr. Buthelezi.

Late last week, in an address to the South African Parliament, de Klerk reaffirmed his commitment to fundamental change, the abolition of apartheid, and the creation of a fully democratic constitution.

More concretely, he announced that his government will introduce legislation to repeal the last remaining legal foundations of apartheid—the Group Areas Act, the Land Acts, and the Population Registration Act.

In asking the Paliament to act swiftly on these proposals, de Klerk said the result will be that, "South Africa's statute book will be devoid, within months, of the remnants of racially discriminatory legislation which have come to be known as the cornerstones of apartheid."

De Klerk also repeated that both this government and the A.N.C. have accepted the principle that a multiparty conference should be convened as soon as possible, to set the stage for the negotiation of a new constitution. That is welcome news, and deserves the encouragement and support of the United States.

Earlier in the week, Mandela and Buthelezi met personally for the first time in nearly 30 years, and called for an end to the deadly cycle of violence

that has pitted their followers against each other.

Previously, the A.N.C. had sought to shut Buthelezi out of the negotiations on South Africa's future. But, as the New York Times and other observers have noted, Buthelezi and his Inkatha organization must play a role if there is to be a peaceful transition, and utlimately democracy, in South Africa.

After the Mandela-Buthelezi meeting, the Times editorialized that, "If their appeal for tolerance succeeds, South Africans of every race will be the victors."

So South Africans across the political spectrum continue to take major steps toward the goals we all share—the abolition of apartheid, and the establishment of democracy.

As these momentous steps proceed, the time is fast approaching for the United States to fundamentally reevaluate our policy, to insure that we are doing the most that we can to encourage and support the forces seeking such fundamental reform in South Africa.

If the reforms de Klerk has just announced, and earlier reforms, continue on schedule, soon all of the preconditions set out in United States law for removing the sanctions now in place against South Africa will be accomplished. I believe all of us—the President and the Congress—should begin now to consider whether it is time to respond to these dramatic changes in the real world of South Africa, with equally substantial changes in our own law and policy toward South Africa.

Mr. President, I ask unanimous consent to include in the RECORD the text of the New York Times editorial that I mentioned.

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

BLACK SOUTH AFRICA'S MOMENT

Two proud black leaders, one a radical and the other a conservative, met in South Africa on Tuesday and called for an end to the murderous clashes between their followers. Nelson Mandela was at his generous best; his rival, Chief Mangosuthu Gatsha Buthelezi, grudgingly sought to score political points. Yet their meeting, the first in nearly three decades, may well turn out to be a defining moment in South African history.

In the last five years, at least 5,000 blacks have perished in township riots between supporters of Mr. Mandela's African National Congress and Chief Buthelezi's Inkatha Freedom Party. Black disunity has caused rejoicing among die-hard supremacists opposed to ending apartheid through negotiations with President F.W. de Klerk. Even so, Mr. Mandela's allies have resisted any meeting that might enhance Chief Buthelezi's claim for an equal seat at the bargaining table.

Wisely, Mr. Mandela decided otherwise. In their meeting in Durban, both leaders promised to tour townships ravaged by violence, to monitor the peace accord and to assure that police are not fomenting trouble. But Mr. Mandela went on to declare that there should be no victors or losers: "Only our people must be the victors, and the only losers should be those whose racist policies are served by the carnage among blacks."

For his part, Chief Buthelezi rehearsed his many grievances with the African National Congress, charging that its violence had been directed against him personally. He scratched the wound that both men vowed to heal. Nevertheless, however prickly the chief, denying him a place at the table would mock the A.N.C's call for a genuine multiracial democracy. It is hard to see how there can be any democratic system that ignores Inkatha and its predominantly Zulu following.

Ending the cycle of violence will take more than words. Once before, a year ago, Mr. Mandela pleaded with his supporters to throw down their weapons; he was ignored. But having come to his rival's stronghold in Natal Province, and having joined with him in a fresh appeal, Mr. Mandela has reconfirmed his own stature without diminishing that of Chief Buthelezi. If their appeal for tolerance succeeds, South Africans of every race will be the victors.

The PRESIDING OFFICER. The Senator from New York.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,152d day that Terry Anderson has been held captive in Lebanon.

The PRESIDING OFFICER. The Senator from Kentucky.

RULES OF PROCEDURE OF SENATE COMMITTEES

Mr. FORD. Mr. President, I wish to remind each committee chairman that pursuant to paragraph 2 of rule XXVI of the Standing Rules of the Senate, the rules governing the procedure of the committee must be published in the CONGRESSIONAL RECORD no later than March 1, 1991.

THE NATIONAL ENERGY SECURITY ACT OF 1991

Mr. MURKOWSKI. Mr. President, I join my colleague on the highlights of his statement, with particular emphasis on the identification of the progress that has been made as a consequence of a commitment to the environment and ecology, with particular emphasis on the wildlife.

I think it shows—as it has in my State, Mr. President, in the tremendous increase in the trumpeter swan population which, several years ago, was down to virtually a few birds, and now numbers several thousand—that indeed we can, through commitment and conservation and good wildlife management, bring about the recovery of stocks that were thought to be near to extinction.

Mr. President, the purpose of the junior Senator from Alaska in rising today is to comment on the introduction of the National Energy Security Act of 1991, which was introduced today by Senators JOHNSTON and WALLOP. This is a significant undertaking for the Energy Committee and appropriate in view of the concerns and frustrations that have been expressed: Where is our Nation's energy policy? Why do we not have an energy policy?

It is the contention of this Senator that the responsibility to develop a policy now shifts to the Congress. In the overall introduction of this particular piece of legislation there is a wide variety of alternatives.

It will be very interesting, Mr. President, to see if this body will make the hard, tough decisions necessary to form an energy policy. For example, are we willing to commit, like our friends in Japan and our friends in France, that we want to become more dependent on nuclear energy. Are we willing, to reduce our dependence on Mideast crude oil, to enhance the development of resources within our own Nation?

Each time we address the development of an energy policy, from the standpoint of the foundation, we are faced with a decision that is going to require some give and take. It is going to require some decisions. Some of these decisions are not going to be compatible with some of America's environmental community. But I think everyone agrees we have the responsibility to formulate a workable energy strategy.

I commend my colleagues, Senator JOHNSTON and Senator WALLOP, for the introduction of that in the National Energy Security Act of 1991.

As we look at the Mideast, we recognize there is a new dimension related to our dependence on crude oil. Currently, my State of Alaska produces about 24 percent of the total crude oil produced in this Nation. We are currently importing about 50 percent of our oil. A large portion of that, and the increase, has come from the Persian Gulf nations. It is brought into this country in foreign tankers and it is an outflow of some $50 billion.

One can only hope the Energy Strategy Act which has been introduced will give more attention to domestic exploration, which would not only reduce our dependence on Mideast crude oil and imports from other nations, but stimulate the economy.

If we are expending $50 billion on imported oil, one wonders if we spent just one-third of that on energy exploration for oil and gas, how many jobs would that create? What would the additional tax contribution be to our Nation?

As we reflect on and examine this new legislation, we will recognize a couple of things. The cornerstone of the bill is ANWR. I do not think too many of my colleagues are aware of this yet. But if we look at this particular piece of legislation, we will find that about 60 percent of the funding to achieve new innovative technologies is

going to come from ANWR. Technologies such as greater utilization of wind power, greater utilization of specific technology to increase automobile mileage, and innovative introductions such as looking at the feasibility of trying to get coal to burn cleaner without the outfall associated with the carbon effluents.

The bill basically provides receipts from ANWR to go into an energy security fund. That money is then used to finance other major initiatives in the bill.

Some of my friends in this body are committed to stripping ANWR out of the bill. If they do they will have to bear the responsibility for killing the national energy strategy.

Because ANWR is the cornerstone of the entire piece of legislation it cannot stand without the revenue sharing to come from ANWR.

This country has been struggling to develop a national energy strategy since 1973. We have suffered through energy shortages and skyrocketing prices. My friends in the Northeast corridor have been subjected to them. And now we have a new dimension, and that dimension is the U.S. troops, some 450,000 plus, who are fighting to combat naked aggression, but also as my friend from Louisiana, the chairman of the Energy Committee, indicated, to keep oil flowing from the Persian Gulf, oil to which the Western World has become addicted.

Mr. President, when I had an opportunity in April to visit Iraq with four of my colleagues and meet with Saddam Hussein, it was very clear what the initiative of this individual was, and that was to control the proven supply of oil in the Persian Gulf. If there is any doubt about what his intentions were, one can simply do a little arithmetic and realize had he been successful in Kuwait and Saudi Arabia, he would have controlled 42 percent of the proven oil reserves of the world, and the significance of that speaks for itself.

It is time to act now, Mr. President. We need this balanced package that addresses energy efficiency, alternative fuels, renewable energy resources, nuclear energy—the list goes on and on, and ANWR must be a part of the package.

However, Mr. President, I think it is important to note this Senator from Alaska finds extreme fault with certain terms and conditions of the package. Conditions that can be construed under no other terms then as a blackmail clause. This basically means that on the issue of revenue sharing which, when the State of Alaska came into the Union, the agreement was the revenue sharing would be 90–10, 90 percent for the State of Alaska and 10 percent for the Federal Government, an agreement upheld in the Mineral Leasing Act.

Mr. President, this particular bill contains a clause that suggests that if the State is successful in litigating its position under the Statehood Act and the Mineral Leasing Act, it will lose because the leases will be canceled anyway. Mr. President, I do not think the issue is whether Congress changes laws here. The issue is whether Congress can take away what they contracted for. The action would deny one of the 50 States, my State of Alaska, the right to defend itself from what is guaranteed in the Statehood Act and in the Mineral Leasing Act.

It seems to me a deal is a deal; the Federal Government said the deal was 90–10. The issue here is clearly not one of good energy policy; it is unrelated and, in my opinion, this blackmail clause is unconstitutional. One can almost say it has gone to the extreme. If we do not like the law, we are going to change it. That reminds me of the attitude of our friend over in Iraq. It is the right of judicial redress that has nothing to do with energy, yet it is in this piece of legislation. I would much prefer to have seen an issue like this come up as an amendment and we could properly address it. Instead, I find it in the bill, and I know my senior colleague, Senator STEVENS, and I feel very strongly about this issue. Why should our State be denied the terms and commitments under which we came into the Union? There is absolutely no excuse for it, Mr. President, and I can assure my colleagues we are going to do everything we can to correct this blackmail clause.

I have introduced a bill, a straight ANWR leasing bill that many of my colleagues have cosigned. I am looking forward to the debate in the committee when we can address the manner in which the blackmail clause has been included in the legislation introduced today.

So as we reflect on what has happened in the case of the State of Alaska, I am reminded somewhat of Alice in Wonderland where the red queen said, "Sentence first, verdict afterwards." That is not just; that is not appropriate; and I hope my colleagues bear with me as we examine that issue and recognize that it does not belong in this legislation. I am pleased to have reason to believe that the administration's energy package will not contain the blackmail clause that is contained in the bill that was introduced today.

I will be looking forward to the extensive debate with regard to the development of an energy policy in this country, the necessity of, I think, understanding the reality that, indeed, ANWR is the cornerstone; it is the linchpin. Without the funding that ANWR will bring in, not only for the new technology aspects but for the conservation and regeneration of many of our waterfowl and the areas in which those waterfowl prosper, why, indeed, it is hard to imagine that we can expect the passage successfully of a bill without ANWR because there would be no funding.

Again, as I have said, I am led to believe that about 60 percent of the funding is to come from ANWR. I intend to, over the next several days, have a series of speeches which I will make from the floor, talking about various aspects of the ANWR issue I hope to enlighten my colleagues in some detail on the various aspects of ANWR, particularly the attitude of our friends in Canada. Hopefully, with these speeches will come a better understanding of the necessity of relieving our dependence on the Mideast crude oil that we currently are committed to and recognize that it is in the national energy security interest to look at the merits of ANWR in an expeditious manner. I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

BUDGET OF THE U.S. GOVERNMENT—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 12

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on February 4, 1991, during the recess of the Senate, received the following message from the President of the United States, together with an accompanying document; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations and the Committee on the Budget:

I. THE BUDGET MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I am pleased to present the *Budget of the United States Government for Fiscal Year 1992.*

The budget is consistent with the 5-year deficit reduction law enacted last fall. It recommends discretionary spending levels that fall within the statutory caps for defense, international, and domestic discretionary programs. It implements the entitlement savings and reforms enacted in the Budget Agreement. It conforms to the new pay-as-you-go requirements.

By holding the overall rate of growth of Federal Government spending to approximately 2.6 percent—below the inflation rate—the budget puts into effect the concept of a "flexible freeze," which is an essential means of bringing the budget into long-term balance.

The longest period of peacetime economic expansion in history has been temporarily interrupted. We can, however, return to growth soon—and proceed on the path to a new era of expansion. With that goal in mind, the budget places special priority on policies that will enhance America's potential for long-term economic growth, and that will give individuals the power to take advantage of the opportunity America uniquely offers.

To this end, I am again proposing tax incentives to increase savings and long-term investment.

On the spending side of the budget, the existence of a cap on domestic discretionary outlays rightly creates a competition for resources. Priorities must be set. This budget proposes that domestic investment be increased in the following key areas:

Education and Human Capital.—The budget proposes investments to prepare children better for school, to promote choice and excellence in our educational system, to improve math and science education, and to increase the access of low-income Americans to higher education.

Prevention and the Next Generation.—The budget includes proposals to help reduce illness and death from preventable diseases, and to reverse the long-term trend of underinvestment in children.

Research and Development and the Human Frontier.—The budget recommends an increase of $8.4 billion in the Federal investment in research and development, with special emphasis on basic research, high performance computing, and energy research and development. It proposes to extend permanently the tax credit for research and experimentation to encourage private sector R&D investment. In addition, the budget reflects the Administration's continued commitment to expanding human frontiers in space and biotechnology.

Transportation Infrastructure.—The budget supports an expansion of the Federal Government's investment in highways and bridges to over $20 billion within 5 years, and proposes substantial increases to improve the condition of the Nation's airports, to modernize the air traffic control system, and to continue to develop the transportation infrastructure for exploration and use of space.

America's Heritage and Environmental Protection.—The budget includes increased funds for the expansion and improvement of America's treasury of parks, forests, wildlife refuges, and other public lands; for the implementation of the Clean Air Act and other key environmental statutes; for the clean-up of pollution at various Federal facilities and at Superfund sites; and for protection and enhancement of coastal areas and wetlands.

Choice and Opportunity.—The budget provides: funds to help give parents greater choice in child care, health care, education, and housing; the resources to allow *all* Americans, especially those with low incomes, to seize the opportunities that such choice provides; and a proposal to establish Enterprise Zones to bring hope to our inner cities and distressed rural areas.

Drugs and Crime.—The budget further increases the Administration's investment in drug prevention, treatment, and law enforcement. And the budget substantially increases the resources available to help the Federal Bureau of Investigation fight crime, the Federal prosecutors prosecute criminals, and the Federal prison system accommodate those convicted of crimes.

To make such investments possible, the budget includes recommendations to terminate or reduce Federal investment in certain low-return programs, and proposes reforms to slow the continuing growth of mandatory entitlement programs and to increase fairness in the distribution of the benefits these programs provide.

In addition, the budget contains a new proposal to fund various programs now carried out by the States through a comprehensive block grant. The States are continuing to develop new and innovative ways to deliver services more effectively. The budget not only highlights several of these innovations; it proposes to reinforce and build upon them.

The budget contains several proposals that reflect my commitment to managing government better. These include measures to improve accountability, to reduce waste, to reform regulation, to employ risk management budgeting in addressing threats to health and safety, and to set clear objectives and measure performance in meeting them.

Finally, consistent with the statutory caps enacted last year, the budget provides the resources necessary to maintain national security, and to better advance American interests abroad. As the budget goes to press, the timing of the resolution of the multinational coalition's efforts to reverse the aggression in the Persian Gulf is uncertain. For this reason, the budget reflects only a placeholder for Operation Desert Shield. A supplemental request for the incremental costs of Desert Shield, which includes Desert Storm, will be forwarded to the Congress in the coming weeks.

The priority investments embodied in this budget will help America prepare for the requirements and opportunities presented by a rapidly changing world. I look forward to working with the Congress in developing a budget that lays the groundwork for a brighter future, protects our national interests, and helps create the conditions for long-term economic growth and prosperity.

GEORGE BUSH.

FEBRUARY 4, 1991

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on February 1, 1991, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 556. An act to provide for the Secretary of Veterans Affairs to obtain independent scientific review of the available scientific evidence regarding associations between diseases and exposure to dioxin and other chemical compounds in herbicides, and for other purposes.

Under the authority of the order of January 3, 1991, the enrolled bill was signed on February 4, 1991, during the recess of the Senate, by the President pro tempore [Mr. BYRD].

MESSAGES FROM THE HOUSE

At 2:20 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 598. An act to amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increases in special pay authorities, to authorize collective bargaining over conditions of employment for health-care employees of the Department of Veterans Affairs, and for other purposes.

At 3 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 59. A concurrent resolution providing for the adjournment of the two Houses.

The message also announced that pursuant to the provisions of 19 U.S.C. 2211, and upon the recommendation of the chairman of the Committee on

Ways and Means, the Speaker selected the following members of that committee to be accredited by the President as official advisers to the U.S. delegations to international conferences, meetings, and negotiation sessions relating to trade agreements during the 1st of the 102d Congress: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. JENKINS, Mr. ARCHER, and Mr. CRANE.

The message further announced that pursuant to section 8002 of the Internal Revenue Code, the chairman of the Committee on Ways and Means designates the following members of that committee to serve on the Joint Committee on Taxation during the 102d Congress: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. ARCHER, and Mr. VANDER JAGT.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 598. An act to amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increases in special pay authorities, to authorize collective bargaining over conditions of employment for health-care employees of the Department of Veterans Affairs, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–498. A communication from the Deputy Assistant Secretary of the Air Force (Communications, Computers, and Logistics), transmitting, pursuant to law, a report on a study with respect to converting the Military Family Housing Maintenance function at Little Rock Air Force Base, Arkansas, to performance by contract; to the Committee on Armed Services.

EC–499. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, notice that the report on preliminary petroleum price and profit data for the fourth quarter of 1990 is forthcoming; to the Committee on Energy and Natural Resources.

EC–500. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–501. A communication from the Secretary of the Interior, transmitting, pursuant to law, an application by the Schuk Toak District for a loan under the Small Reclamations Projects Act; to the Committee on Energy and Natural Resources.

EC–502. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, a report on royalty agreements for oil and gas entered into during fiscal year 1990 which involved unleased Government lands; to the Committee on Energy and Natural Resources.

EC–503. A communication from the Assistant Secretary of the Interior (Water and Science), transmitting, pursuant to law, the 1991 Update to the National Plan for Research in Mining and Mineral Resources and the 1991 Report on the Mineral Institute Program of the Department of the Interior; to the Committee on Energy and Natural Resources.

EC–504. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–505. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–506. A communication from the Assistant General Counsel of the Department of Energy, transmitting, pursuant to law, notice of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–507. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–508. A communication from the Deputy Under Secretary of Energy (Policy, Planning and Analysis), transmitting, pursuant to law, notice that the Department of Energy plans to submit certain energy targets for net imports, domestic production, and end-use energy consumption; to the Committee on Energy and Natural Resources.

EC–509. A communication from the Secretary of the Interior, transmitting, pursuant to law, the calendar year 1989 wildfire rehabilitation report for Department of the Interior administered lands; to the Committee on Energy and Natural Resources.

EC–510. A communication from the Secretary of Energy, transmitting, pursuant to law, a comprehensive report on a project negotiated under the Clean Coal Technology Demonstration Program; to the Committee on Energy and Natural Resources.

EC–511. A communication from the Secretary of the Interior as Chairman of the Migratory Bird Conservation Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1990; to the Committee on Environment and Public Works.

EC–512. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, a proposed regulation that will help reduce excessive inflation in the U.S. health care system and provide an alternative simply to cutting Medicare payments to hospitals; to the Committee on Finance.

EC–513. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report on development assistance program allocations for fiscal year 1991; to the Committee on Foreign Relations.

EC–514. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report of those foreign military sales customers with approved cash flow financing in excess of $100 million as of October 1, 1990; to the Committee on Foreign Relations.

EC–515. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on security assistance allocation for fiscal year 1991; to the Committee on Foreign Relations.

EC–516. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to January 31, 1991; to the Committee on Foreign Relations.

EC–517. A communication from the Chairman of the United States International Cultural and Trade Center Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC–518. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC–519. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a report on Senior Executive Service positions in the Department of Housing and Urban Development; to the Committee on Governmental Affairs.

EC–520. A communication from the Archivist of the United States, transmitting, pursuant to law, the annual report on competition advocacy for fiscal year 1990; to the Committee on Governmental Affairs.

EC–521. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the annual report of the United States General Accounting Office for fiscal year 1990; to the Committee on Governmental Affairs.

EC–522. A communication from the Chairman of the Board of Governors of the United States Postal Service, transmitting, pursuant to law, the annual report of the Board under the Government in the Sunshine Act for calendar year 1990; to the Committee on Governmental Affairs.

EC–523. A communication from the Deputy Director of the Federal Emergency Management Agency, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC–524. A communication from the Acting Federal Co-chairman of the Appalachian Regional Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC–525. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the annual report on instances where a Federal agency did not fully implement a recommendation with respect to contracts, and stating that there were no such instances; to the Committee on Governmental Affairs.

EC–526. A communication from the Secretary to the Postal Rate Commission, transmitting, pursuant to law, the annual report of the Commission under the Govern-

ment in the Sunshine Act for fiscal year 1990; to the Committee on Governmental Affairs.

EC–527. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect during fiscal year 1990; to the Committee on Governmental Affairs.

EC–528. A communication from the Executive Assistant to the Mississippi River Commission, Corps of Engineers, Department of the Army, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1990; to the Committee on Governmental Affairs.

EC–529. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a proposed plan for the use and distribution of Seminole Nation of Oklahoma judgment funds awarded before the Indian Claims Commission; to the Select Committee on Indian Affairs.

EC–530. A communication from the Chairman of the Council on Environmental Quality, transmitting, pursuant to law, the annual report of the Council under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–531. A communication from the President of the National Endowment for Democracy, transmitting, pursuant to law, the annual report of the Endowment under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–532. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report and recommendation concerning the claim of an individual for reimbursement of expenses; to the Committee on the Judiciary.

EC–533. A communication from the Chief Justice of the United States, transmitting, pursuant to law, the report of the proceedings of the Judicial Conference of the United States held in Washington, D.C. on September 12, 1990; to the Committee on the Judiciary.

EC–534. A communication from the Chairman of the Board of Directors of the Future Farmers of America, transmitting, pursuant to law, the annual audit report of the Future Farmers of America for the period ending August 31, 1990; to the Committee on the Judiciary.

EC–535. A communication from the Acting Secretary of Education, transmitting, pursuant to law, final regulations for the Pell Grant Program—Expected Family Contributions for Students With Special Conditions; to the Committee on Labor and Human Resources.

EC–536. A communication from the Acting Secretary of Education, transmitting, pursuant to law, the annual report of the International Research and Studies Program for fiscal year 1990; to the Committee on Labor and Human Resources.

EC–537. A communication from the Chairman of the Harry S. Truman Scholarship Foundation, transmitting, pursuant to law, the annual report of the Foundation for calendar year 1990; to the Committee on Labor and Human Resources.

EC–538. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to expand eligibility for readjustment counseling services furnished by the Department of Veterans Affairs to veterans who are serving in "Operation Desert Storm" or who served during other periods of armed hostilities after the Vietnam era; to the Committee on Veterans' Affairs.

EC–539. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the Department's comments on the General Accounting Office financial audit of the Department of Veterans Affairs for fiscal years 1988 and 1989; to the Committee on Veterans' Affairs.

EC–540. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend the Soldiers' and Sailors' Civil Relief Act of 1940; to the Committee on Veterans' affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 36: An original resolution authorizing expenditures by the referred Committee on Agriculture, Nutrition, and Forestry (Rept. No 102–10), referred to the Committee on Rules and Administration.

By Mr. BYRD, from the Committee on Appropriations, without amendment:

S. Res. 34: An original resolution authorizing expenditures by the Committee on Appropriations.

By Mr. FORD, for the Committee on Rules and Administration, without amendment:

S. Res. 35: An original resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library.

S. Res. 37: An original resolution authorizing expenditures by the Committee on Rules and Administration.

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. Res. 38: An original resolution authorizing expenditures by the Committee on Labor and Human Resources; referred to the Committee on Rules and Administration.

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. Res. 39: An original resolution authorizing expenditures by the Committee on Labor and Human Resources; referred to the Committee on Rules and Administration.

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. Res. 42: An original resolution authorizing expenditures by the Committee on Armed Services; referred to the Committee on Rules and Administration.

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 10: An original concurrent resolution to allow another member of the Committee on Rules and Administration of the Senate to serve on the Joint Committee of Congress on the Library in place of the Chairman of the Committee.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Ex. B, 95–1. Montreal Aviation Protocols 3 and 4 (Exec. Rept. No. 102–1).

TEXT OF REPORTED RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION

Resolved, (two-thirds of the Senators present concurring therein) That the Senate advise and consent to the ratification of Additional Protocol No. 3 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on October 12, 1929, as Amended by the Protocols done at The Hague, September 28, 1955, and at Guatemala City, March 8, 1971 (hereinafter, Montreal Protocol No. 3); and Montreal Protocol No. 4 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on October 12, 1929, and Amended by the Protocol done at The Hague on September 8, 1955 (hereinafter Montreal Protocol No. 4), provided that:

(1) the President shall not deposit the instruments of ratification for the United States until he has determined that a satisfactory supplemental compensation plan, as reviewed and approved by the Secretary of Transportation, will be in operation for the United States; and

(2) the President shall give notice of denunciation of these protocols by the United States if, at any time after their entry into force for the United States, he determines that a satisfactory supplemental compensation plan, as periodically reviewed by the Secretary of Transportation in light of new economic or other relevant circumstances, is not in operation for the United States, or that the best interests of U.S. airline passengers are not otherwise served by continued adherence to these protocols by the United States; and

(3) the U.S. Government shall continue actively to seek to negotiate higher limits on the liability of carriers than those provided under these protocols.

By Mr. NUNN, from the Committee on Armed Services:

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 4, January 10, January 11, January 22, and January 23, 1991 at the end of the Senate proceedings.)

*In the Army Judge Advocate General's Corps there are 4 appointments to the grade of brigadier general (list begins with Thomas R. Cuthbert) (Reference No. 17)

*In the Army Reserve there are 31 appointments to the grade of major general and below (list begins with John W. Cudmore) (Reference No. 18)

**In the Air Force Reserve there is 1 appointment to the grade of colonel (Donald J. Grande) (Reference No. 24)

**In the Air Force Reserve there are 3 appointments to the grade of lieutenant colonel (list begins with Charles O. Bruce III) (Reference No. 25)

**In the Army there are 6 promotions to the grade of colonel and below (list begins with Hugh D. Thorfinnson) (Reference No. 29)

**In the Army there are 36 promotions and appointments to the grade of colonel (list begins with Barbara Blatter) (Reference No. 30)

**In the Navy there are 48 appointments to the grade of lieutenant (list begins with Kevin K. Bach) (Reference No. 31)

**In the Navy Reserve there are 23 appointments to the grade of commander and below (list begins with Manuel V. Ordonez) (Reference No. 32)

**In the Air Force there are 1,679 appointments to a grade no higher than captain (list begins with Steven L. Abernathy) (Reference No. 34)

**In the Army Reserve there are 57 promotions to the grade of colonel and below (list begins with James F. Butler, Jr.) (Reference No. 35)

**In the Army Reserve there are 69 promotions to the grade of colonel and below (list begins with Michael J. Bayer) (Reference No. 36)

**In the Army there are 1,146 promotions and appointments to the grade of lieutenant colonel (list begins with Jose C. Abiles) (Reference No. 37)

**In the Navy there are 154 appointments to the grade of ensign (list begins with Lynn E. Acheson) (Reference No. 43)

**In the Air Force Reserve there is 1 appointment to the grade of lieutenant colonel (Fortunato T. Elizaga) (Reference No. 49)

**In the Air Force Reserve there are 13 appointments to the grade of colonel and below (list begins with Donald E. Bayles) (Reference No. 50)

**In the Army there are 12 promotions and appointments to the grade of colonel and below (list begins with Joseph S. Hunter) (Reference No. 52)

**In the Army Reserve there are 17 appointments to the grade of colonel and below (list begins with Ray D. Berringer) (Reference No. 53)

**In the Army Reserve there are 18 promotions to the grade of colonel (list begins with Craig B. Anderson) (Reference No. 54)

**In the Army Reserve there are 37 promotions to the grade of lieutenant colonel (list begins with Thomas E. Batsky) (Reference No. 55)

**In the Army there are 186 appointments to the grade of colonel and below (list begins with Mary P. Celio) (Reference No. 56)

**In the Army Reserve there are 68 promotions to the grade of colonel and below (list begins with Alexander H. Burgin) (Reference No. 57)

**In the Navy there are 242 appointments to the grade of captain and below (list begins with Walter M. Elliott) (Reference No. 58)

*Colonel John J. Cuddy, USA, to be brigadier general (Reference No. 67)

**In the Navy there are 1,837 appointments to the grade of ensign (list begins with Kenneth S. Acfalle) (Reference No. 68)

**In the Army Reserve there are 758 promotions to the grade of colonel (list begins with Robert T. Adams) (Reference No. 69)

**In the Air Force there are 24 appointments to the grade of second lieutenant (list begins with Neil T. Allen) (Reference No. 82)

**In the Navy and Naval Reserve there are 23 appointments to the grade of commander and below (list begins with Michael W. Abraham) (Reference No. 83)

*In the Navy and Naval Reserve there are 46 appointments to the grade of commander and below (list begins with Enrique N. Panlilio) (Reference No. 84)

*Lieutenant General Jimmie V. Adams, USAF, to be general (Reference No. 90)

*Major General William G. Pagonis, USA, to be lieutenant general (Reference No. 91)

Total 6,542.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. METZENBAUM (for himself, Mr. LIEBERMAN, and Mr. COHEN):

S. 340. A bill to amend the Internal Revenue Code of 1986 to impose a tax on the excess profits of large oil companies, and for other purposes; to the Committee on Finance.

By Mr. JOHNSTON (for himself and Mr. WALLOP):

S. 341. A bill to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON (for himself, Mr. WALLOP, Mr. FORD, Mr. DOMENICI, Mr. BINGAMAN, and Mr. CRAIG):

S. 343. A bill to provide for continued United States leadership in high-performance computing; to the Committee on Energy and Natural Resources.

By Mr. ROTH:

S. 344. A bill to establish the Northern Yukon-Arctic International Wildlife Refuge; to the Committee on Environment and Public Works.

By Mr. PELL (for himself and Mr. CHAFEE):

S. 345. A bill to amend the Small Business Act to provide disaster loan eligibility to small business concerns located in States in which one-third or more of the depository institutions have been simultaneously closed for a period of at least 5 days; to the Committee on Small Business.

By Mr. HEINZ (for himself, Mr. BENTSEN, Mr. RIEGLE, Mr. GARN, Mr. HELMS, Mr. KERRY, Mr. HATCH, Mr. D'AMATO, Ms. MIKULSKI, Mr. THURMOND, Mr. LOTT, and Mr. SHELBY):

S. 346. A bill to strengthen the Foreign Agents Registration Act of 1938; to the Committee on Foreign Relations.

By Mr. RIEGLE (for himself, Mr. GARN, Mr. DIXON, Mr. HEINZ, Mr. SARBANES, Mr. D'AMATO, Mr. DODD, and Mr. SASSER):

S. 347. A bill to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes.

By Mr. RIEGLE (for himself, Mr. GARN, and Mr. DIXON):

S. 348. A bill to extend the expiration date of the Defense Production Act of 1950 to March 18, 1991; considered and passed.

By Mr. BUMPERS (for himself, Mr. PRYOR, Mr. KASTEN, Mr. EXON, Mr. DOLE, Mr. KOHL, Mr. HATCH, Mr. HARKIN, Mr. COCHRAN, Mr. REID, Mr. LOTT, Mr. HEFLIN, Mr. HELMS, Mr. BOREN, Mr. WALLOP, Mr. DECONCINI, Mr. GRAMM, Mr. SHELBY, Mr. BURNS, Mr. BRYAN, Mr. MCCAIN, Mr. DIXON, Mr. BOND, Mr. BREAUX, Mr. CRAIG, and Mr. KERREY):

S. 349. A bill to amend the Fair Labor Standards Act of 1938 to clarify the application of such Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KOHL (for himself and Mr. GRASSLEY):

S. 350. A bill to amend the Federal Deposit Insurance Act to include foreign deposits and non-deposit liabilities in the assessment base; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. METZENBAUM (for himself, Mr. D'AMATO, Mr. KENNEDY, Mr. LUGAR, Mr. ADAMS, Mr. COATS, Mr. SHELBY, Mr. BURDICK, Mr. HATFIELD, Mr. ROCKEFELLER, Mr. INOUYE, and Mr. AKAKA):

S. 351. A bill to provide participants in private pension plans which were terminated before September 1, 1974, the nonforfeitable pension benefits which were lost by reason of the termination, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GLENN (for himself, Mr. INOUYE, and Mr. ADAMS):

S. 352. A bill to protect the rights of persons to due process of law and equal protection of the laws in guardianship proceedings; to the Committee on the Judiciary.

By Mr. JEFFORDS (for himself, Mr. METZENBAUM, Mr. REID, Mr. LIEBERMAN, Mr. D'AMATO, Mr. LEVIN, Mr. MOYNIHAN, Mr. GORE, and Mr. CHAFEE):

S. 353. A bill to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KASTEN:

S. 354. A bill to amend the Internal Revenue Code of 1986 to permit mortgage revenue bond financing of mortgages for veterans of Operation Desert Shield; to the Committee on Finance.

S. 355. A bill to amend the Internal Revenue Code of 1986 to permit mortgage revenue bond financing of mortgages for veterans of Operation Desert Shield; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. SIMPSON, Mr. LEAHY, Mr. HATCH, Mr. GRASSLEY, Mr. BOND, Mr. COCHRAN, Mr. DECONCINI, and Mr. HEFLIN):

S. 356. A bill to assure fairness in the allocation and award of antitrust damages; to the Committee on the Judiciary.

By Mr. REID (for himself and Mr. BRYAN):

S. 357. A bill to convey fee title to Pershing County Water Conservation District, certain Federal lands known as the Battle Mountain Community Pastures, in recognition that the land was initially acquired by the District and subsequently transferred to the United States for the Humbolt River Project; to the Committee on Energy and Natural Resources.

By Mr. INOUYE:

S. 358. A bill to establish a temporary program under which perental diacetylmorphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BOREN (for himself, Mr. DANFORTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. PRYOR, Mr. GRASSLEY, Mr. SANFORD, Mr. KERRY, Mr. LIEBERMAN, and Mr. COCHRAN):

S. 359. A bill to amend the Internal Revenue Code of 1986 to provide that charitable

contributions of appreciated property will not be treated as an item of tax preference; to the Committee on Finance.

By Mr. ROTH:

S.J. Res. 60. Joint resolution proposing an amendment to the Constitution of the United States relative to campaign expenditures; to the Committee on the Judiciary.

By Mr. FORD:

S.J. Res. 61. Joint resolution to designate June 1, 1992, as "Kentucky Bicentennial Day"; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. ADAMS, Mr. BOND, Mr. BRADLEY, Mr. BURDICK, Mr. COCHRAN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DURENBERGER, Mr. GARN, Mr. GRASSLEY, Mr. HEFLIN, Mr. HOLLINGS, Mr. JEFFORDS, Mr. LEVIN, Mrs. KASSEBAUM, Mr. KASTEN, Mr. LAUTENBERG, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PELL, Mr. PRYOR, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SPECTER, Mr. SYMMS, Mr. THURMOND, AND MR. JOHNSTON):

S.J. Res. 62. Joint resolution to designate the month of March, 1991 and the month of March, 1992 as "Women's History Month"; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself, Mr. KASTEN, Mr. SIMON, Mr. SARBANES, Mr. PRESSLER, Mr. CRANSTON, Mr. D'AMATO, Mr. KERRY, Mr. BRADLEY, Mr. PACKWOOD, Mr. WALLOP, Mr. SASSER, Mr. MACK, Mr. BIDEN, Mr. GRASSLEY, Mr. DASCHLE, Mr. DIXON, Mr. LEVIN, Mr. DODD, Mr. ADAMS, Mr. MITCHELL, Mr. BURDICK, Mr. MOYNIHAN, Mr. GORTON, Mr. SPECTER, Mr. CHAFEE, Mr. ROTH, Mr. GORE, Mr. LEAHY, Mr. BOREN, Mr. DECONCINI, Mr. NUNN, Mr. AKAKA, Mr. GLENN, Mr. INOUYE, Mr. GRAHAM, Mr. FOWLER, Mr. LAUTENBERG, Mr. METZENBAUM, Mr. PELL, Mr. COCHRAN, Mr. MCCAIN, Mr. HELMS, Mr. GARN, Mr. HATCH, Mr. HEINZ, Mr. WARNER, Mr. DURENBERGER, Mr. GRAMM, Mr. CRAIG, Mr. LUGAR, AND Mr. SYMMS):

S.J. Res. 63. Joint resolution to designate June 14, 1991 as "Baltic Freedom Day"; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself, Mr. ADAMS, Mr. BENTSEN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRAHAM, Mr. HATCH, Mr. HATFIELD, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. PELL, Mr. REID, Mr. SANFORD, Mr. SARBANES, Mr. SHELBY, Mr. WARNER, Mr. WELLSTONE, AND MR. SPECTER):

S.J. Res. 64. Joint resolution to authorize the President to proclaim the last Friday of April as "National Arbor Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD from the Committee on Appropriations:

S. Res. 34. Original resolution authorizing expenditures by the Committee on Appropriations; to the Committee on Rules and Administration.

By Mr. FORD from the Committee on Rules and Administration:

S. Res. 35. Original resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library; placed on the calendar.

By Mr. LEAHY from the Committee on Agriculture Nutrition, and Forestry:

S. Res. 36. Original resolution authorizing expenditures by the Committee on Agriculture, Nutrition, and Forestry; to the Committee on Rules and Administration.

By Mr. FORD from the Committee on Rules and Administration:

S. Res. 37. Original resolution authorizing expenditures by the Committee on Rules and Administration; to the Committee on Rules and Administration.

By Mr. KENNEDY from the Committee on Labor and Human Resources:

S. Res. 38. Original resolution authorizing expenditures by the Committee on Labor and Human Resources; to the Committee on Rules and Administration.

By Mr. GLENN from the Committee on Governmental Affairs:

S. Res. 39. Original resolution authorizing expenditures by the Committee on Governmental Affairs; to the Committee on Rules and Administration.

S. Res. 40. Resolution to express the sense of the Senate of the United States that source reduction in packaging is favorable to the environment and should be promoted; to the Committee on Environment and Public Works.

By Mr. LIEBERMAN (for himself, Mr. CHAFEE, Mr. MITCHELL, Mr. BURDICK, Mr. PELL, Mr. WARNER, Mr. INOUYE, Mr. DOMENICI, Mr. JEFFORDS, Mr. DURENBERGER, Mr. LAUTENBERG, Mr. CONRAD, Mr. MURKOWSKI, Mr. FORD, Mr. HOLLINGS, Mr. LEVIN, Mr. ADAMS, Mr. NUNN, Mr. KERRY, Ms. MIKULSKI, Mr. CRANSTON, Mr. PRYOR, Mr. GORE, Mr. SASSER, Mr. AKAKA, Mr. SANFORD, Mr. BUMPERS, Mr. MOYNIHAN, Mr. DIXON, Mr. GORTON, Mr. WELLSTONE, Mr. DODD, Mr. GRAHAM, Mr. FOWLER, Mr. SARBANES, Mr. SYMMS, Mr. DASCHLE, Mr. DECONCINI, Mr. D'AMATO, Mr. REID, Mr. THURMOND, Mr. LUGAR, Mrs. KASSEBAUM, Mr. KASTEN, Mr. HATCH, Mr. COHEN, Mr. PACKWOOD, Mr. BRYAN, Mr. KENNEDY, Mr. BIDEN, Mr. SIMPSON, Mr. BREAUX, Mr. SIMON, Mr. BOREN, Mr. METZENBAUM, Mr. ROTH, Mr. HEINZ, Mr. BROWN, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HELMS, Mr. BOND, Mr. EXON, Mr. CRAIG, Mr. COCHRAN, and Mr. KERREY):

S. Res. 41. Resolution to establish April 15, 1991, as "National Recycling Day"; to the Committee on the Judiciary.

By Mr. NUNN from the Committee on Armed Services:

S. Res. 42. Original resolution authorizing expenditures by the Committee on Armed Services; to the Committee on Rules and Administration.

By Mr. MITCHELL:

S. Res. 43. Resolution to amend paragraph 2 of Rule XXV; considered and agreed to.

S. Res. 44. Resolution to amend paragraph 3(c) of Rule XXV; considered and agreed to.

S. Res. 45. Resolution to amend paragraph 4 of Rule XXV of the Standing Rules of the Senate; considered and agreed to.

S. Res. 46. Resolution to make majority party appointments to Senate Committees under paragraph 2 of Rule XXV for the One Hundred and Second Congress; considered and agreed to.

By Mr. DOLE:

S. Res. 47. Resolution to amend paragraph 4 of Rule XXV of the Standing Rules of the Senate; considered and agreed to.

S. Res. 48. Resolution making minority party appointments to Senate Committees for the 102nd Congress; considered and agreed to.

By Mr. FORD from the Committee on Rules and Administration:

S. Con. Res. 10. Original concurrent resolution to allow another member of the Committee on Rules and Administration of the Senate to serve on the Joint Committee of Congress on the Library in place of the Chairman of the Committee; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM (for himself, Mr. LIEBERMAN, and Mr. COHEN):

S. 340. A bill to amend the Internal Revenue Code of 1986 to impose a tax on the excess profits of large oil companies, and for other purposes; to the Committee on Finance.

EXCESS OIL PROFITS TAX ACT

Mr. METZENBAUM. Mr. President, I am today introducing legislation on behalf of myself Senators LIEBERMAN and COHEN to impose an excess profits surtax on foreign and domestic oil companies doing business in the United States.

The gouging of American consumers carried out by the oil industry following the August 2, 1990, Iraqi invasion of Kuwait was one of the most shameful episodes in the entire history of the industry.

There was no significant interruption of Middle East oil supplies. Granted, the price of crude oil went up from the pre-invasion price of approximately $20 per barrel to $39 per barrel. But, gasoline prices shot up even faster.

The price of gasoline at the pump went up immediately on August 2, despite the fact that that gasoline had already been refined from pre-invasion oil.

As quick as Saddam raised his sword, the oil companies raised their prices. What was the excuse? According to the industry, gas had to be priced at its replacement cost.

Compare that to what the industry said last spring when the price of crude oil was falling. At that time, the industry said cheaper prices at the wellhead take 1 to 3 months to be reflected at the pump—time presumably needed for transportation, refining, and delivery.

Give the oil industry a dilemma, and they will invent a rationale.

Today, the price of crude is back to the pre-invasion price range of $20–$21

where it has hovered since mid-January.

The price of gasoline is only now beginning to come down. Until last week it was still 20 to 25 percent higher than it was in August. It is still 10 percent or more higher than pre-invasion.

And as a result, the energy companies enjoyed a banner year. They racked up huge profits in the last quarter of 1990.

Look at the facts:

Mobil's profits are up 46 percent—from $447 million to $651 million. Maybe it will be a little less this quarter because of all the ads they are taking, trying to prove that their profits are not excessive. But all those ads are not going to change the facts.

Texaco's profits are up 35 percent—from $287 million to $388 million.

Chevron's profits are up 250 percent—from a loss of $833 million to a gain of $633 million.

Shell's profits are up 69 percent—from $264 million to $446 million.

Arco's profits are up 38 percent—from $403 million to $566 million.

Phillips' profits are up from a loss of $255 million to a gain of $237 million. For the year, profits are up 300 percent from $219 million to $779 million.

Unocal's profits are up from a loss of $26 million to a gain of $38 million. For the year, profits are up 54 percent from $260 million to $401 million.

Amerada Hess' profits are up over 300 percent from $70.8 million to $235.2 million.

The refrain is the same. It goes on and on and on. The oil companies have been taking advantage of the situation and taking advantage of the American consumer.

Amoco's profits are up 69 percent from $319 million to $538 million. Its profit from the sale of crude oil soared up more than nine times over last year, up from $50 million to $474 million.

Pennzoil's profits are up from a loss of $102.5 million to $29.9 million.

Exxon's profits are up 300 percent from $485 million to $1.56 billion. For the year, profits are up 43 percent from $3.51 billion to $5.01 billion.

I have recited all of these facts concerning the oil companies and their specific profits because I had some concern that somebody might think we were picking out just a few selected ones. You can go across the board in the oil industry and you see that they have profited at the cost of the American consumer.

I was a businessman before I came to the Senate. I have nothing against a company making a profit. But this is different. These companies have gained a windfall as a result of Iraq moving into Kuwait, and now they are making a killing while our troops are over there in the Middle East fighting a war, in part, to protect the world's oil supply.

Some of my colleagues have said that the energy industry is only just now recovering from a long slide—that additional profits are needed to pay for domestic drilling for new oil supplies. They say our energy security depends on the discovery of new domestic sources of supply.

Let us take a look at how the industry is performing in this area. The last 2 years have been good for the industry. Net industry income nearly doubled to over $18 billion in 1988, and totaled $15 billion in 1989, the best years since 1983.

What did they do with the profits?

Each year, the Department of Energy issues a report on the energy industry entitled "Performance Profiles of Major Energy Producers." According to the 1988 report, industry capital expenditures were up 43 percent from the previous year.

Did they spend the money on exploration and drilling?

No. They spent it gobbling each other up; 33 percent of the increase—$16 billion—was spent on mergers and acquisitions. Tenneco sold its petroleum assets to Chevron, Amoco, and others, Amoco purchased Dome Petroleum. And Occidential acquired Cain Chemical.

Growth in so-called development and exploration expenditures was used to buy proved acreage, most of which came from these mergers and acquisitions. Again, according to the report, oil and gas reserve additions were essentially unchanged from 1987.

Excluding mergers and acquisitions, capital expenditures were up only 17 percent, and that was the best showing since 1985.

The figures for 1989 were even worse. U.S. exploration and development expenditures declined by $6 billion.

What else did the oil industries do with its profits?

In 1988, they spent nearly $3 billion—a 30-percent increase over 1987—acquiring retail gasoline stations—a business strategy designed in large part to solidify big oil's control over retail gasoline prices.

They increased their dividend payments to stockholders. Amoco, Exxon, Mobil, Chevron, and Texaco, among others increased their stock dividends in 1990. So much for retained earnings and capital investment.

So the facts speak for themselves. The allegation that the major energy companies play a significant role in drilling for new oil is one of the oldest canards in the industry.

Some of my colleagues have said that this bill will hurt the independent drillers. I say to them, "It will not affect them." Just read the bill. This bill applies only to the major energy companies, not the entrepreneurs who do the real work of finding new oil.

Mr. President, this bill is elegant in its simplicity. The surtax would be imposed on the after-tax corporate profits of large energy companies only. The surtax is calculated by taking 40 percent of the amount exceeding the average net corporate profit for the 5 years preceding the current tax year. As a result, the bill ensures that a full 60 percent of the excess profit remains with the corporation.

Specifically, the tax would apply to corporations which control 1 percent or more of either the production or the reserves of oil or refining capacity or petroleum products sales. This is a standard definition used in Department of Energy reporting requirements to define the industry leaders.

Again, the definition does not include the independent drillers.

The tax would be permanent beginning with the 1990 tax year. The revenue would revert to the Treasury for the purpose of deficit reduction.

Mr. President, the revenue estimate for this bill is difficult to determine at this time because many of the energy companies have not reported 1990 full-year earnings. However, I can give an estimate of how the bill would apply to a few companies, and the amount the surtax would recover.

Exxon's 5-year average—1985-89—annual profit equaled $4.7 billion. The 1990 profit estimate equals $5.1 billion. Accordingly, the excess profit equals $400 million, and the surtax would be $160 million.

Mobil's 5-year average annual profit equaled $1 billion. The 1990 profit estimate equals $1.9 billion. Accordingly, the excess profit equals $900 million, and the surtax would be $360 million.

Chevron's 5-year average annual profit equaled $681 million. The 1990 profit estimate equals $2.16 billion. Accordingly, the excess profit equals $1.479 billion, and the surtax would be $591 million.

Again, this bill is very simple. It is completely different from the old windfall profit tax enacted in 1980, which was a tax on oil, and set up categories of new oil, and old oil, and necessitated an entire bureaucracy to administer.

At this point, I believe it is fair to point out that American oil companies have substantial assets at risk in the Middle East today. I do not believe it is unfair to ask them to pay their fair share of the cost of securing these assets.

For example, Mobile has a huge financial stake in Saudi Arabia. According to a New York Times report, Mobil has over $2 billion invested in a refinery and a petrochemical plant in the kingdom—an investment protected by U.S. troops.

Chevron, Exxon, Mobil, and Texaco all are parties to service and personnel contracts with the Saudi Government worth millions of dollars.

It is only fair that they should help pay to protect their own assets.

There is another aspect of this issue to which I would like to address myself. And that is, the oil industry never misses a chance to appear before Congress with a request for a tax break, or some other incentive, to help it do its job of finding more oil.

Again, just last year, as part of the deficit reduction bill, there was a so-called incentives program costing the taxpayers over a half a billion dollars.

Tax credits for oil recovery, tight sands exploration, you name it, if big oil says they need it for exploration, they get it.

Mr. President, during World War II and again during the Korean war, this Nation enacted an excess profits tax. Now we are at war again, and I believe the enactment of this surtax is an appropriate course of action.

Finally, I want to repeat that it is extremely troubling and offensive that our oil companies should profit so greatly from a war in which our troops are being asked to fight and die—a war which is being fought, in part, to protect the world's oil supply.

It is not right. It is not fair. And it should stop now.

I ask unanimous consent that the bill be printed in the RECORD, and urge the support of my colleagues in enacting this measure.

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

S. 340

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 "Excess Oil Profits Tax Act of 1991".

SEC. 2. IMPOSITION OF EXCESS OIL PROFITS TAX.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—TAX ON EXCESS OIL PROFITS

"Sec. 59B. Tax on excess oil profits.

"SEC. 59B. TAX ON EXCESS OIL PROFITS.

"(a) IMPOSITION OF TAX.—In the case of a large oil company, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 40 percent of the excess net profits of such corporation for the taxable year.

"(b) EXCESS NET PROFITS.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess net profits' means the excess (if any) of—

"(A) the net income of the taxpayer for the taxable year, over

"(B) the average annual net income of the taxpayer for the base period.

"(2) NET INCOME.—

"(A) IN GENERAL.—The net income for any taxable year shall be the net income or loss of the taxpayer for such taxable year which is shown on the applicable financial statement of the taxpayer.

"(B) STATEMENTS COVERING DIFFERENT PERIODS.—Appropriate adjustments shall be made in net income or loss in any case in which the applicable financial statement covers a period other than the taxable year.

"(3) BASE PERIOD.—

"(A) IN GENERAL.—The term 'base period' means the 5-taxable year period immediately preceding the taxable year (or, if shorter, the period of existence of the taxpayer preceding such taxable year).

"(B) PREDECESSOR CORPORATION.—For purposes of subparagraph (A), the taxable years of any predecessor corporation shall be taken into account in computing the base period.

"(4) SAME STATEMENTS.—In computing net income or loss for the taxable year and taxable years in the base period, the same type of applicable financial statements must be used for all such taxable years unless the Secretary provides otherwise.

"(c) OTHER DEFINITIONS.—For purposes of this section—

"(1) LARGE OIL COMPANY.—The term 'large oil company' means any person—

"(A) which is identified as a major energy-producing company under section 205(h) of the Department of Energy Organization Act (42 U.S.C. 7135(h)), and

"(B) with respect to which for the calendar year in which the taxable year begins such person's total for any of the following was at least 1 percent of total for the United States:

"(i) Production of oil or gas.

"(ii) Reserves of oil or gas.

"(iii) Oil refining capacity.

"(iv) Sales of petroleum products.

"(2) APPLICABLE FINANCIAL STATEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable financial statement' means, with respect to any taxable year, any statement covering such taxable year—

"(i) which is required to be filed with the Securities and Exchange Commission,

"(ii) which is a certified audited income statement to be used for the purposes of a statement or report—

"(I) for credit purposes,

"(II) to shareholders, or

"(III) for any other substantial nontax purpose,

"(iii) which is an income statement for a substantial nontax purpose required to be provided to—

"(I) the Federal Government or any agency thereof,

"(II) a State government or any agency thereof, or

"(III) a political subdivision of a State or any agency thereof, or

"(iv) which is an income statement to be used for the purposes of a statement or report—

"(I) for credit purposes,

"(II) to shareholders, or

"(III) for any other substantial nontax purpose.

"(B) EARNINGS AND PROFITS USED IN CERTAIN CASES.—If—

"(i) a taxpayer has no applicable financial statement, or

"(ii) a taxpayer has only a statement described in subparagraph (A)(iv) and the taxpayer elects the application of this subparagraph,

the net income or loss set forth on the taxpayer's applicable financial statement shall, for purposes of this subsection, be treated as being equal to the taxpayer's earnings and profits for the taxable year (without diminution by reason of distributions during the tax year). Such election, once made, shall remain in effect for any taxable year for which the taxpayer is described in this subparagraph unless revoked with the consent of the Secretary.

"(C) SPECIAL RULE WHERE MORE THAN 1 STATEMENT.—For purposes of subparagraph (A), if a taxpayer has a statement described in more than 1 clause or subclause, the applicable financial statement shall be the statement described in the clause or subclause with the lowest number designation. If the taxpayer has 2 or more statements described in the clause (or subclause) with the lowest number designation, the applicable financial statement shall be the one of such statements specified in regulations.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section and section 899, including regulations to prevent the avoidance of such sections through related parties and controlled groups of corporations."

(b) APPLICATION TO FOREIGN PERSONS.—Subpart D of part II of subchapter N of chapter 1 of such Code is amended by adding at the end thereof the following new section:

"SEC. 899. EXCESS OIL PROFITS TAX.

"(a) IMPOSITION OF TAX.—In the case of a taxable foreign person, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 40 percent of the excess net profits of such foreign person for the taxable year.

"(b) TAXABLE FOREIGN PERSON.—For purposes of this section, the term 'taxable foreign person' means any foreign person with respect to which for the calendar year in which the taxable year begins such person's total within the United States for any of the following was at least 1 percent of the total for the United States:

"(1) Production of oil or gas.

"(2) Reserves of oil or gas.

"(3) Oil refining capacity.

"(4) Sales of petroleum products.

"(c) EXCESS NET PROFITS.—For purposes of this section, excess net profits shall be determined in the same manner as under section 59B(b), except that there shall only be taken into account net income and losses from sources within the United States or from the conduct of a trade or business within the United States."

(c) CONFORMING AMENDMENTS.—

(1) The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"PART VIII—TAX ON EXCESS OIL PROFITS".

(2) The table of sections for subpart D of part II of subchapter N of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 899. Excess oil profits tax."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

Mr. LIEBERMAN. Mr. President, I am pleased to join my colleague from Ohio, Senator METZENBAUM, in sponsoring this bill to enact an excess profits tax on large oil companies.

As the Nation's attention and prayers have been focused on the Persian Gulf, we nonetheless cannot help but notice that oil companies are swimming in profits as a result of the gulf crisis. The oil companies recently announced their fourth-quarter profits—and they are simply astounding. Together, the six largest oil companies in the United States—Amoco, Chevron, Exxon, Mobil, Shell, and Texaco—

earned close to $4 billion in the last 3 months of 1990 alone. And this $4 billion total does not even take out the one-time charges and other accounting tricks used to make profit levels seem lower than they really are. Mobil and Amoco reported fourth-quarter earnings that are, respectively, 46 percent and 69 percent higher than last year. Texaco's fourth-quarter earnings were up $100 million—a 35-percent increase over 1989. Fourth-quarter profits at Exxon were up 300 percent, and Chevron posted an incredible 860-percent increase in earnings in 1990.

The oil companies have gained a tremendous windfall as a result of Iraq's aggression. Kuwait's loss was Big Oil's gain. Amoco, for example, has seen its quarterly earnings in domestic crude oil exploration and production rise from $34 million in the fourth quarter of 1989 to $281 million in the fourth quarter of 1990—an increase of over 830 percent. Mobil saw its profits from domestic exploration and production rise fivefold, to $68 million, while its profits from crude production overseas reaped $505 million in profits in the fourth quarter of 1990—up 72 percent. Other crude oil producers have seen similar windfalls.

I am not against profit—profit is the fuel that drives our free enterprise system. But these profits have resulted in large part because we have sent troops to the Persian Gulf to stop Saddam Hussein and to protect international order. In a time when we are asking the men and women of our Armed Forces to put their lives in harm's way to deter Saddam Hussein's aggression, should not the oil companies be asked to ease the burden we all must bear by either charging us less and limiting their profits to a fair and reasonable level or by sharing the wealth to help bear the burden of supporting our troops in the gulf and cushioning the impact of high oil prices at home?

The rapid decline in crude oil prices since the beginning of Operation Desert Storm was the result of several factors, not least of which was the President's decision to tap the strategic petroleum reserve, a decision I and others had been recommending for months. But the fall of oil prices also exposed the fraud behind their rise over the past 5 months. There has been no supply-and-demand reason for the high price of oil and gasoline over the past 5 months. World markets are awash in oil. They merely injected a dose of reality into the artificial world of oil prices.

I wish that the oil companies would, on their own, contribute their windfall profits to Operation Desert Storm and to energy assistance programs. But wishes won't make it happen. Last December, the National Community Action Foundation and other public citizen groups called on the oil companies voluntarily to contribute to energy assistance programs. With the exception of Texaco, which is still talking with these groups, the response from Big Oil was either a chilly silence or—in the case of Exxon and Mobil—a flat-out "No." That is why we are going forward with our windfall profits tax bill. It will allow the oil companies to make a fair profit, but require them to share their unearned bounty.

This bill will place a 40-percent surtax on the net income of major oil companies that exceeds the average profit earned during the preceding 5 years. The bill will not cover small independents. It also covers net income from all oil-related sources, so that an oil company that makes huge gains in crude oil production but sustains huge offsetting losses in refining or other downstream businesses would not pay an additional tax so long as its overall profits did not exceed the base period level. This formulation rewards the oil company that shows restraint while penalizing the unabashed price gouger.

When we first introduced a profits tax proposal last year as an amendment to the budget agreement, though we had little time to lobby for its passage, we were able to accumulate 33 votes on the Senate floor. That was a decent start, and we are confident that news of massive oil company profits can only help to strengthen our case for this legislation. As designed, our bill would take the windfall profits and use them to reduce the deficit. However, I would add that I am open to other possible uses of windfall profits tax funds, as this legislation goes through the process. We might, for example, choose to use windfall profits to defray part of the cost of Operation Desert Storm, as well as for energy assistance programs. Big Oil must be required to share the fruits they have received as a result of all of our efforts to stop Saddam Hussein.

I look forward to working with my colleague, Senator METZENBAUM, to enact this important legislative initiative. The odds may be long, but I believe we are right and, more important, I believe the American people are behind this.

By Mr. JOHNSTON (for himself and Mr. WALLOP):

S. 341. A bill to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL ENERGY SECURITY ACT

Mr. JOHNSTON. Mr. President, today I am introducing, along with Senator WALLOP, the National Energy Security Act of 1991. This is a comprehensive, balanced bill that we believe can serve as the foundation of a bipartisan national energy policy for the 1990's. We need a national energy policy that integrates the tradeoffs of energy, the economy and the environment. We do not have such a policy now.

I ask unanimous consent that a summary of the bill and its full text be printed in the RECORD at the conclusion of my remarks.

There are 15 titles in this bill. The bill includes all the necessary elements of a national energy policy; energy efficiency and energy production; conventional energy and alternative energy; and renewable energy and nuclear energy.

We have tried to include as many reasonable energy initiatives as possible. We do not want to overlook any energy policy proposals that can be effective in reducing our dependence on imported oil.

REDUCING DEPENDENCE ON IMPORTED OIL

That is the purpose of the bill: reducing our dependence on imported oil. The world is now at war in large part because much of the world economy, especially including our own, relies on the Persian Gulf for supplies of oil. We are asking young men and women to risk injury and death in the Persian Gulf to prevent energy blackmail. We have no right to ask that kind of sacrifice without doing the absolute best we can to put our domestic energy policy in order.

Contrary to what you might hear, the United States does have an energy policy. It can be described in two words: Import Oil. We want to change that policy to one that uses three words: "Made in America."

The debate on this legislation will develop a new "Made-in-America" national energy policy. Enactment of this legislation will put a "Made-in-America" policy in place. Only then can we begin to reduce the need to go to war in order to ensure energy supplies.

HEARINGS

Later this week the Committee on Energy and Natural Resources will announce an extensive series of hearings on this bill. We will hear testimony on the bill in February and March. We are aiming to mark the bill up and report it to the Senate floor in April.

A BALANCED BILL

We will need the participation of Senators, Republican and Democrat, whether on the Committee on Energy and Natural Resources or not. We will need the participation of the Members of the House of Representatives and the administration. We will need the participation of the public.

The legislation we pass must cover the spectrum of energy concerns. We need to include, not exclude. No one energy initiative is capable of freeing us from dependence on imported oil. We need a package of initiatives that reflects the diversity of our energy interests. We are seeking a balanced package. Undoubtedly, we will have votes on how to reach that balance. We ask that Members participate in those

votes, but also that they support the package, even though their enthusiasm for individual elements of it may vary. We need to work together.

We are greatly indebted to Secretary of Energy Jim Watkins for the 18 months of effort that has gone into the national energy strategy. The technical help we requested from the Department is clarifying the scope, cost, and impact of various energy options has been invaluable. The Department would not have this capability without the discipline imposed by the NES process.

We expect the administration to submit its NES later this month. No doubt there will be ideas in the NES that we can incorporate into our Made-In-America bill.

CRITICAL HURDLES

A balanced energy policy must contain many components. Key among these is energy efficiency. A sound renewables component is also essential. We have strong provisions in the bill in these areas. We have a consensus on the inclusion of these provisions in the bill. I am hopeful that we can reach a consensus to make them stronger as we move through the process.

As I see it, there are at least five critical hurdles that will be more controversial and that we must clear in committee and on the floor in order to establish a strong, balanced and effective energy policy.

ANWR

Title IX of the National Energy Security Act of 1991 contains provisions concerning oil and gas leasing in the Arctic National Wildlife Refuge in Alaska [ANWR]. Pursuant to these provisions, the Secretary of the Interior would be authorized and directed to undertake a competitive oil and gas leasing program on the 1.5 million-acre coastal plain of ANWR. This area is the most highly prospective onshore oil and gas area remaining in the United States. It is located only 65 miles to the east of the Prudhoe Bay oil fields which currently account for almost 25 percent of total U.S. domestic oil production.

The potential of this area is indeed significant. The mean estimate of oil thought to be recoverable from the coastal plain of ANWR is 3.57 billion barrels. Only two other oil fields ever discovered in the United States, Prudhoe Bay, and east Texas, have contained more recoverable oil. Without question, this strip of land, 100 miles long and 30 miles wide, represents the best chance we have to increase our domestic oil reserves.

I am aware that there is considerable opposition on the part of some to opening the coastal plain of ANWR to oil and gas leasing. I can appreciate and respect many of the arguments which have been advanced in opposition to developing this area. During the past several years, the committee has conducted numerous hearings and markups on this proposal. We have given careful consideration to, and have tried to address as many legitimate concerns as possible in an effort to ensure that the coastal plain is developed in an environmentally sound manner. We have tried to strike a balance between our need for additional oil reserves and the significant fish, wildlife, subsistence and other values present on the Costal Plain.

The specific provisions of title IX of the National Energy Security Act are very similar to those reported favorably from the Energy and Natural Resources Committee last Congress in S. 684. The only significant difference between the bill reported from the committee in March 1989 and the one we are introducing today concerns the use of oil and gas revenues to be derived from leasing in ANWR. The measure reported from the Committee last Congress would have distributed the Federal share—50 percent of the total revenues—among the Land and Water Conservation Fund, wetlands protection and enhancement projects, energy conservation programs, and the Federal Treasury. This year's version earmarks the entire Federal share of ANWR revenues for energy related programs and projects designed to enhance the Nation's energy security and reduce reliance on imported oil.

The specific programs and projects to be funded will be identified and selected by the Secretary of Energy utilizing the guidelines and criteria provided in the legislation. This list of high priority projects and programs is then to be transmitted to the Congress. Unless the list is subsequently modified by law, the Secretary of the Treasury is directed to make funds directly available to the Secretary of Energy to carry out projects identified on the list. Given that this year's ANWR bill is part of a comprehensive national energy package, it seems appropriate that any new Federal revenues generated from leasing in ANWR should be made available for these types of projects.

Mr. President, in the past when we have considered the issue of opening ANWR, many opponents of leasing on the coastal plain have argued that simply looking for and developing new sources of oil are not enough. What is needed, we have been told, is a comprehensive approach which treats increased energy production as but a single component of a broader energy strategy; one that includes conservation and fuel efficiency initiatives, alternative energy programs, and other short and long range solutions. I believe that the National Energy Security Act of 1991 is the broad-based strategy we should enact.

Oil from Prudhoe Bay will soon begin an inevitable and irreversible decline. We simply must find out what lies in geologically similar underground formations in the ANWR right next to Prudhoe Bay. Recent estimates of the Bureau of Land Management of the Department of the Interior have increased the potential for oil recovery from ANWR from 19 percent to 46 percent and the mean resource estimate of ecnomically recoverable oil from 3.23 billion barrels to 3.57 billion barrels. I do not see how we can be willing to send troops to fight in the Persian Gulf, but not be willing to explore the most promising prospect for domestic oil.

On a more practical note, the ANWR provisions supply the major source of revenue in the bill. We are moving in fact, if not in absolute rule, to a pay-as-you-go system of legislating in Congress. The bill provides for direct use of ANWR revenues for: Energy efficiency and energy conservation; initiatives in transportation energy efficiency; renewables—solar, geothermal, biomass, wind and hydro; advanced nuclear technology with passive safety features; and fossil energy—coal, oil and gas.

Without ANWR revenues, the funding of many of these programs will be far more difficult to accomplish.

CAFE

The second hurdle is energy efficiency in the transportation sector. The transportation sector uses 63 percent of the petroleum consumed in the United States. Automobiles and light trucks account for 40 of the 63 percentage points. No program for reducing oil imports can ignore the potential for improving energy efficiency in these vehicles.

On the other hand, improvements in auto and light truck efficiency may come at much greater cost than in the last 15 years. We have doubled new car fuel efficiency since 1975. Much of this was achieved with weight reduction. The next increases in efficiency will be more difficult to achieve.

I do not know precisely what the potential for increase in new car fuel efficiency is. We have drafted our automobile fuel efficiency provision to set up a process to determine this potential. Let me describe more fully what we are doing in the bill, because it could be misinterpreted.

The future corporate average fuel efficiency [CAFE] of an auto manufacturer depends on several characteristics of the fleet of cars sold. The CAFE value depends on what we think will be the mix of cars sold—how many large cars, how many mid-sized cars, and how many small cars. It depends on the safety requirments applied. It depends on the emissions requirements. It depends on what technology we think will be available. It depends on the performance of those cars—speed, power, and load-carrying capacity, for example.

We have written a provision that directs the Secretary of Transportation

to derive the potential for CAFE improvement based on certain assumptions about these characteristics. We don't know for certain that these are the best assumptions, although the assumptions seem to us to be reasonable.

In any event, for purposes of introducing the bill we have to start somewhere. In our hearings, we hope to get agreement, first, on whether we have a reasonably complete list of characteristics for the purposes of predicting the CAFE of new car fleets of the future. Then we want to decide what we want to assume about those characteristics.

Do we assume the same size mix of cars as exists today? If not, how might the mix be expected to change?

What technology do we assume?

What emissions or safety requirements?

What level of performance do we expect from cars in the future?

As the committee addresses these questions, we will be learning how to set a CAFE target, and more importantly, what a responsible target might be. The bill we report may well differ from the one we are introducing, because it will reflect the results of the learning process we have enagaged in through our hearings.

Our bill also includes provisions to encourage use of vehicles powered by means other than petroleum—particularly compressed natural gas and electricity.

A comprehensive national energy policy must address oil use in the transportation sector. Even small improvements in energy efficiency in the transportation sector can have dramatic effects on oil consumption.

The trends in auto efficiency in recent years have been discouraging. The average efficiency of new cars has declined for the last 2 years, and the average efficiency of light trucks has decreased 3 years in a row. The total fleet average—cars and light trucks—has declined for the last 3 years, reflecting the individual declines in both vehicle classes as well as an increase in the market share of light truck.

The debate over CAFE standards often centers on arguments over how much the CAFE standard should be increased, which in turn depends on technical analysis of the "maximum feasible fuel economy" that automakers could reach on average by a given year. Such analysis depends critically on certain assumptions. However, some of the assumptions chosen reflect implicity policy choices that must be brought into the open.

To take an extreme example, one could argue that it is feasible for the auto fleet to achieve more than 50 miles-per-gallon. A fleet made up entirely of Geo Metros, the highest miles-per-gallon car available, would achieve that level of fuel economy. But the size and performance of the fleet would decrease dramatically. Another extreme, if one assumes that: First increased CAFE standards will decrease the weight of cars, second, any weight decrease results in lower safety, and third, lower safety is unacceptable, then no increase in CAFE is feasible. Both of these world views are over simplifications. Clearly, an analysis of the "maximum feasible fuel economy" is a much more complex undertaking.

There are eight key categories of assumptions that underlie any analysis of fuel economy potential. First, what technologies will be used by automakers? Does one assume the use of any technology that is currently commercialized in one or more autos, and can be deployed in all autos within a given number of years? Or does one assume the use of any technology that is capable of being commercialized and deployed in one or more autos within a given number of years. A number of emerging technologies promise significant fuel savings, but there is always uncertainty in forecasting which technologies will emerge successfully from prototype or laboratory testing, and become commercial. Experts can disagree sharply on these forecasts.

Second, how much lead time is given before a standard takes effect? Five years is the approximate minimum lead time for the broad application of a new technology in a line of cars. If automakers have a lead time of 5 years, they are limited to currently commercialized technology. If automakers have a lead time of greater than 5 years, they may have a chance of bringing additional technology from the R&D stage to commercialization. The longer the lead time, the better the chances of improved technology and higher fuel economy.

Third, what level of performance will autos attain—that is, horsepower, acceleration, driving "feel"? Holding all else constant, higher performance means lower fuel economy. In recent years, performance has increased and fuel economy has suffered. Therefore, if one is willing to "turn back the clock" on performance to some degree, one can set a relatively higher fuel economy standard.

Fourth, what will be the mix of autos across different size classes of cars—that is, compact, mid-size, full-size? Holding all else constant, larger cars mean lower fuel economy. In recent years, the size mix has shifted somewhat toward larger cars and fuel economy has suffered. The more one is willing to accept shifts to smaller cars, the higher one can set the fuel economy standard. Interior volume is another relevant measure of car size. It remained fairly steady throughout the 1980's.

Fifth, what emission standards will autos meet? The 1990 Clean Air Act Amendments set new standards for auto emissions. Tier I standards are mandatory. EPA has discretion to impose tier II standards as early as 2003. Tier I standards are a certainty and appear to impose a small penalty on fuel economy. Tier II standards might be imposed, and would probably impose an additional fuel economy penalty.

Sixth, what level of safety will autos meet? Safety is one of the most hotly contested issues in the CAFE debate. Advocates of increased CAFE standards argue that high-miles-per-gallon cars can and do meet Federal safety standards, and that safety is not really an issue. Opponents argue that increased CAFE standards mean smaller, lightweight cars which are inherently less safe than larger, heavier cars. There are elements of truth in both arguments.

All cars, including the smallest, meet current Federal safety standards, and safety will undoubtedly improve with more widespread use of airbags and improved side-crash protection. In addition, some technologies can increase fuel economy without reducing size or weight. Nevertheless, if CAFE standards are sufficiently stringent, they may force such reductions, and this may decrease safety. Size reductions can reduce the crash-absorbing properties of areas under the hood and trunk. Weight reductions can mean that a car will fare worse in a collision with another vehicle or a roadside obstruction. However, to some extent, size and weight reductions tend to improve handling and reduce the likelihood of, and severity of injuries in, collisions involving bicycles and pedestrians.

Seventh, what, if any, losses in employment or financial viability in the auto industry are acceptable? Some would argue that no automobile manufacturer should experience significant loss in employment or financial viability due to increased CAFE standards. Others would argue that forecasts of such losses are highly uncertain and should not affect CAFE policy.

Sufficiently stringent CAFE standards could cause serious disruptions in the auto industry. Some firms would suffer if they could not commercialize new technology quickly enough, or if they could not finance necessary investments in retooling and new plants. Forecasts of such impacts are uncertain, but this does not mean they are improbable.

Finally, what, if any, degree of cost effectiveness regarding fuel savings should be required of increased CAFE standards? Should the added costs of CAFE standards be recovered by the car buyer with some minimum payback period? Should the standards meet a broader, societal cost-benefit test? Or, should CAFE standards demand what is technically feasible, and not apply a cost-effectiveness test?

There are policy choices entwined in all of these assumptions—tough policy choices involving what kind of cars

people are able to purchase, and how to incorporate the potential for technological change into policy design. These choices, in turn, will help determine our dependence on oil for transportation and, ultimately, our dependence on imported oil.

Congress has two broad choices in CAFE policy: it can simply pick a number for the new CAFE standard that sounds tough, or it can undertake the difficult process of evaluating these policy choices and determining the new CAFE standard after an explicit and well-informed debate. The bill is an attempt to opt for the latter route—the importance of the subject matter demands it.

All CAFE options should be on the table—for example, administrative determination versus congressional determination and percentage increases by manufacturer versus miles per gallon increases by manufacturer, to name just two. I look forward to a spirited debate on the entire range of issues.

The bill also introduces some market-oriented reforms in the CAFE Program. Currently, a firm has very little incentive to ever exceed the fuel economy targets—other than a 3-year carry-forward of CAFE credits. The bill would allow an indefinite carry-forward to reward firms that exceed the standard. CAFE credits also would be tradable among firms. This creates another reward for innovation. Both of these market-oriented reforms make CAFE credits similar to allowances under the acid rain title of the Clean Air Act Amendments of 1990. Both reforms allow an overall fuel economy standard to be met while rewarding innovation and reducing the costs of compliance. I recommend, however, that the tradable credit provision be adopted only if all firms are on a level playing field, that is, each firm should have roughly equal difficulty in generating credits and should not be able to use credits saved up under the old system.

A third market-oriented approach in this bill relates to the consequences of failing to meet the CAFE standard. Currently, if a firm fails to meet the target, either by design or by sudden shifts in consumer preferences, it is breaking the law. I do not believe that people should have to break the law to sell a low miles-per-gallon car any more than they should have to break the law to heat their homes to 80 degrees in the winter. However, they should have to pay a price, and that is just the approach taken in this bill.

Under current law, a firm that fails to meet the CAFE standard pays a rather small civil penalty—$5 per tenth of a mile per gallon for every car sold. The bill would impose a fee instead of a civil penalty, but quadruple the amount to $20 per tenth of a mile per gallon and index this to inflation. The result is a strong economic incentive to meet the standard.

Another issue that must be addressed in a meaningful and comprehensive way is the use of alternative fueled vehicles in fleets. While the bill that we are introducing today does not have a comprehensive fleets provision, this is an issue in which I take greater interest and plan to study carefully before the committee considers this legislation. It is my hope to learn more about potential fuel savings that could result due to the use of alternative fueled vehicles during our committee hearings.

The use of alternative fueled vehicles holds great promise as a means of reducing our Nation's consumption of oil. I believe that vehicles fueled with compressed natural gas [CNG] could be an especially viable alternative to conventionally fueled vehicles. I hope that we can strengthen the bill in this area as we move forward with it.

The Clean Air Act Amendments of 1990 dealt with the fleets issue. That legislation, however, did so from an air quality and emissions perspective. The issue warrants consideration from a fuel economy perspective as well. Clearly, this is an area where we could achieve great savings in terms of our consumption of oil.

NUCLEAR

The third hurdle to achieving a balanced energy policy involves nuclear energy. We have a defacto moratorium on nuclear development in this country, despite the fact that nuclear power is capable of producing electricity cheaply and with negligible impact on the atmosphere.

Nuclear power must remain an energy option. Nearly 20 percent of our electricity comes from nuclear powerplants. Nuclear energy displaces about 740,000 barrels of oil every day—about the same amount as we imported from Iraq and Kuwait before the invasion last August.

The National Energy Security Act devotes three titles to preserving the nuclear option.

Title XII encourages the commercialization of advanced nuclear reactor technologies and refocuses the Department of Energy's civilian nuclear program on this effort. The title authorizes the Department to solicit private sector proposals to demonstrate improved siting, licensing, and financing systems for commercial deployment of new advanced reactors with passive safety features and to demonstrate the licensing, construction, and operation of an advanced reactor. The goal of these efforts is to encourage the commercialization of new reactor designs that are safer, less costly, and easier to build and operate than the present generation of plants.

Title XIII clarifies the Nuclear Regulatory Commission's authority to implement its licensing reform rule (10 CFR part 52). The NRC rule requires resolution of all safety issues before construction of a nuclear powerplant begins and limits any licensing hearing after the plant is built to the question of whether the plant as built conforms with the license. Last November, the U.S. Court of Appeals for the District of Columbia Circuit upheld most of the rule but struck down the all-important provision restricting the post-construction hearing to conformance questions. Title XIII amends existing law to make it clear that the NRC has the authority the court denied it.

The NRC has asked the court to rehear the case. If the court agrees and reverses itself, title XIII will prove unnecessary. Failing that, title XIII will restore the authority the NRC needs to ensure that plants once built can be operated without costly delays—so long as they meet the safety requirements of their licenses.

Finally, title XIV contains the Uranium Enrichment Act of 1991, which was introduced by Senator FORD last month as S. 210. This title is designed to ensure a reliable domestic supply of uranium fuel for nuclear powerplants and our defense needs by restructuring the Department of Energy's ailing enrichment business. The Senate approved legislation similar to this title twice in the 101st Congress and twice in the 100th Congress, but each time the House failed to act. In the budget reconciliation conference last fall, however, the House conferees agreed to give priority to uranium enrichment legislation this year.

We need to take a fresh look at nuclear energy's potential to provide energy in a future that is concerned not only with oil dependence, but also with limiting emissions of NO_2, SO_2, and CO_2 into the atmosphere. This bill is the place for this debate to occur.

PUHCA

A fourth hurdle involves the Public Utility Holding Company Act of 1935 [PUHCA] and its effects on indepedent production of electric power. Title XV of the bill would remove the obstacles to independent power production contained in the Public Utility Holding Company Act of 1935 [PUHCA]. The effect of this change would be to allow independent power producers [IPP's] to compete in wholesale power markets as a new supply option. It would help to ensure that electric generation is provided to consumers in the most efficient way possible.

For practical and financial reasons, anyone that intends to develop an independent power project—regardless of whether they are a utility or non-utility—must generally create a separate corporate entity to do so. In turn, the developing party becomes a holding company. PUHCA, however, places extensive restrictions on the use of holding companies in electric generation. Without changes to the act, most opportunities for independent power pro-

duction are therefore precluded. The bill would simply modify the Holding Company Act so as to remove the limitation on the use of holding companies for independent power production. It has been narrowly crafted to achieve this purpose.

I would also like to make clear what the bill does not do.

First, title XV would not force anyone to do anything. The effect of the legislation is to create a new type of electric supply option. It does not require utilities to buy power as in the case of qualifying facilities under the Public Utility Regulatory Policies Act of 1978 [PURPA]. Nor does title XV mandate a particular structure for the electric utility industry.

Second, title XV does not repeal PUHCA. There are those who would argue that the Holding Company Act has outlived its usefulness and become nothing more than a burdensome anachronism. However, the resolution of that issue will have to wait for another day. The bill changes PUHCA only to the extent necessary to allow independent power production to go forward. I believe title XV is necessary to accommodate growing competition in wholesale power generation. The possibility of such direct competition simply was not foreseen by Congress when it enacted PUHCA in 1935. Thus, this legislation represents modernization, rather than repudiation, of regulation under the Holding Company Act.

Third, title XV does not deal with the issue of when market pricing for wholesale power should or should not be permitted. Although the concept of IPP's and wholesale power competition assumes the availability of market pricing, that issue has nothing to do with PUHCA. It arises solely under the Federal Power Act which is administered by the Federal Energy Regulatory Commission [FERC]. At present the only way that an IPP or other seller of wholesale power can receive market pricing is by requesting case specific approval from FERC. In considering such request FERC has demonstrated that it is a vigorous watchdog against the possibility of abuse of market power. Title XV has been introduced with the knowledge that such careful oversight by FERC is required under the Federal Power Act and will continue.

What title XV deals with is a separate problem: the fact that without the ability to develop generation using holding company structures, IPP's—and what they make possible in terms of competition in wholesale generation—are effectively precluded, regardless of the availability of market pricing. There is an emerging consensus that IPP's and competitive acquisition of wholesale power should at least be an option and thus that the separate statutory obstacles to independent power production contained in the Holding Company Act should be removed. The purpose of title XV is the removal of these obstacles for utilities and nonutilities alike.

Title XV is very similar to legislation I introduced last Congress as amendment 267 to S. 406. However, a new provision in title XV would allow utilities to insulate themselves from being required by their State commissions to purchase from exempt wholesale generators [EWG's]—the technical terms used to designate corporate entities exempted from PUHCA by title XV—for specified periods of up to 10 years. A utility's decision to receive the protection of this provision would be irrevocable during the period the utility specifies. During such period the utility would also be precluded from owning an EWG. Certain utilities have voiced strong concerns that State commissions may force them to enter into imprudent contracts with EWG's before the complete implications of the bill have become clear. The new provision included in title XV responds to these concerns.

State commissions for their own part have expressed a continuing desire to obtain changes in their authority over the wholesale purchasing practices of their native utilities. Under the Supreme Court's Mississippi decision, FERC may preempt State commissions with respect to the allocation and prudence of wholesale power costs among operating subsidiaries of multistate registered holding companies. State commissions who regulate registered holding company subsidiaries argue that this decision presents an intolerable situation. Other State commissions fear that the Mississippi decision also creates doubt concerning what is, at present, the generally accepted authority of State commissions to regulate wholesale purchases outside of the registered holding company context. Although the provisions of title XV do not in fact alter the status quo with respect to State regulatory authority, State commissions insist that the legislation would exacerbate existing uncertainty concerning State authority by encouraging more wholesale power transactions.

The resolution of these issues is extremely challenging. In particular, it is difficult to give State commissions oversight of the purchasing activities of a registered holding company's subsidiaries without exposing the registered holding company to an unacceptable risk of inconsistent decisions by such commissions. We have not yet been able to develop a workable solution to this problem and therefore have not addressed it in title XV.

Last, reform of the Public Utility Holding Company Act of 1935 is a complex matter. For that reason I have directed staff to prepare a background paper on the subject. I ask unanimous consent that the paper be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

OIL SECURITY PREMIUM

The last critical hurdle I want to discuss is the program we are proposing in title VII to establish an oil security premium. This provision would establish a requirement on all importers of petroleum into the United States—importers of crude oil and refined petroleum products—that they contribute a portion of their imports to insure oil security for people of the United States. The petroleum contributed—about 9 percent of the amount imported—would be used to fill the strategic petroleum reserve to 1 billion barrels and to provide petroleum products to the Department of Defense.

The provision places an obligation upon all importers of petroleum to supply the Federal Government with a percentage of imports as estimated annually by the Secretary of Energy. Importers would be required to arrange for the delivery to the SPR or to DOD procurement of the types and grades of crude oil or refined petroleum products needed in each case.

This provision will increase—by about 9 percent—the cost of imported oil. Imports will thereby be discouraged. More importantly, importers and consumers of imported oil will be sharing the costs of the insurance we need because of our dependence on those very imports.

In the remainder of this statement I will discuss provisions of the bill on which I believe there may be more consensus, if not always unanimous agreement.

ENERGY EFFICIENCY

The bill we are introducing contains extensive provisions relating to energy efficiency. I think almost everyone agrees that we need a strong package of energy efficiency measures to provide balance in the bill.

Improvements in the efficiency of energy use in the United States have been dramatic since the oil shocks of the early 1970's. These advancements have not only been critical in balancing domestic supply with demand, but have produced significant side benefits such as gains in overall industrial productivity through lower production costs and improvements in environmental quality. Strides in energy efficiency have been made in all sectors of the economy and have resulted in a 25-percent decline between 1972 and 1987 in the amount of energy required in the United States to produce a dollar of gross national product [GNP].

In the residential sector, achievements in building design, materials, and appliance efficiency have kept growth in energy use to 3.5 percent since 1975, despite a 22-percent increase in the number of U.S. households. In the commercial sector, energy efficiency retrofits and improvements in

building design have led to a 24-percent decrease in fossil energy use. And in the industrial sector, energy consumption per dollar of GNP has declined 20 percent since 1975.

The Department of Energy estimates that the United States has the potential for annual savings of between 10 and 25 quads of energy, the energy equivalent of 5 to 12 million barrels of oil per day, by the year 2000 if existing energy efficiency technologies and those in the development stage are fully used.

Although conservation has long been a component of this Nation's national energy policy, recent years have brought the dramatic decline in many of these programs and in some cases, complete neglect. The National Energy Security Act would provide the Secretary with considerable financial resources in the form of revenues from leasing in the ANWR to reinvigorate underfunded programs, strengthen existing programs and initiate new programs in critical energy use sectors of the economy. The energy efficiency provisions introduced in this bill will provide a foundation from which to undertake further legislation on energy efficiency in the future.

Title III of the bill encompasses a variety of regulatory and financial measures aimed at increasing energy efficiency in the residential, commercial, and industrial sectors of the economy. Many of the bill's measures are aimed at amending existing law in order to either improve current programs or encourage the expansion of programs that are too narrow in focus. In addition, we recognize the crucial and often interrelated role that Federal and State governments, utilities, and the private sector must play in the development and execution of the energy efficiency and renewable energy programs.

Many of the programs called for in title III had their genesis in the National Energy Policy Act of 1990, which passed the Senate last year. Senator WIRTH deserves the praise of the Senate for his efforts in developing that legislation and for reintroducing the legislation in this Congress.

OCS LEASING

The bill contains an important initiative relating to the Outer Continental Shelf Leasing Program—coastal State and community impact assistance. The bill provides that 37.5 percent of revenues generated by new activity on the OCS would be shared with affected coastal States with priority to be given to aid local areas impacted by OCS development. Money would be distributed based on the same criteria set forth under the Energy Impact Program pursuant to the Coastal Zone Management Act.

Last June, President Bush announced that he was placing large portions of the Outer Continental Shelf off-limits to oil and gas development until after the year 2000. Those of us who feel that development of our vast oil and gas resources on the Outer Continental Shelf are important to this Nation's energy security were deeply disappointed by that decision.

However, in making this announcement, the President indicated that he would develop a legislative proposal to provide impact aid to coastal States and communities. While the administration has not yet transmitted such a proposal, the concept is a good one, and the legislation I introduce today implements that concept.

The oil and gas resources contained on the OCS are too vital to be locked away. Approximately one-fourth of all domestic estimated oil and gas reserves are believed to be contained on the OCS. In addition to the impact assistance provision, the legislation contains a study provision which I hope will develop information that may help to break the logjam that has occurred with respect to the OCS Leasing Program.

WEPCO

The National Energy Security Act of 1991 addresses the so-called WEPCo issue. This refers to the Environmental Protection Agency's administrative interpretation of new source requirements under the Clean Air Act; in particular, EPA's determination of when a physical change at an existing stationary source results in an increase in emissions thereby triggering new source requirements. EPA's skewed methodology for making this determination has created a considerable disincentive for electric utilities and others to make physical changes at their facilities, including changes to reduce emissions, improve efficiency and reliability, and facilitate fuel switching.

Last year, I raised the WEPCo issue during the Clean Air debate. Thirty of my Senate colleagues joined me in a letter to Senator BAUCUS in which we advocated that the conference committee adopt a simplified version of an administration proposal to address WEPCo. Unfortunately, the conference report was silent on WEPCo. Together with seven other members of the Energy Committee, I wrote to the President and urged that he implement the administration proposal by administrative action. Administrator Reilly of the EPA committed to the White House that his agency would do so to the extent permitted under existing law.

Section 5101 of the bill embodies those parts of the administration's WEPCo fix that require new statutory authority. In particular, this section addresses the applicability of new source requirements to electric utility pollution control projects and the determination of best available control technology for nitrogen oxide emissions controls.

The committee intends to monitor closely EPA's implementation of the administration proposal and to explore the broader energy policy implications of the WEPCo policy. For example, how does the WEPCo policy affect fuel switching? How does it affect the ability to improve the efficiency and maintain the reliability of existing electric powerplants? How does it affect the ability to modernize nonutility energy facilities, such as refineries? Should we find that EPA has failed to implement the administration proposal to the fullest extent possible or that a more comprehensive legislative solution is necessary, the committee may expand the WEPCo provisions of the Energy Security Act.

COAL

America is the Saudi Arabia of coal. Every consensus projection of energy use in the United States over the next few decades contemplates substantial use of coal. Coal accounts for a major portion of our Nation's energy resource base. A demonstrated reserve base of more than 475 billion short tons indicates that the United States has enough coal from reserves alone to meet projected energy needs for almost 200 years at current rates of consumption.

Today, approximately 57 percent of the electricity generated annually in the United States is derived from coal. In 1990, U.S. coal production reached the record level of 1 billion tons. Despite this success, we know that new approaches are needed to encourage the use of this important resource in an environmentally sound manner.

The National Energy Security Act provides for research, development, and demonstration programs to develop advanced coal-based technologies, nonfuel use of coal, and coal-fired locomotives. The bill requires a report on technologies for coal fuel mixtures. The bill also establishes a Clean Coal Technology Export Coordinating Council to facilitate and expand the export and use of clean technologies, and requires a plan to expand U.S. coal exports.

In addition, the bill provides for a data base and report regarding coal transportation rates and distribution.

NATURAL GAS

Title X of the National Energy Security Act of 1991 addresses natural gas regulatory issues. Natural gas is an abundant fuel that is available at reasonable prices. Over 90 percent of the natural gas consumed in the United States is produced in the United States. Our neighbor to the north, Canada, supplies almost all of our gas that is not produced here at home. Natural gas can displace imported oil in a variety of applications. Natural gas is clean burning and can make a big contribution to cleaning up our environ-

ment. Natural gas can fuel the combined cycle powerplants that will likely supply much of the new electric generating capacity that we will need in the near future.

In view of the contribution that natural gas can make, the purpose of title X is to remove regulatory barriers to natural gas achieving its potential. Title X includes procedures that are intended to simplify and streamline regulatory requirements for the construction of new natural gas pipeline facilities.

The first procedure is patterned after the manner in which interstate oil pipelines and electric transmission lines are constructed. Under this option, a certificate of public convenience and necessity under the Natural Gas Act would not be required as a prerequisite to the construction of an interstate natural gas pipeline. A pipeline constructed under this option would forgo some of the benefits that attach to a Natural Gas Act construction certificate. There would be no Federal right of eminent domain. Also, if the person constructing the pipeline was an existing interstate pipeline, the cost of the new facility could not be included in the pipeline company's rate base. The new pipeline would also be subject to certain rate conditions intended to prevent it from shifting of costs to customers who did not utilize the new facility.

The second procedure amends section 311 of the Natural Gas Policy Act. The on behalf of requirement that currently limits the parties eligible to transport natural gas under section 311 is amended to state that the transportation must merely be "on behalf of another person." In other words, the remaining restriction would be that an interstate pipeline could not transport its own gas under section 311. The other amendment to section 311 is to make clear that natural gas facilities may be constructed under authority of section 311.

These first two procedures are new ideas. I anticipate that there will be some debate as to the relative merits of these options. The important point is that we end up with a procedure that removes the regulatory barriers to market entry in the pipeline business. In the final tally, the Energy Committee may choose to report one of the options, both of them, or to adopt some modified approach.

The third procedure is designed to streamline the traditional mechanism for the authorization of pipeline construction—a certificate under section 7 of the Natural Gas Act. I want to emphasize that section 7 would remain available even when the new procedures for pipeline construction become law.

The third procedure would streamline section 7 certificate proceedings by expediting the environmental review process under the National Environmental Policy Act. This would be accomplished by designating the Federal Energy Regulatory Commission to be the lead agency for purposes of NEPA compliance and authorizing the FERC to set time limits for other Federal agencies' participation in the NEPA process. This procedure also directs the FERC to permit contractors selected by the FERC and paid by the applicant to prepare environmental assessments and environmental impact statements required in order for the FERC to comply with its NEPA obligations. This third procedure would also be available for the NEPA review in connection with the licensing of hydroelectric projects under the Federal Power Act.

Title X also includes provisions which reform procedural requirements governing rates and charges, review of FERC orders, and the utilization of rulemaking procedures in certificate cases. A section on vehicular natural gas jurisdiction confirms that certain activities related to the sale and distribution of natural gas as a vehicular fuel will not cause local distribution companies currently exempt from Natural Gas Act jurisdiction to forfeit such exemptions.

RENEWABLE ENERGY

The bill contains important provisions designed to increase the availability of energy from renewable sources—hydropower, solar, biomass, wind, and geothermal energy. This is an area where we need to come up with the best ideas and move boldly to implement them.

The use of renewable energy resources must continue to play an important role in our Nation's energy policy. Just as energy efficiency can play a major role in helping this country to achieve energy independence and an improved environment, so can renewable energy resources provide economic and environmental benefits. I was especially pleased to observe that the Department of Energy has requested an 18-percent increase in funding for renewable energy and conservation research and development for 1992. This request reflects a renewed commitment on the part of the Department to support current programs and initiate policies in renewable energy and conservation. The committee shares this commitment to a cost-effective renewable energy resource program in the United States. Accordingly, several important renewable energy measures are included in the National Energy Security Act.

HYDRO

The Federal Energy Regulatory Commission and the Department of Energy estimate that an additional 22,000 MW of environmentally and economically sound hydropower is available to be developed in the United States. The bill aims to encourage private and public development of this clean, renewable resource. Section 4201 clarifies that, under section 401 of the Clean Water Act, States may only place conditions on hydroelectric projects that directly relate to water quality. Section 4202 removes certain overlapping Federal agency hydroelectric licensing authorities which have frustrated private development. Section 4203 commissions studies of Federal dams and water projects to identify means to increase and make more efficient use of those facilities' hydroelectric output.

OTHER RENEWABLES

Other renewable energy provisions in the national Energy Security Act seek to overcome the artificial economic and regulatory barriers that have prevented the wide-scale adoption of renewable energy systems. The legislation expands the joint venture program under Senator FOWLER's Renewable Energy and Energy Efficiency Technology Competitiveness Act (Public Law 101-218) to include energy from biomass combustion and cogeneration, geothermal and fuel cells, as well as diesel fuel displacement by photovoltaic, wind energy systems and biomass direct combustion or gasification.

In addition to the joint venture provisions, title IV will strengthen the mandate of the interagency Committee on Renewable Energy Commerce and Trade [CORECT] to promote the spread of commercially viable renewable energy technologies in lesser developed countries. Because domestic renewable technology manufacturers are often unfamiliar with the complexities of international trade and marketing, and policymakers and businessmen in lesser developed countries may be unfamiliar with the range and potential of renewable energy technologies, the CORECT program provides an outstanding opportunity for mutual economic benefit. The legislation builds on the existing CORECT statute by providing funding for expanded training of foreign nationals in energy efficiency and renewable energy technologies and applications, establishing overseas offices in the Caribbean and the Pacific Rim to promote technology transfer and implementation, and rectifying a previous gap in access to prefeasibility funding, a crucial priority within the renewable industry.

Finally, the bill authorizes a new joint venture under Public Law 101-218 to provide for operations and maintenance training on renewable energy equipment for personnel from developing countries using equipment manufactured in the United States. This program will enhance orders for U.S. renewable energy equipment from overseas because of the tendency of persons to recommend purchases of the equipment similar to that on which they have been trained.

OIL PRICE STABILITY AND OCS

There are two issues that we have not addressed in the "Made-in-America" legislation being proposed today.

One is the matter of Outer Continental Shelf drilling—off California, Florida and nearly all the rest of the OCS, except the central and western Gulf of Mexico. The President has taken large areas of the OCS off limits for leasing until beyond the year 2000. This very unfortunate action by the President has effectively hamstrung those of us who support a strong domestic drilling program for the OCS. It is my judgment that inclusion of legislation to overturn the President's decision would not be productive. I think the President is wrong on the OCS, but I do not think we can do anything about it.

The second issue is the matter of price stability in oil markets. An effective energy policy requires long-term planning and investment by a very large number of private entrepreneurs. If the price of energy fluctuates as wildly as it has in the last 20 years, this planning is virtually impossible to carry out. The needed long-term investments will not be made.

An oil price floor set by an import fee is the way to ensure the price stability we need. Senator WALLOP and I have introduced S. 215 to establish such a fee. That bill was referred to the Finance Committee, and because it would raise revenue, the House may insist that the bill must eventually be attached to a measure that arises in the House. These jurisdictional difficulties effectively preclude consideration of oil pricing provisions in the "Made-in-America" bill.

However, we urge the Finance Committee to report S. 215 or equivalent legislation favorably, and we look forward to its speedy passage.

Let me close these remarks by saying that opportunities to make energy policy come in conjunction with crises. Our energy situation seems comfortable to many Americans, and so we resist change. But we are sowing the seeds of great difficulty in the near future with our growing dependence on imported oil, our slow pace in improving energy efficiency, and our delay in developing alternative sources of energy such as nuclear energy and renewables. We see in very stark terms the cost of inaction in the casualty figures from the Persian Gulf.

We simply must act to replace an energy policy that is based on importing more oil. In these times of crisis we have to be bold. I hope this bill is bold enough. There is so much to do.

Mr. President, for the third time in 18 years this country faces an energy crisis. The first crisis occurred in 1973 when I first joined the Energy Committee. At that time, Mr. President, the price of crude oil quadrupled overnight, our economy was put in great difficulty, and an oil embargo was slapped on our country by the countries of OPEC.

In 1979 the second energy crisis happened. Again, the price of oil quadrupled virtually overnight. There were gas lines all around the country. Inflation was rampant, our economy was put at risk and the whole Nation's economy was threatened.

Throughout this time, Presidents of the United States have sought to take some action. In 1973, President Nixon announced Project Independence. Its purpose, he said, was to make this country completely independent of energy imports.

President Ford followed up on President Nixon's proposal. Whereas President Nixon had a lot of windup and no follow through, President Ford's program did not even have the windup. There was nothing to it.

President Carter then came along with his energy policy, which was a mixture of far-sighted idealism, impracticality and policies which were put in place, but which were later repealed by the Reagan administration.

With the Reagan administration, they had this mystical confidence in the free market, that it would solve everything from the common cold to the OPEC cartel. Mr. President, we have seen the results of that.

The fact of the matter is, Mr. President, that imports in the last 5 years have gone up 73 percent while production has gone down 20 percent. That is in the last 5 years.

Today we find the third energy crisis in 18 years.

To be sure, the war in the gulf, the war against Iraq, is more than just about oil; it is about dictatorship, it is about aggression, it is about freedom. It is about all of those things, and I supported the President's policy when he asked for the authority to use force. But, Mr. President, it is an energy crisis. It is about oil. Anybody who does not understand that does not understand world economics, does not understand the importance of oil to this world.

American young men and women are dying in the gulf today because of oil and because we have not been able to get our act together here in this Congress on energy policy and because we have not had any leadership from the White House. That is a fact and that is the truth.

We cannot allow that to continue. That is why today, the distinguished Senator from Wyoming, Mr. WALLOP, and I, are introducing a 264-page bill with 15 titles to establish a National Energy Security Act of 1991 that is going to cover the waterfront, that is going to be comprehensive, that is going to accomplish the job of providing a national energy policy.

All over this country, from the grassroots of Louisiana to the highest levels of our newspapers, our foreign policy institutes, the people in the know—everybody in America is asking why can we not get a national energy policy? We are going to get an answer to that question with this bill.

This bill covers the waterfront. It covers everything from a title on conservation, on energy efficiency, a title on renewable energy, a title on coal—coal technology and electricity. I know my dear friend who is the President of the Senate will be sympathetic to that.

It will cover the Outer Continental Shelf, drilling at the Arctic National Wildlife Refuge in Alaska. It will cover natural gas, and its use in everything from automobiles to steam engines. It will cover transportation and, yes, it will cover CAFE standards on automobiles so we will get higher performance out of our automobiles; advanced nuclear reactor commercialization—or should I say nuclear reactor licensing; uranium unrichment, Public Utility Holding Company Act company reform.

We cover the waterfront. It is going to be controversial, but it is balanced. It serves the interests of environmentalists. It serves the interests of those who want to develop. And it will please neither one. Both will object to sections of it. But in that kind of balance, in serving all parties, we have a comprehensive policy.

We simply cannot have energy policy that is all sweetness and no bite; that is all smoothness and all sugar and no hard message in it. The good news about this bill is that we can enact it into law as a practical measure and not surrender either the American economy or the American lifestyle. There will simply have to be a little change here and there. But broadly across the spectrum we have to do all of it.

So I urge my colleagues, and I urge Americans, to realize that energy policy, a comprehensive policy, is a mosaic. It is not one thing. We do not solve this energy policy, we do not make America independent, we do not keep the troops from going to the gulf by doing one little thing, whether it's the soft path or the hard path; whether it is drilling in Alaska or CAFE standards for automobiles or renewable energy or conservation. We have to do it all, Mr. President.

That is what we do in this bill. Three energy crisis in 18 years constitutes a display of ignorance in action, a colossal failure of national will, and it unacceptably threatens the economy, the very fiber of this Nation, and unacceptably threatens the lives of American men and women in the gulf.

We offer this bill as controversial but balanced, as tough but achievable. Mr. President, it can work. There is nothing here that is impractical. There is nothing here that is unbalanced.

On behalf of myself and the distinguished Senator from Wyoming [Mr. WALLOP] I send to the desk the National Energy Security Act of 1991.

I ask it be printed in the RECORD as well as a summary of the bill. I also ask unanimous consent that it be printed as a separate document.

There being no objection, the material was ordered to be printed in the RECORD, AS FOLLOWS:

S. 341

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "National Energy Security Act of 1991".

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TITLE I—FINDINGS AND PURPOSES

SEC. 1001. FINDINGS.—The Congress finds that:

(1) the achievement of energy security for the United States is essential to the health of the national economy and the maintenance of national security;

(2) as an energy-rich country that nonetheless depends on oil imports for an increasing share of oil use, United States energy security requires that the nation reduce oil consumption, maximize domestic oil production, and, particularly for transportation purposes, encourage use of energy sources other than oil; and

(3) this can be accomplished with no significant adverse effect on the environment, and will stimulate economic growth, improve the competitiveness of United States industry in the global market, and reduce the possibility of global climate change.

SEC. 1002. PURPOSES.—The purposes of this Act are to:

(1) slow the nation's increasing dependence on imported oil over the short-term, and in the long-term significantly reduce that dependence;

(2) encourage more efficient use of energy throughout the economy, including improvements in the industrial, commercial and residential sectors, increasing energy efficiency in Federal energy management, and encouraging more efficient energy use by electric utilities;

(3) encourage development and deployment of renewable energy sources in the United States and on an international basis in lesser developed countries;

(4) streamline the hydroelectric licensing process and encourage hydroelectric development at Federal dams;

(5) enhance the role of coal and clean coal technology in meeting the nation's energy needs;

(6) establish priorities for Federal energy research, development, demonstration, and commercialization;

(7) encourage the development of domestic energy resources on the Outer Continental Shelf;

(8) provide for oil and gas exploration, production, and development in the Arctic National Wildlife Refuge in Alaska in an environmentally sound manner;

(9) encourage increased utilization of natural gas and other domestic energy resources to displace imported oil and meet domestic energy demand in a manner consistent with environmental values;

(10) reduce the consumption of oil in the transportation sector, and encourage development and use of alternative energy sources, particularly for transportation; and

(11) encourage the production and use of nuclear power by providing for the commercialization of advanced nuclear reactor technologies.

TITLE II—DEFINITIONS

SEC. 2001. DEFINITIONS.—As used in this Act the term—

(a) "Secretary" means the Secretary of Energy, unless otherwise provided;

(b) "joint venture" has the same meaning as set forth in section 3 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Pub. L. No. 101-218), and joint ventures authorized herein shall be conducted pursuant to that Act; and

(c) "lesser-developed countries" shall include, but not be limited to, Eastern Europe and the Soviet Union.

TITLE III—ENERGY EFFICIENCY

Subtitle A.—Industrial, Commercial, and Residential

SEC. 3001. BUILDING ENERGY EFFICIENCY STANDARDS.—Title III of the Energy Conservation and Production Act, (48 U.S.C. 6835) is amended by:

(a) In section 304(a)(4), striking the words "Federal buildings" and inserting in lieu thereof, "Federal buildings and public housing,";

(b) striking the existing section 306 and inserting in lieu thereof the following:

"SEC. 306. COMPLIANCE.—

"(a) FEDERAL BUILDINGS.—The head of each Federal agency shall adopt such procedures as may be necessary to assure that the construction of any new Federal building meets or exceeds the applicable energy efficiency performance standards promulgated pursuant to section 304(a).

"(b) PUBLIC HOUSING.—Effective three years after the date of the enactment of the National Energy Security Act of 1991, the Secretary of Housing and Urban Development shall adopt such procedures as may be necessary to assure that any newly constructed public housing unit meets or exceeds the applicable energy efficiency performance standards promulgated pursuant to section 304(a)."; and

(c) redesignating the existing section 308 as subsection (a) and adding at the end thereof, the following new subsection:

"(b) The Secretary may provide financial assistance to the States, and to units of local government that have jurisdiction over building energy conservation standards, and which intend to adopt energy conservation standards consistent with the standards promulgated under this Part for commercial buildings, to assist them in furthering the design and construction of energy efficient commercial buildings.".

(d) CONFORMING AMENDMENT.—Strike section 109 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. No. 101-625) and insert in lieu thereof the following:

"The Secretary of Housing and Urban Development shall, not later than one year after the enactment of the National Energy Security Act of 1991, adopt the energy conservation performance standards for new buildings as promulgated by the Secretary of Energy pursuant to section 304 of the Energy Conservation and Production Act (P.L. 94-385), as amended, for new construction of public and assisted housing and single-family and multifamily residential housing (other than manufactured homes) subject to mortgages under the National Housing Act.".

SEC. 3002. RESIDENTIAL ENERGY EFFICIENCY RATINGS.—(a) AMENDMENT TO NATIONAL ENERGY CONSERVATION POLICY ACT.—Title II of the National Energy Conservation Policy Act (Pub. L. No. 95-619) is hereby amended by adding a new part 6 as follows:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"SEC. 271.—RATINGS. (a) Within twelve months after the date of the enactment of the National Energy Security Act of 1991, the Secretary, in consultation with the Secretary of Housing and Urban Development, shall, by rule, promulgate guidelines for procedures to be implemented by State governments that would enable the assignment of an energy efficiency rating to residential buildings.

"(b) The guidelines under subsection (a) shall—

"(1) provide for a numerical rating of the efficiency with which any residential build-

ing may be supplied with heating and cooling energy on an annual basis, and evaluate the practicality of including major energy consuming appliances in such rating;

"(2) provide that all residential buildings can receive a rating at the time of sale;

"(3) ensure that the rating is prominently communicated to potential buyers and renters;

"(4) ensure that the rating system is designed to facilitate its use by lenders and the secondary mortgage markets to promote energy efficiency; and

"(5) ensure that the rating system is consistent with and supports the uniform plan for mortgage financing incentives required under section 946 of the Cranston-Gonzales National Affordable Housing Act (Pub. L. No. 101-625).

"SEC. 272.—TECHNICAL ASSISTANCE.—Within twelve months after the date of enactment of the National Energy Security Act of 1991, the Secretary shall establish a program to provide technical assistance for State and local organizations adopting residential energy efficiency rating systems or building codes.".

(b) CONFORMING AMENDMENT.—The National Energy Conservation Policy Act is further amended by adding in the table of contents at the end of Title II, the following items:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"Sec. 271. Ratings.
"Sec. 272. Technical Assistance.".

SEC. 3003. IMPROVING EFFICIENCY IN ENERGY-INTENSIVE INDUSTRIES.—(a) SECRETARIAL ACTION.—The Secretary, acting in accordance with authority contained in the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901-5920) and other applicable laws, shall—

(1) pursue a research and development program intended to improve energy efficiency and productivity in energy-intensive industries and industrial processes; and

(2) undertake joint ventures to encourage the commercialization of technologies developed under paragraph (1).

(b) JOINT VENTURES.—(1) The Secretary shall—

(A) conduct a competitive solicitation for proposals from specialized private firms and investors for such joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five such joint ventures.

(2) The purpose of the joint ventures shall be to design, test and demonstrate changes to industrial processes that will result in improved energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries so long as demonstration of energy efficiency improvements is the principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall consider—

(A) whether the research and development activities conducted under this section improve the quality and energy efficiency of industries or industrial processes;

(B) the regional distribution of the energy-intensive industries and industrial processes; and

(C) whether the proposed joint-venture project would be located in the region which has the energy-intensive industry and industrial processes that would benefit from the project.

(c) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $5,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994, to carry out the purposes of this section.

SEC. 3004. REPORT.—(a) REPORT.—The Secretary, in consultation with the Council of Economic Advisors, shall submit to the Congress within one year after the date of the enactment of this Act, and every three years thereafter through the year 2004, a report setting forth energy efficiency policy options that would both decrease domestic oil consumption and overall domestic energy consumption by one, two, three, and four percent, per-year per-unit of GNP, through the year 2005, below the projected consumption for 2005. The Secretary shall evaluate, describe and rank these policy options according to their cost-effectiveness and their feasibility of implementation.

(b) REPEAL.—Title III of the Energy Security Act (42 U.S.C. 7361, et seq.) is hereby repealed.

SEC. 3005. VOLUNTARY GUIDELINES FOR INDUSTRIAL PLANTS—(a) Voluntary Guidelines for Energy Efficiency Auditing and Insulating.—Within one year after the date of the enactment of this Act, the Secretary, after consultation with utilities, major industrial energy consumers and representatives of the insulation industry, shall establish voluntary guidelines for:

(1) the conduct of energy efficiency audits of industrial facilities to identify cost-effective opportunities to increase energy efficiency; and

(2) the installation of insulation to achieve cost-effective increases in energy efficiency in industrial facilities.

(b) EDUCATION AND TECHNICAL ASSISTANCE.—The Secretary shall conduct a program of education and technical assistance to promote the use of the voluntary guidelines established under subsection (a).

(c) ANNUAL REPORT.—The Secretary shall report annually on activities conducted pursuant to this section, including an evaluation of the effectiveness of these guidelines, and the responsiveness of the industrial sector to these guidelines.

(d) AUTHORIZATION.—There is authorized to be appropriated $750,000 annually to carry out the purposes of this section.

SEC. 3006. ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS.—(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of this Act, the Secretary shall, in consultation with the National Fenestration Rating Council, industry representatives, and other appropriate organizations, provide financial and technical assistance to support the voluntary development of a national window rating program to establish energy efficiency ratings for windows and window systems. Such program shall set forth information and specifications that will enable purchasers of windows or window systems to make more informed purchasing decisions based upon the potential cost and energy savings of alternative window products.

(b) SECRETARIAL ACTION.—If a national window rating program, consistent with the objectives of subsection (a), is not established within two years of the date of enactment of this Act, then the Secretary shall, in consultation with the National Institute of Standards and Technology, develop, within one year, a rating program to establish energy efficiency ratings for windows and window systems under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293).

(c) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission (hereinafter in this section, the "Commission") shall prescribe labeling rules under section 324 of the Energy Policy and Conservation Act (42 U.S.C. 6294) for the rating program established pursuant to either subsection (a) or (b) of this section, unless the Commission determines that labeling in accordance with subsections (a) or (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of window or window system (or class thereof).

(d) COVERED PRODUCTS.—For purposes of sections 323 and 324 of the Energy Policy and Conservation Act, windows and window systems shall be considered covered products under section 322 of such Act (42 U.S.C. 6292) unless excluded by the Commission pursuant to subsection (c).

(e) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 3007. ENERGY EFFICIENCY INFORMATION.—(a) DATA ON ENERGY EFFICIENCY.—Pursuant to Section 52(a) of the Federal Energy Administration Act of 1974, (Pub. L. No. 93-275) and after consultation with State and Federal energy officials, representatives of energy-using classes and sectors, and representatives of energy policy public-interest or research organizations, the Administrator of the Energy Information Administration shall expand the scope and frequency of the data it collects and reports on energy use in the United States with the objective of significantly improving the ability to evaluate the effectiveness of the Nation's energy efficiency policies and programs. The Administrator shall take into account reporting burdens and the protection of proprietary information as required by law. In expanding the collection of such data to meet this objective, the Administrator shall consider—

(1) expanding data collection to include energy intensive sectors not presently covered in Energy Information Administration surveys;

(2) increasing the frequency with which the Energy Information Administration conducts end-use energy surveys among households, commercial buildings, and manufacturing;

(3) expanding the survey instruments to include questions regarding participation in government and utility conservation programs, the energy efficiency of existing stocks of equipment and structures, and recent changes in the technical efficiency and operating practices that affect energy use;

(4) expanding the time period for which fuel-use data is collected from individual survey respondents;

(5) expanding the sample sizes for fuel-use surveys in order to improve the accuracy of subgroups of energy users; and

(6) expanding the scope and frequency of data collection on the energy efficiency and load-management programs operated by electric and gas utilities.

(b) ANNUAL REPORT.—The Administrator shall report annually to Congress on the energy efficiency in classes and sectors of the economy and on any data resulting from this section.

SEC. 3008. ENERGY EFFICIENCY LABELING FOR LAMPS AND LUMINARIES.—(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of enactment of this Act, and in consultation with the National Electric Manufacturers Association, industry representatives, and other appropriate organizations, the Secretary shall provide financial and technical assistance to support the voluntary development of a national energy ef-

ficiency rating program for lamps and luminaries. Such program shall set forth information and specifications that will enable purchasers of lamps and luminaries to make informed decisions among the energy efficiency and cost of alternative lamps and luminaries.

(b) SECRETARIAL ACTION.—If a national energy efficiency rating and labeling program consistent with the objectives of subsection (a) is not voluntarily established within two years of the date of enactment of this Act, then the Secretary shall, in consultation with the National Institute of Standards and Technology, develop, within one year, a rating program for lamps and luminaries under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293).

(c) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission (hereinafter in this section, the "Commission") shall prescribe labeling rules under section 324 of the Energy Policy and Conservation Act (42 U.S.C. 6294) for lamps and luminaries, except to the extent that the Commission determines that labeling in accordance with subsection (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of lamp or luminary (or class thereof).

(d) COVERED PRODUCTS.—For purposes of sections 323 and 324 of the Energy Policy and Conservation Act, lamps and luminaries shall be considered covered products under section 322 of such Act (42 U.S.C. 6292) unless excluded by the Commission pursuant to subsection (c).

(e) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 3009.—COMMERCIAL AND INDUSTRIAL EQUIPMENT EFFICIENCY STANDARDS.—(a) DEFINITIONS.—Section 340(2)(B) of Title III Part C of the Energy Policy and Conservation Act (42 U.S.C. 6311) is hereby amended:

(1) by deleting "and" at the end of clause (xiii), replacing the period at the end of clause (xiv) with "; and", and inserting the following new clause:

"(xv) utility distribution transformers.".

(b) TECHNICAL AMENDMENT.—Section 342(b)(1) of Title III Part C of the Energy Policy and Conservation Act (42 U.S.C. 6313) is hereby amended by deleting "(other than electric motors or pumps)" and inserting in lieu thereof the following:

", other than electric motors or pumps, electric lights, and utility distribution transformers,".

(c) STUDY.—Section 342 of Title III Part C of the Energy Policy and Conservation Act (42 U.S.C. 6313) is hereby amended:

(1) by redesignating paragraph (b) as amended, as paragraph (c) and inserting a new paragraph (b) to read as follows:

"(b) Not later than 18 months after the date of the enactment of the National Energy Security Act of 1991, the Secretary shall—

"(1) evaluate electric lights and utility distribution transformers to—

"(A) determine standard classifications with respect to size, function, type of energy used, method of manufacture, or other factors which may be appropriate for purposes of this part;

"(B) determine the practicability and effects of requiring all or part of the classes of electric lights and utility distribution transformers determined under subparagraph (A) to meet performance standards establishing minimum levels of energy efficiency; and

"(C) determine the practicability and cost-effectiveness and potential energy savings of replacing existing utility distribution transformers.

"(2) submit a report to the Congress on the results of such evaluation, together with such recommendations for legislation as he considers appropriate.".

(d) REEVALUATION OF ELECTRIC MOTORS AND PUMPS.—Pursuant to section 342 of Title III Part C of the Energy Policy and Conservation Act (42 U.S.C. 6313), the Secretary shall—

(1) conduct a reevaluation of electric motors and pumps to determine the practicability and effects of requiring all or part of the classes of electric motors and pumps determined under subparagraph (A) of section 342(a)(1) of the Energy Policy and Conservation Act to meet performance standards establishing minimum levels of energy efficiency; and

(2) submit a report to Congress on the results of such evaluation, together with such recommendations for legislation as he considers appropriate. The report under this subsection may include the report pursuant to 342(b)(2) of the Energy Policy and Conservation Act.

Subtitle B—Federal Energy Management

SEC. 3101. FEDERAL ENERGY MANAGEMENT AMENDMENTS.—Part 3 of Title V of the National Energy Conservation Policy Act (NECPA) (42 U.S.C. 8251 et seq.), as amended, is further amended as follows:

(a) in section 543:

(1) Strike subsection (a) and insert the following new text in lieu thereof:

"(a) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL BUILDINGS.—(1) Not later than January 1, 2000, each Federal agency shall, to the maximum extent practicable, install in Federal buildings under the control of such agency in the United States, all energy conservation measures with payback periods of less than ten years as calculated using the methods and procedures developed pursuant to section 544. Within two years after the date of enactment of the National Energy Security Act of 1991, each agency shall submit to the Secretary a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved.

"(2) An agency may exclude from the requirements of paragraph (1) any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, or the unique character of many facilities operated by the Departments of Defense and Energy. Each agency shall identify and list in each report made under section 548, the Federal buildings designated by it for such exclusion. The Secretary shall review such findings for consistency with the impracticability standards set forth herein, and may within 90 days after receipt of the findings, reverse a finding of impracticability, in which case the agency shall comply with the requirements of paragraph (1). This section shall not apply to an agency's facilities that generate or transmit electric energy, nor to the uranium enrichment facilities operated by the Department of Energy.";

(2) In subsection (b):

(A) after the words "subsection (a)," insert the following:

"The Secretary of Energy shall consult with the Secretary of Defense and the Administrator of the General Services Administration in developing guidelines for the implementation of this Part, and";

(B) strike the phrase "Federal Energy Management Improvement Act of 1988," in paragraph (1) and insert in lieu thereof "National Energy Security Act of 1991, and submit to the Secretary of Energy";

(C) after the words "high priority projects;" insert the following: "and such plan shall include steps to take maximum advantage of contracts authorized under title VIII of this Act (42 U.S.C. 8287 et seq.), financial incentives, and other services provided by utilities for efficiency investment and other forms of financing to reduce the direct costs to the government;";

(D) at the end of paragraph (2), strike the semicolon and insert the following: ", and update such surveys periodically, but not less than every three years;";

(E) replace paragraph (3) with the following new paragraph:

"(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;"; and

(F) insert a new paragraph (4) as follows, and renumber paragraph (4) as "(5)":

"(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in Section 544, and".

(b) in section 544:

(1) Strike "National Bureau of Standards," in subsection (a) and insert in lieu thereof "National Institute of Standards and Technology,"; and

(2) strike all after the word "each", in paragraph (b)(2) and insert in lieu thereof: "agency shall, after January 1, 1994, fully consider the energy efficiency of all potential building space at the time of renewing or entering into a new lease. Further, all government leased space constructed after January 1, 1994, shall meet model Federal energy conservation performance standards for new commercial buildings promulgated pursuant to Section 304 of the Energy Conservation and Production Act (Pub. L. No. 94-385).".

(c) in section 545, add after the word "measures" the following:

"as needed to meet the requirements of section 543.".

(d) in section 546, strike subsection (b) and insert in lieu thereof the following:

"(b) IMPLEMENTATION.—To facilitate the financing of energy conservation measures, each Federal agency shall promote the use of contracts authorized by title VIII of this Act (42 U.S.C. 8287 et seq.). The Secretary, in consultation with the Secretary of Defense and the Administrator of the General Services Administration, within six months after the date of the enactment of the National Energy Security Act of 1991, shall develop appropriate procedures and methods for use by Federal agencies to select energy service contractors that will achieve the intent of this section in a cost-effective manner. Notwithstanding any other procurement laws and regulations, such procedures and methods shall apply to the selection of energy service contractors by each Federal agency.".

(e) in section 548:

(1) strike the word "Each" in subsection (a) and insert in lieu thereof the following: "In addition to the plan required to be sub-

mitted to the Secretary pursuant to Section 543(b)(1), each";

(2) insert the phrase "by April 2 of each year," after the word "annually" in subsection (b); and

(3) insert the words "by each agency", after the words "under this part" in subsection (b)(1).

(f) At the end of Part 3, add the following new sections:

"SEC. 552. UTILITY INCENTIVE PROGRAMS.—Federal agencies are permitted and encouraged to participate in programs conducted by any gas or electric utility for the management of energy demand or for energy conservation in Federally owned or leased facilities. Federal agencies may accept incentives designed to encourage energy demand management or energy conservation, generally available from any such utility to its customers, to adopt technologies and practices that are determined to be cost-effective.

"SEC. 553. SHARED ENERGY SAVINGS.—(a) The Secretary shall develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts and will reduce the administrative effort and cost on the part of the government as well as the private customers.

"(b)(1) In carrying out subsection (a), the Secretary may:

"(A) request statements of qualifications, including financial and performance information, from firms engaged in providing shared energy savings contracting;

"(B) designate from the statements received, with an update at least annually, those firms that are presumptively qualified to provide shared energy savings services;

"(C) select at least three firms from the qualifying list to conduct discussions concerning a particular proposed project, including requesting a technical and price proposal from such selected firms for such project; and

"(D) select from such firms the most qualified firm to provide shared energy savings services pursuant to a contractual arrangement that the Secretary determines is fair and reasonable, taking into account the estimated value of the services to be rendered and the scope and nature of the project.

"(2) In carrying out subsection (a), the Secretary may also provide for the direct negotiation by departments, agencies, and instrumentalities, of contracts with shared energy savings contractors that have been selected competitively and approved by any gas or electric utility serving the department, agency, or instrumentality concerned.

"SEC. 554. FEDERAL PRODUCT SCHEDULE.—Not later than two years after the date of enactment of the National Energy Security Act of 1991, the Administrator of the General Services Administration, in consultation with the Secretary, shall conduct an analysis of significant energy consuming products in the Federal Supply Schedule and develop and implement a method to identify those products which offer cost-effective opportunities to reduce energy consumption and costs. The Administrator shall also issue guidelines for users of the Federal Product Schedule to encourage the purchase of identified energy efficient models.

"SEC. 555. PURCHASE OF FEDERAL VEHICLES.—The Administrator of the General Services Administration, through the Automotive Commodity Center, in evaluating and accepting bids for the purchase of passenger vehicles and light trucks to meet specified requirements, shall consider the fuel efficiency of the passenger vehicles and light trucks offered in the bid, and the probable fuel and cost savings to the Federal government over the expected term of Federal use of such passenger vehicles and light trucks.

"SEC. 556. FEDERAL ENERGY EFFICIENCY PROJECTS FUNDING. (a) IN GENERAL.—Not later than one year after the date of enactment of the National Energy Security Act of 1991, the Secretary shall establish guidelines for the transfer of up to $1 million per project to encourage any Federal agency to undertake energy efficiency projects in Federally owned facilities.

"(b) PROJECT SELECTION.—The Secretary shall establish procedures for the receipt of proposals under this section. The Secretary shall consider the following factors in determining whether to provide funding under subsection (a):

"(1) the cost-effectiveness of the project;

"(2) the proportion of energy and cost savings anticipated to the Federal government;

"(3) the amount of funding committed to the project by the agency requesting financial assistance;

"(4) the extent that a proposal leverages financing from other non-Federal sources; and

"(5) any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal government.

"(c) REPORTS.—The Secretary shall report annually to Congress, in the supporting documents accompanying the President's budget, on the activities under this section. The report shall include the projects funded and the projected energy and cost savings from installed measures.

"(d) AUTHORIZATION.—For purposes of this subsection, there is authorized to be appropriated, and to remain available until expended, not more than $50 million.".

SEC. 3102. PLAN REGARDING DEMONSTRATION OF NEW TECHNOLOGY.—(a) PLAN.—Within one year after the date of the enactment of this Act, the Secretary shall submit a plan to Congress for the demonstration in Federally owned facilities of energy efficiency and renewable energy technologies. The technologies shall be those technologies, as determined by the Secretary, that are ready for commercial demonstration. The Plan shall include:

(1) a listing of those technologies with specific candidate sites for the demonstration;

(2) the energy, environmental, cost savings or other expected benefits;

(3) a timetable for implementation; and

(4) a process for evaluation of the performance of the technologies.

(b) UPDATE.—The Plan shall be updated every two years.

Subtitle C—Utilities

SEC. 3201. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RECOURCES AND STUDY OF CERTAIN STATE RATEMAKING POLICIES.—(a) AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT.—The Public Utility Regulatory Policies Act of 1978 (92 Stat. 3117), as amended, is further amended by inserting the following new paragraph at the end of section 111:

"(7) ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES.—

"(A) The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources and other demand side management measures are as profitable as its investments in and expenditures for the construction of new generating facilities.

"(B) For purposes of implementing the provisions of this paragraph, any reference contained in this title to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of the National Energy Security Act of 1991.".

(b) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit a report to the President and to the Congress containing—

(1) a survey of all State laws, regulations, practices, and policies under which State regulatory authorities require or permit rates charged by an electric utility to reflect least-cost planning;

(2) an evaluation by the Secretary of whether, and to what extent, least-cost planning is likely to result in:

(A) higher or lower electricity costs to an electric utility's ultimate consumers or to classes or groups of such consumers;

(B) enhanced or reduced reliability of electric service; and

(C) increased or decreased dependence on particular energy resources; and

(3) an evaluation by the Secretary of whether, and to what extent, ratemaking methodologies implementing least-cost planning adequately take into account the impact of such measures on electric utilities' costs, operations, and rate of return on investment.

(c) DEFINITION.—For purposes of subsection (b), the term "least-cost planning" means any standard, regulation, practice, or policy by which a State regulatory authority considers, or requires a State regulated electric utility to consider or implement, a plan for action (including, but not limited to, the construction of or purchase of electric energy from new generation facilities and investment in or expenditures for conservation, energy efficiency resources, or other demand-side management measures) to be taken by a State regulated electric utility for purposes of providing adequate and reliable service to its electric customers with the incurrence of lowest costs by such utility and its customers.

SEC. 3202. CONSERVATION GRANTS TO STATE REGULATORY AUTHORITIES.—(a) CONSERVATION GRANTS.—The Secretary is authorized in accordance with the provisions of this section to provide grants to State regulatory authorities in an amount not to exceed $500,000 per authority, for purposes of encouraging the consideration of conservation, energy efficiency resources and other demand side management measures as a means of meeting electric supply needs.

(b) PLAN.—A State regulatory authority wishing to receive a grant under this section shall submit a plan to the Secretary that specifies the actions such authority proposes to take that would achieve the purposes of this section.

(c) SECRETARIAL ACTION.—In determining whether, and in what amount, to provide a grant to a State regulatory authority under this section the Secretary shall consider, in addition to other appropriate factors, the actions proposed by the State regulatory authority:

(1) to consider implementation of the ratemaking standard established in section 111(d)(7) of the Public Utility Regulatory Policies Act of 1978; and

(2) to achieve the purposes of this section.

(d) RECORDKEEPING.—Each State regulatory authority that receives a grant under this section shall keep such records as the Secretary shall require.

(e) RULES.—The Secretary may prescribe such rules as may be necessary or appro-

priate for carrying out the provisions of this section.

(f) DEFINITIONS.—For purposes of this section, the term "State regulatory authority" shall have the same meaning as defined in section 3 of the Public Utility Regulatory Policies Act of 1978.

(g) AUTHORIZATION.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Subtitle D.—Used Oil Energy Production

SEC. 3301. PURPOSE.—The purpose of this subtitle is to promote the refining, re-refining and reprocessing of used lubricating oil into fuels and other petroleum products.

SEC. 3302. REQUIREMENTS FOR ENERGY PRODUCTION FROM USED OIL.—Section 383 of the Energy Policy and Conservation Act (42 U.S.C. 6363) is amended—

(1) in subsection (c) by—

(A) striking "As soon as practicable after the date of enactment of this Act" and inserting "Not less than 15 months after the date of enactment of the National Energy Security Act of 1991"; and

(B) striking "National Bureau of Standards" each place it appears and inserting "National Institute of Standards and Technology"; and

(2) by adding at the end thereof the following new subsection:

"(g) MARKET INCENTIVES FOR THE REUSE OF USED OIL.—

"(1) REQUIREMENTS.—(A) Beginning not later than 18 months after the date of the enactment of the National Energy Security Act of 1991, a producer or importer of 100,000 gallons or more per year of lubricating oil shall each year either refine, re- refine, or reprocess into petroleum products, including fuels, using a method described in subparagraph (B), an amount of used oil equal to at least that amount of oil determined by—

"(i) multiplying the lubricating oil produced or imported that year by such person, by

"(ii) the percentage established by the Secretary under paragraph (2).

"(B) A producer or importer of lubricating oil may comply with this paragraph by—

"(i) refining, re-refining, or reprocessing used oil for purposes of producing petroleum products, including fuels; or

"(ii) purchasing credits under the credit system established pursuant to paragraph (3).

"(2) ESTABLISHMENT OF REUSE PERCENTAGE.—The Secretary shall establish, on an annual basis, a percentage for use under paragraph (1). The percentage applicable during the first year that the requirement established by paragraph (1) is in effect, shall be a percentage that is equal to the reuse rate for lubricating oil that exists on the date of the enactment of the National Energy Security Act of 1991. Such rate shall be determined by using data for the most recent year for which data are available. Through the year 2000, the percentage shall be an additional two percentage points higher than the actual percentage for the previous year as determined by the Secretary.

"(3) REGULATIONS.—

"(A) IN GENERAL.—Not later than 18 months after the date of the enactment of the National Energy Security Act of 1991, the Secretary shall promulgate regulations to implement these requirements. These regulations shall cover:

"(i) producers or importers of lubricating oil;

"(ii) generators or collectors of used oil;

"(iii) a system, including permits, by which refiners, re-refiners and reprocessors of used oil may create credits which may be purchased by producers and importers of lubricating oil for the purpose of complying with subparagraph (1)(B);

"(iv) enforcement;

"(v) record-keeping;

"(vi) any other requirement which the Secretary considers necessary for administering the program set forth by this subsection; and

"(vii) prohibitions on the mixing of used oil with hazardous wastes or other physical or chemical impurities not associated with its use as a lubricating oil, and the creation of credits from such mixed used oil.

"(B) Exemptions.

"(i) This subsection shall not apply to a facility:

"(I) that is classified as an S.I.C. number 2911 facility under the Office of Management and Budget Standard Classification Manual and that refines used oil into fuel or other petroleum products, the amount of which is equal to no more than the amount of used oil that the owner of the facility is required to refine or otherwise reuse under paragraph (1)(A).

"(II) that is classified as an S.I.C. number 2899, or S.I.C. number 2992 facility under the Office of Management and Budget Standard Classification Manual and that compounds or blends lubricating base oil into finished lubricant products as its principal activity, provided that such facility has a contract to reprocess a customer's used lubricant, and does not take title to such lubricant, and such reprocessed lubricant product is returned to the customer.

"(ii) This subsection shall not apply to used oil that is generated on-site for on-site energy production activities, including storage, use, and transportation, carried out at a facility that is classified as an S.I.C. number 4911 facility under the Office of Management and Budget Standard Classification Manual.

"(iii) The Secretary shall promulgate regulations establishing requirements for exempt refineries that refine used oil. The regulations shall cover record-keeping, testing, and such other matters as the Secretary determines are necessary and appropriate for refining used oil at exempt refineries.

"(4) DEFINITIONS.—For purposes of this subsection, the term:

"(A) 'credit' means a legal record of used oil refined, re-refined or reprocessed in accordance with this subsection for purposes of complying with paragraph (1);

"(B) 'producer' with respect to lubricating oil means any person who produces a lubricant base stock from crude oil. Such production does not include the re-refining of used oil;

"(C) 'importer' with respect to lubricating oil means any person who imports a lubricant base stock or lubricating oil, except for lubricating oil contained in transportation vehicles or other machinery;

"(D) 'lubricant base stock' means oil from which lubricating oil is made after introduction of additives;

"(E) 'generator' and 'collector' mean any person who collects, stores, accumulates, or otherwise generates used oil. Such terms do not include an individual who generates used oil by removing such oil from the engine of a light duty motor vehicle or household appliance owned by that individual;

"(F) 're-refiner' and 'reprocesser' mean any person who produces lubricating oils, fuels, or other petroleum products through the processing of used oil; and

"(G) 'refiner' means any owner or operator of a facility that is classified as an S.I.C. 2911 facility under the Office of Management and Budget Standard Classification Manual.

"(5) AUTHORIZATIONS.—(a) There is authorized to be appropriated to the Secretary of Energy $2,000,000 to carry out this subsection.

"(b) There is authorized to be appropriated to the Secretary of Commerce for use by the National Institute of Standards and Technology $3,000,000 to carry out its responsibilities under this section.

"(6) REPORT.—One year after the date of enactment of this subsection, and annually thereafter, the Secretary shall submit a report to the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the implementation and operation of this subsection.".

SEC. 3303. LISTING OR IDENTIFICATION OF USED OIL.—Section 3001 of the Solid Waste Disposal Act is amended by adding at the end the following:

"(j) USED OIL.—Notwithstanding this Act or any other provision of law, the Administrator shall not list or identify used oil as a hazardous waste under this subtitle, nor shall used oil otherwise be deemed to be a hazardous waste under this subtitle."

SEC. 3304. SUNSET PROVISION.—The provisions of this subtitle expire five years after the date of enactment of this Act.

Subtitle E—Insular Areas Energy Assistance

SEC. 3401. INSULAR AREAS ENERGY ASSISTANCE PROGRAM.—(a) FINANCIAL ASSISTANCE.—(1) The Secretary, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901-5901), may grant financial assistance to Insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the Insular area on imported fuels and promote development in the Insular area.

(2) Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, the affected local energy institutions.

(3) In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(A) whether the measure will reduce the relative dependence of the Insular area on imported fuels;

(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or are identified by the Secretary as consistent with the purpose of this section;

(D) whether the measure will contribute significantly to development or the quality of the environment in the Insular area; and

(E) any other factors which the Secretary may determine to be relevant to a particular project.

(4) The Secretary shall require at least 20 per centum of the costs of any project under this section to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

(b) DEFINITIONS.—For the purpose of this section, the term—

(1) "Insular area government" means American Samoa government, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, Federated States of Micronesia, Government of Guam,

Republic of the Marshall Islands, Republic of Palau, and United States Virgin Islands; and

(2) "1982 Territorial Energy Assessment" means the assessment prepared by the Department of Energy pursuant to the Omnibus Territorial Act. (Pub. L. No. 96-597, 94 Stat. 3480; as amended by Pub. L. No. 99-213, 97 Stat. 1460).

(c) AUTHORIZATION.—There is hereby authorized to be appropriated for each fiscal year $500,000 to carry out the purposes of this section.

TITLE IV—RENEWABLE ENERGY

Subtitle A—CORECT

SEC. 4001. DUTIES OF CORECT.—Section 256 of Title II Part B of the Energy Policy and Conservation Act is amended by striking subsection (d) and inserting the following in lieu thereof:

"(d)(1) DUTIES.—There shall be established an interagency working group (hereafter in this subsection referred to as the Committee on Renewable Energy Commerce and Trade (CORECT)) which, in consultation with the representative industry groups and relevant agency heads, shall make recommendations to coordinate the actions and programs of the Federal government to promote the export of United States renewable energy and energy efficiency products and technologies. The Secretary of Energy shall be the Chairman of such group. The heads of appropriate agencies may detail such personnel and may furnish such services to such working group, with or without reimbursement, as may be necessary to carry out its functions.

"(2) ADDITIONAL DUTIES.—CORECT shall promote the development and application in lesser-developed countries of renewable energy and energy efficiency resource technologies that—

"(A) promote more efficient use of fossil fuels;

"(B) reduce dependence on the importation of fossil fuels by encouraging the use of sustainable biomass, wind power, hydropower, solar, geothermal and other renewable energy and energy efficiency resource technologies;

"(C) foster rural and urban energy development and energy self-sufficiency through the use of reliable and economical renewable energy and energy efficiency resource technologies;

"(D) explore mechanisms for assisting in the domestic manufacture, particularly by small business manufacturers, of energy efficiency and renewable energy resource technologies, for export; and

"(E) increase staffing to support the new authority and responsibilities described in this section.

"(3) TRAINING AND ASSISTANCE.—In furthering the purposes of this section, CORECT shall—

"(A) provide aggressive in-country technical training for local users and international development personnel;

"(B) provide financial assistance to support nonprofit institutions designed solely and specifically to support the efforts of domestic renewable energy and energy conservation companies to market their products, and to develop environmentally responsible projects in developing nations;

"(C) establish feasibility and loan guarantee programs to facilitate access to capital and credit; and

"(D) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency resource technologies.

"(4) OUTREACH.—CORECT may establish renewable energy industry outreach offices in the Pacific Rim and in the Caribbean Basin for the purpose of providing information concerning renewable energy and energy efficiency technologies and industries of the United States to governments, industries, and others outside of the continental United States.".

SEC. 4002. INFORMATION AND TECHNICAL PROGRAM—Section 256(c)(2)(D) Title II Part B of the Energy Policy and Conservation Act is amended by striking clause (ii) and inserting in lieu thereof the following new clause:

"(ii) information on the specific energy technology needs of lesser-developed countries, the technical and economic competitiveness of various renewable energy and energy efficiency resource technologies, and the status of ongoing technology assistance programs shall be provided. Information from this program shall be made available to industry, Federal and multilateral lending agencies, non-governmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.".

SEC. 4003. COMPREHENSIVE ENERGY TECHNOLOGY EVALUATION.— Section 256 of Title II Part B of the Energy Policy and Conservation Act is amended by adding at the end new subsections (e) and (f) as follows:

"(e)(1) Not later than June 1, 1991, and biennially thereafter, the Secretary shall prepare and submit to Congress a report evaluating the range of energy efficiency and renewable energy technologies available to meet the energy needs of developing countries. This report also shall provide information on the specific energy needs of lesser-developed countries, an inventory of United States technologies and services to meet those needs, and an update on the status of ongoing bilateral and multilateral technology assistance and renewable energy resource programs.

"(2) The report also should include an evaluation of current programs, their priority in meeting program objectives, and recommendations for future programs that:

"(A) develop and promote sustainable use of indigenous renewable energy resources in lesser-developed countries;

"(B) given the credit and capital restrictions in lesser-developed countries, focus on technologies that are both appropriate and economically viable;

"(C) meet the needs of lesser-developed countries for energy rather than creating new needs, in order to ensure immediate income-generating use of the power generated;

"(D) work with local individuals to assure that programs and projects meet specific national and local needs;

"(E) use indigenous materials and associated hardware, wherever possible, in order to reduce costs and ensure project duplication;

"(F) provide examples of cost-effective systems and applications for in-country nongovernmental organizations and project technical personnel;

"(G) provide mechanisms for assisting United States manufacturers, particularly smaller manufacturers, of energy-efficiency and renewable energy technologies, in exporting their goods and services;

"(H) expand technical and administrative training programs, as well as distribution of multilingual technical training manuals and related materials; and

"(I) examine the potential for using economic incentives to promote technology transfer, such as shared savings contracts, loan guarantees, and tax incentives, to lesser-developed countries.

"(f) AUTHORIZATIONS.—(1) There is authorized to be appropriated for purposes of carrying out the programs under sections (d) and (e) $10,000,000 for fiscal year 1992, including $2,000,000 to carry out the purposes of subparagraph (d)(2), and such sums as may be necessary for fiscal year 1993 and 1994 to carry out the purposes of this subtitle except for subparagraph (d)(4).

"(2) There is authorized to be appropriated for the purposes of subparagraph 256(d)(4), in addition to the amount specified in the previous sentence, $2,750,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 and 1994.".

Subtitle B—Renewable Energy Initiatives

SEC. 4101. JOINT VENTURES FOR RENEWABLE ENERGY DEVELOPMENT FOR OIL DISPLACEMENT AND TECHNOLOGY EXPORT TRAINING.—(a) Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Pub. L. No. 101-218) is amended by adding new subsections (f) and (g) as follows—

"(f) Additional Joint Ventures for Renewable Energy Development for Oil Displacement.—

"(1) OIL DISPLACEMENT BY BIOFUELS ENERGY SYSTEMS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of biofuels energy systems technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the development of biofuels energy systems for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of this paragraph.

"(2) OIL DISPLACEMENT BY GEOTHERMAL ENERGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of geothermal energy conversion technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for the production of geothermal energy for commercial application in uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(3) OIL DISPLACEMENT BY SOLAR WATER HEATING.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of solar water heating technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for solar water heating for commercial application in institutional water heating and process heat uses that have substantial prospects for displacing the consumption of oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(4) DIESEL FUEL OIL DISPLACEMENT BY PHOTOVOLTAIC AND WIND ENERGY SYSTEMS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of photovoltaic and wind energy systems in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for photovoltaic and wind energy systems for commercial application in electric power generation uses that have substantial prospects for displacing the consumption of diesel fuel oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(5) DIESEL FUEL OIL DISPLACEMENT BY DIRECT COMBUSTION OR GASIFICATION OF BIOMASS.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the commercialization of technologies for the direct combustion or gasification of biomass in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test and demonstrate critical enabling technologies for direct combustion or gasification of biomass, including waste wood, for industrial process heat and electric power generation for commercial application in uses that have substantial prospects for displacing the consumption of diesel fuel oil.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(6) OIL DISPLACEMENT BY FUEL CELLS TECHNOLOGY.—

"(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the demonstration of fuel cells technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the production of electric energy from fuel cells in order to accelerate commercial application of fuel cells.

"(C) There is authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.

"(g) RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGY EXPORT TRAINING.—

"(1) The Secretary shall solicit proposals for and provide financial assistance to at least two joint ventures for the training of individuals from developing countries at a location or locations in the United States, at least one of which shall be in the operation and maintenance of renewable energy equipment and one of which shall be in the operation and maintenance of energy efficiency equipment, in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to train individuals, including engineers and other professionals, in the operation and maintenance of renewable energy and energy efficiency equipment manufactured in the United States, including equipment for water pumping and the production of electric power in remote areas, in order to enhance the prospects that such equipment can be used to displace the use of diesel fuel oil in developing countries.

"(C) There is authorized to be appropriated to the Secretary not to exceed $6,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this paragraph.".

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of paragraph (b)(1) of such section is amended to replace the phrase "subsection (c)" with the phrase "subsections (c), (f) and (g)".

(2) Paragraph (b)(4) of such section is amended to read as follows—

"(4) DRAFT SOLICITATIONS AND PUBLIC COMMENT.—The Secretary shall issue a draft solicitation for joint ventures under subsection (c) by September 30, 1990 and a draft solicitation for joint ventures under subsections (f) and (g) by September 30, 1991. After any such draft solicitation has been issued, the Secretary shall provide for a period of public comment before the issuance of a final solicitation.

(3) Subsection (d) of such section is amended to replace the phrase "subsection (c)" everywhere it appears by "subsections (c) or (f)".

SEC. 4102. REPORT ON WASTE MINIMIZATION TECHNOLOGIES IN INDUSTRY. (a) REPORT.—Within one year after the date of enactment of this Act, the Secretary shall provide to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report evaluating opportunities to minimize waste outputs from production processes in industries in the United States.

(b) CONTENTS.—The report required by this section shall include—

(1) an assessment of the technologies available to increase productivity and simultaneously reduce the consumption of energy and material resources and the production of wastes;

(2) an assessment of the current use of such technologies by industry in the United States;

(3) the status of any such technologies currently being developed, together with projected time-frames for their commercial availability;

(4) the energy savings resulting from the use of such technologies;

(5) the environmental benefits of such technologies;

(6) the costs of such technologies;

(7) an evaluation of any existing federal or state regulatory disincentives for the employment of such technologies; and

(8) an evaluation of any other barriers to the use of such technologies.

(c) CONSULTATION.—In preparing the report required by this section, the Secretary shall consult with the Administrator of the Environmental Protection Agency, any other Federal, State, or local official the Secretary deems necessary, representatives of appropriate industries, members of organizations formed to further the goals of environmental protection or energy efficiency, and other appropriate interested members of the public, as determined by the Secretary.

Subtitle C—Hydropower

SEC. 4201. SECTION 401 CERTIFICATION. (a) STATE CERTIFICATION.—Any State or interstate water pollution control agency that receives a request for certification under section 401 of the Clean Water Act (33 U.S.C. 1341) in connection with an application for a license under Part I of the Federal Power Act, as amended, (16 U.S.C. 791a et seq.) is prohibited from including as a condition of certification any requirement not needed to ensure that any discharge resulting from the issuance of such license, and the construction or operation of a hydroelectric project thereunder, will comply with the applicable provisions of 33 U.S.C. Sections 1311, 1312, 1313, 1316 and 1317.

(b) VIOLATIONS.—Any requirement included in a certification which is determined by the Federal Energy Regulatory Commission to be in violation of subsection (a) shall not be effective.

SEC. 4202. STREAMLINING OF FEDERAL POWER ACT REGULATION.—The Federal Power Act, as amended, (16 U.S.C. Section 791a et seq.) is further amended by:

(a) striking in section 4(e) the following: ", and shall be subject to and contain such conditions as the Secretary of the department under whose supervision such reservation falls shall deem necessary for the adequate protection and utilization of such reservation";

(b) inserting the following new subparagraph at the end of section 10(a)(2):

"(D) In the case of a project located within a reservation, the recommendations of the Secretary under whose supervision such reservation falls concerning the adequate protection and utilization of such reservation.";

(c) striking "and (B)" in section 10(a)(3) and inserting ", (B) and (D)" in lieu thereof;

(d) striking subsection (i) in section 10 and relettering the subsections accordingly;

(e) striking in section 18 the following: ", and such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce, as appropriate";

(f) adding at the end of section 23 the following:

"(c) The provisions of this Act shall not apply to any project having a power production capacity of 1500 kilowatts or less.".

SEC. 4203. IMPROVEMENT AT EXISTING FEDERAL FACILITIES.— (a) The Secretary, in consultation with the Secretary of the Interior and the Secretary of the Army, shall perform studies of cost effective opportunities to increase hydropower production at existing Federally-owned or operated water regulation, storage and conveyance facilities. Such studies shall be completed within two years of the enactment of this Act and transmitted to the Committee on Energy and Natural Resources in the United States Senate and to the United States House of Representatives. An individual study shall be prepared for each of the Nation's principal river basins. Each such study shall identify and describe with specificity the following matters:

(1) opportunities to improve the efficiency of hydroelectric generation at such facilities through, but not limited to, mechanical, structural or operational changes;

(2) opportunities to improve the efficiency of the use of water supplied or regulated by Federal projects where such improvement could, in the absence of legal or administrative constraints, make additional water supplies available for hydroelectric generation or reduce project energy use;

(3) opportunities to create additional generating capacity at existing facilities through, but not limited to, the construction of additional generating units, the uprating of generators and turbines, and the construction of pumped storage facilities; and

(4) preliminary assessment of the costs of such measures.

(b) There is authorized to be appropriated in each of fiscal years 1992, 1993 and 1994 such sums as are necessary to carry out the purposes of this section.

TITLE V.—COAL, COAL TECHNOLOGY AND ELECTRICITY

Subtitle A—Coal and Coal Technology

SEC. 5001. COAL RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.—(a) ESTAB-

LISHMENT.—The Secretary, in consultation with the National Coal Council and other representatives of the public as the Secretary deems necessary, shall, in accordance with the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901–5920), conduct a research, development, and demonstration program within the Department of Energy for advanced coal-based technologies with the goal and objective of achieving the control of sulfur oxides and oxides of nitrogen at levels of proficiency greater than currently available commercial technology. The coal technology development program shall also be designed to assure the timely development of cost-effective technologies or energy production processes or systems utilizing coal which achieve greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal and the control of emissions from the combustion of coal. Such program shall be designed to assure the availability for commercial use of such technologies by the year 2010.

(b) REPORT.—Within two hundred and forty days after the date of enactment of this Act the Secretary shall transmit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which shall include—

(1) a detailed description of on-going research and development activities regarding advanced coal-based technologies undertaken by the Department of Energy, other federal or state government departments or agencies and, to the extent such information is publicly available, other public or private organizations in the United States and other countries;

(2) a listing and analysis of current federal and state government regulatory and financial incentives that could further the goals of the program established by this section;

(3) recommendations, if any, regarding additional cost-sharing demonstrations conducted pursuant to the Clean Coal Program established by Public Law No. 98-473, that could assure that the goals of the program established by this section are achieved; and

(4) a detailed plan for conducting the research, development and demonstration program to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(i) the program elements and management structure to be utilized; and

(ii) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan.

(c) ANNUAL REPORT.—Within twelve months after submittal of the report described in subsection (b) of this section, and every twelve months thereafter for a period of five years, the Secretary shall submit to the Congress a report that provides a detailed description of the status of development of the advanced coal-based technologies and the research, development, and demonstration activities undertaken to carry out the program required by this section.

(d) DEFINITION.—As used in this section, the term "advanced coal-based technologies" means, but is not limited to, the following—

(1) advanced integrated gasification combined cycle;

(2) pressurized fluidized bed combustion technology capable of achieving higher thermal conversion efficiency than can be achieved through on-going demonstration projects;

(3) direct and indirect coal-fired turbines;

(4) coal refining processes capable of efficiently producing or utilizing the energy contained in coal and also utilizing the by-products thereof;

(5) magnetohydrodynamics;

(6) molten carbonate and solid oxide fuel cells;

(7) coal liquefaction processes; and

(8) other coal-based technologies or processes or systems that are capable of achieving thermal conversion efficiencies equal to or greater than fifty percent.

SEC. 5002. NON-FUEL USE OF COAL.—(a) PLAN.—Not later than one hundred and twenty days after the date of the enactment of this Act, the Secretary shall submit to Congress a plan for research, development, and demonstration with respect to technologies for non-fuel use of coal, including—

(1) production of coke and other carbon products derived from coal;

(2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;

(3) production of chemicals from coal-derived synthesis gas;

(4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and

(5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) JOINT VENTURES.—As part of the plan under subsection (a), the Secretary may propose specific joint ventures to accelerate the development and commercialization of technologies for non-fuel uses of coal.

(c) PLAN CONTENTS.—The plan under subsection (a) shall address and evaluate:

(1) the known and potential products and processes for the use of coal for products in the chemical, utility, fuel, and carbon-based materials industries;

(2) the costs, benefits and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;

(3) the economics of co-production of products from coal in conjunction with production of electric power, thermal energy, and fuel;

(4) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(5) the steps that can be taken by the public and private sectors to bring about commercialization of research results produced by the research program recommended; and

(6) the past development, current status, and future potential of coal products and processes associated with non-fuel use of coal.

(d) RESEARCH AND DEVELOPMENT.—The Secretary shall conduct a program of research and development under the plan under subsection (a).

(e) FUNDING.—The Secretary may provide financial assistance for a research project under the plan using funds authorized by section 5007(b) to the extent the Secretary finds that such project—

(1) furthers achievement of the goals and purposes of this Act;

(2) offers promise for commercial application; and

(3) has a reasonable prospect of support in at least 50 per centum of its direct costs from non-Federal funds.

(f) CONSULTATION.—In preparing the plan and carrying out research under this section, including evaluating the technical progress, feasibility, and most effective means for utilizing the results of research, the Secretary shall consult with the private sector.

SEC. 5003. COAL EXPORTS. (a) PLAN.—Within one hundred and eighty days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Commerce, the Secretary of State, and the United States Trade Representative, shall submit to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a plan for expanding the export of United States coal.

(b) PLAN CONTENTS.—Such plan shall include:

(1) identification of the location, size and projected growth in potential foreign markets for coal produced in the United States;

(2) identification by country of the existence of barriers to United States coal exports, including foreign coal production and utilization subsidies, tax treatment, labor practices, tariffs, quotas, and other non-tariff barriers;

(3) recommendations and an action plan for addressing any such barriers;

(4) an evaluation of existing United States infrastructure, and any new infrastructure requirements within the United States to support an expansion of United States coal exports, including ports, vessels, rail lines, and any other supporting infrastructure; and

(5) identification of opportunities for blending United States coal exports with coal indigenous to the importing country to enhance energy efficiency and environmental performance.

SEC. 5004. CLEAN COAL TECHNOLOGY EXPORT COORDINATING COUNCIL. (a) ESTABLISHMENT.—There shall be established a Clean Coal Technology Export Coordinating Council (hereinafter "Council") which shall seek to facilitate and expand the export and use of clean coal technologies. The Council shall place a priority on the export and use of clean coal technologies in lesser-developed countries.

(b) MEMBERSHIP.—The Council shall consist of the Secretary, who shall serve as its chairperson, the Secretary of Commerce, the Secretary of State (including a designee from the Agency for International Development and the Trade and Development Program), the Administrator of the Environmental Protection Agency, the President and Chairman of the Export- Import Bank and the President and Chief Executive Officer of the Overseas Private Investment Corporation.

(c) CONSULTATION.—In undertaking its responsibilities, the Council shall consult with representatives from the United States coal industry, the electric utility industry, manufacturers of equipment utilizing clean coal technology, members of organizations formed to further the goals of environmental protection or to promote the development and use of clean coal technologies, and other appropriate interested members of the public.

(d) DUTIES.—In furthering the purposes of this section, the Council shall—

(1) facilitate the establishment of technical training for local users and international development personnel;

(2) cause to be established within existing departments and agencies financial assistance programs to support pre-feasibility and feasibility studies for projects that will utilize clean coal technologies and loan guarantee programs designed to facilitate access to capital and credit in order to finance such clean coal technology projects;

(3) develop and execute programs, including the establishment of financial incen-

tives, to encourage and support private sector efforts to export clean coal technologies; and

(4) review ongoing clean coal technology projects and review and approve planned clean coal technology projects, which are sponsored abroad by any Federal government agency to determine whether such projects are consistent with the overall goals and objectives of this section.

(e) DATA AND INFORMATION.—The Council shall be responsible for the development of a comprehensive data base and information dissemination system relating to the availability of clean coal technologies and an ongoing assessment of the potential need for such technologies particularly in lesser developed countries. The Council shall provide a country-by-country assessment of the potential for the use of clean coal technology. The Council shall make such information available to industry, Federal and international financing organizations, non-governmental organizations, officials in countries where such clean coal technologies might be utilized and such others as the Council deems necessary. In developing this data base and on-going assessment, the Council shall consult with the Committee on Renewable Energy Commerce and Trade.

(f) REPORT.—Within one hundred and eighty days after the Secretary submits the report to the Congress as required by section 409 of Pub. L. No. 101-549, the Council, in consultation with those persons referenced in subsection (c) of this section, shall provide to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a plan which details actions to be taken in order to address those recommendations and findings made in the report submitted pursuant to section 409 of Pub. L. No. 101-549. As a part of the plan required by this subsection, the Secretary shall specifically address the adequacy of financial assistance available from federal departments and agencies and international financing organizations to aid in the financing of prefeasibility and feasibility studies and projects that would utilize a clean coal technology in lesser developed countries.

SEC. 5005. COAL FUEL MIXTURES.—Within one year following the date of enactment of this Act, the Secretary shall report to the Committee on Energy and Natural Resources in the United States Senate and the United States House of Representatives on the status of technologies for combining coal with other materials, such as oil or water fuel mixtures. The report shall include:

(1) a technical and economic feasibility assessment of such technologies;

(2) projected developments in such technologies;

(3) an assessment of the market potential of such technologies, including the potential to displace imported crude oil and refined petroleum products;

(4) identification of barriers to commercialization technologies; and

(5) recommendations for addressing barriers to commercialization.

SEC. 5006. COAL FIRED LOCOMOTIVES.—The Secretary shall conduct a research, development, and demonstration program for utilizing "ultra-clean coal-water slurry" in diesel locomotive engines. The program shall address, but not be limited to, the following:

(1) required engine retrofit technology;

(2) coal-fuel production technology;

(3) emission control requirements;

(4) fuel delivery and storage systems requirements; and

(5) other infrastructure required to support commercial deployment.

SEC. 5007. AUTHORIZATIONS.—(a) There is authorized to be appropriated such sums as are necessary for each of fiscal years 1992, 1993, and 1994 for purposes of implementing the program pursuant to section 5001.

(b) There is authorized to be appropriated to carry out section 5002, a total of $20,000,000 for fiscal years 1992 through 1994.

(c) There is authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994, to carry out the purposes of section 5004.

SEC. 5008. ESTABLISHMENT OF DATA BASE AND STUDY OF COAL TRANSPORTATION RATES. (a) ESTABLISHMENT OF DATA BASE.—The Secretary is authorized and directed to establish a data base containing, to the maximum extent practicable, all transportation rates for rail, pipeline, truck, conveyor belt, barge and other modes of transporting domestic coal during the period January 1, 1988 through December 31, 1997. The confidentiality of contract rates shall be preserved and public access to the data base shall be provided under appropriate terms and conditions that protect the confidentiality of specific contract rates.

(b) STUDY OF COAL TRANSPORTATION RATES.—The Secretary shall study the rates and distribution patterns of domestic coal to determine the impact of the Clean Air Act Amendments of 1990 and other Federal policies on such rates and distribution patterns. The study shall consider, among other factors:

(1) the extent to which coal transportation rate increases occur as a result of the enactment of the Clean Air Act Amendments of 1990 and other Federal policies;

(2) any increases or decreases in the revenue to variable cost ratios of railroad coal transportation rates during the period of the study and the percentage of the delivered price of coal to electric generating facilities that is attributable to coal transportation rates, during this period;

(3) any changes in the distribution patterns of coal among the various regions of the nation during the study period; and,

(4) any electricity rate increases or decreases in the various regions of the nation during the period of study that are attributable to coal transportation costs.

(c) REPORTS TO CONGRESS.—The Secretary shall submit an interim report to Congress on January 1, 1993, and a final report to Congress, together with any recommendations, on January 1, 1995. The Secretary shall submit an additional report to Congress, with recommendations, on January 1, 1998. The Administrator of the Energy Information Administration and the Chairmen of the Federal Energy Regulatory Commission and the Interstate Commerce Commission shall cooperate fully with the Secretary in the development of the data base and studies authorized by this section.

Subtitle B—Electricity

SEC. 5101. APPLICABILITY OF NEW SOURCE REVIEW TO EXISTING ELECTRIC UTILITY STEAM GENERATING UNITS.—(a) POPULATION CONTROL PROJECTS.—For purposes of the Clean Air Act, no physical change in, or change in the method of operation of, an electric utility steam generating unit which is undertaken for purposes of pollution control, including the use of natural gas and clean coal technologies, shall be treated as a modification for a specific regulated pollutant for purposes of part C or D of title I of the Clean Air Act if such change does not increase the potential emissions of the specific regulated pollutant from such source above the potential emissions before the change.

(b) NITROGEN OXIDE CONTROL REQUIREMENTS.—

(1) For purposes of the Clean Air Act, any modification, as defined in section 169(c)(2) of such Act, at an existing electric utility steam generating unit subject to section 165 of the Clean Air Act shall be deemed to satisfy the technology requirements of section 165(a)(4) thereof for nitrogen oxides if it meets the following—

(A) For a unit subject to a requirement promulgated pursuant to section 407 of the Clean Air Act, immediately following the modification, the unit shall be required to meet nitrogen oxide emissions limitation specified for that boiler type pursuant to section 407. In the event that the modification precedes the establishment of nitrogen oxide emissions limitations for that boiler type pursuant to section 407, the unit shall be required to meet the applicable emission limitation upon the date required by the regulation.

(B) For an existing electric utility steam generating unit not subject to section 407 of the Clean Air Act immediately following the modification, the unit shall be required to meet the nitrogen oxide limit equivalent to the limit achievable using "low-NO_x burners."

(2) Any State or local permitting authority shall retain the right to impose more stringent limitations for control of nitrogen oxides.

SEC. 5102. EXCESS CAPACITY STUDY.—The Secretary shall study and report to Congress by June 30, 1992, on any physical impediments to the transfer of excess electrical energy from regions of the country having surpluses to regions of the country having shortages and the reasons therefor.

TITLE VI—RESEARCH, DEVELOPMENT, DEMONSTRATION AND COMMERCIALIZATION ACTIVITIES

SEC. 6001. ENERGY RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIALIZATION PRIORITIES.—The Secretary shall establish priorities for research, development, demonstration, and commercialization activities. These priorities shall include consideration of the following criteria:

(a) the potential to increase the Nation's energy independence and thus reduce reliance on imported oil;

(b) the projected cost-effectiveness of the energy or energy efficiency resource to be produced or saved, including an evaluation of the likelihood of the activities contributing to the achievement of commercialization of new energy technologies;

(c) the comparative environmental and public health impacts of the energy to be produced or saved by the specific activities;

(d) the national security impact of the energy produced or saved, including its projected contribution to the reduction of oil imports and to the diversity of the domestic energy resource mix;

(e) the obstacles inherent in private industry's development of new energy technologies and steps necessary for establishing or maintaining technological leadership in the area of energy and energy efficiency resource technologies, including, but not limited to, solar, fuel cells, fusion, nuclear, clean-coal technologies, oil and natural gas recovery and utilization, and hydrogen;

(f) the contribution of a given activity to fundamental scientific knowledge;

(g) the anticipated impact of the results of activities on targeted industries and industrial and manufacturing processes; and

(h) the contribution to United States competitiveness.

SEC. 6002. MANAGEMENT PLAN.—

(a) PLAN PREPARATION.—The Secretary, in consultation with the Energy Advisory Board to the Secretary, shall prepare a management plan for the conduct of research, development, demonstration, and commercialization of energy technologies that is consistent with the purposes of this Act and guided by the priorities set forth in section 6001.

(b) PROPOSALS.—The management plan under subsection (a) shall contain proposals for—

(1) investigation of promising energy and energy efficiency resource technologies that have been identified as potentially significant future contributors to national energy security;

(2) development of contingency energy and energy efficiency resource technologies that have the potential to reduce energy supply vulnerability, and to minimize adverse impacts on the environment, the global climate, and the economy; and

(3) creation of opportunities for export of energy and energy efficiency resource technologies from the United States that can enhance the Nation's competitiveness;

(c) PLAN SUBMISSION.—Within one year after the date of enactment of this section, the Secretary shall submit the first management plan under this section to Congress. Thereafter, the Secretary shall submit a revised management plan biennially at the time of submittal of the President's annual budget submission to the Congress.

SEC. 6003. NATURAL GAS END-USE TECHNOLOGIES. (a) PROGRAM.—The Secretary of Energy shall carry out a program to promote the development and commercialization of new and advanced natural gas utilization technologies including, but not limited to, the following areas—

(1) Stationary source emissions control and efficiency improvements including combustion systems, industrial processes, natural gas heating and cooling, and cofiring natural gas with coal and waste fuels;

(2) Natural gas storage including increased deliverability from existing gas storage facilities and new capabilities for storage near demand centers and on-site storage at major energy consuming facilities;

(3) Transportation fuel alternatives and emissions controls including natural gas vehicle commercialization and infrastructure development, and advanced engines and propulsion concepts; and

(4) Electrochemical energy conversion including the commercialization of molten carbonate fuel cells and the development of advanced natural gas-fired fuel cell technologies.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall enter into cooperative agreements under this section.

(c) COST-SHARE.—The Secretary shall not finance more than 50 per centum of the total costs of natural gas utilization technologies selected under this section as estimated by the Secretary as of the date of award of financial assistance.

(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out a program in fiscal years 1992, 1993, and 1994, under this section.

SEC. 6004. NATURAL GAS SUPPLY ENHANCEMENT. (a) PROGRAM.—The Secretary shall carry out a program of research, development and demonstration to increase the recoverable natural gas resource base including, but not limited to, the following areas:

(1) More intensive recovery of natural gas from discovered conventional resources;

(2) Economic recovery of unconventional natural gas resources, including gas from tight sands, Eastern shales, and gas from less permeable formations, coal-bed methane and geopressurized reservoirs;

(3) Surface gasification of coal; and

(4) Recovery of methane from biofuels including municipal solid waste.

(b) COOPERATIVE AGREEMENTS.—The Secretary shall enter into cooperative agreements under this section.

(c) COST SHARE.—The Secretary shall not finance more than 50 per centum of the total costs of a project selected under this section as estimated by the Secretary as of the date of award of financial assistance.

(d) Authorization.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out a program in fiscal years 1992, 1993 and 1994, under this section.

SEC. 6005. HIGH EFFICIENCY HEAT ENGINES. (a) PROGRAM.—The Secretary shall carry out a program of research, development, demonstration, and commercialization on high efficiency heat engines, emphasizing advanced gas turbine cycles, and the incorporation of energy efficient materials in advanced gas turbine cycles for high efficiency electric and automotive power generation, such as—

(1) advanced combined cycle turbines;

(2) steam-injected gas turbines; and

(3) intercooled steam-injected gas turbines.

(b) JOINT VENTURES.—The Secretary may enter into joint ventures with the appropriate parties to construct and demonstrate high efficiency heat engines.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $25,000,000 for each of the fiscal years 1992, 1993, and 1994, to carry out the purposes of this section.

TITLE VII—STRATEGIC PETROLEUM RESERVE

SEC. 7001. OIL SECURITY PREMIUM.—(a) Title I of the Energy Policy and Conservation Act (42 U.S.C. 6201) is amended—

(1) in section 152, by striking "and Part C" and inserting in lieu thereof ", Part C, and Part D" in the material preceding paragraph (1);

(2) by redesignating Part D as Part E;

(3) by redesignating section 181 as section 191; and

(4) by adding the following new part after Part C:

"PART D—OIL SECURITY PREMIUM

"PROGRAM GOALS

"SEC. 181. The Secretary of Energy shall establish and implement a program for ensuring that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 220,000 barrels per day, and for meeting the petroleum product needs of the Department of Defense by requiring importers to provide petroleum product for such purposes.

"PERCENTAGE DETERMINATIONS

"SEC. 182. (a) The Secretary shall estimate, for each fiscal year—

"(1) the average consumption in barrels per day of petroleum product by the Department of Defense; and

"(2) the average imports of petroleum product in barrels per day into the United States.

"(b) The Secretary shall add the quantity estimated in subsection (a)(1) to a fill rate of 220,000 barrels per day for the Reserve.

"(c)(1) The Secretary shall determine for each fiscal year the percentage that the sum calculated pursuant to subsection (b) represents of the average imports of petroleum product estimated pursuant to subsection (a)(2).

"(2) The Secretary shall have discretion to modify the percentage determined pursuant to this subsection during the course of any fiscal year—

"(A) to reflect changes in the average consumption in barrels per day of petroleum product by the Department of Defense;

"(B) to reflect changes in the average imports of petroleum product in barrels per day into the United States;

"(C) if the Department of Defense is unable to take delivery of petroleum product provided pursuant to this part due to lack of storage capacity or related facilities;

"(D) to reflect any suspension of fill operations pursuant to subsection 159(e) of the Energy Policy and Conservation Act (42 U.S.C. 6240);

"(E) if the Secretary is unable to take delivery of petroleum product provided pursuant to this part due to lack of Reserve storage capacity or related facilities; or

"(F) if the provision of 220,000 barrels per day of petroleum product for the Reserve in any fiscal year would lead to an aggregate of more than one billion barrels of petroleum product in the Reserve.

"PROVISION OF PETROLEUM PRODUCT

"SEC. 183. (a) The Secretary shall provide, through regulations or orders issued under this Part, that each importer (as defined in section 152(2)) shall provide to the United States at no cost in each fiscal year petroleum product in an amount equal to the percentage determined in section 182(c) of the amount of petroleum product—

"(1) which is entered into the United States during any such fiscal year for consumption, use, or warehousing; and

"(2) which is owned by such importer at the first place of storage in the United States.

"(b) Through regulations or orders issued under this part, the Secretary shall reduce the amount of petroleum product deemed to be owned by an importer for purposes of subsection (a) by an amount equal to the amount of petroleum product which is entered into the United States for consumption, use, or warehousing and which is owned by such importer at the first place of storage in the United States and then is refined into another petroleum product and exported from the United States.

"(c) Through regulations or orders issued under this part, the Secretary shall require—

"(1) that petroleum product provided for the Reserve by an importer pursuant to this part be crude oil or other designated petroleum product for which there are authorized storage facilities;

"(2) that petroleum product provided for the Department of Defense by an importer pursuant to this part be designated petroleum product that meets the needs and specifications of the Department of Defense; and

"(3) that petroleum product provided by an importer pursuant to this part be delivered to designated locations at designated times, and be equivalent in fair market value to the amount of petroleum product otherwise required to be provided by such importer pursuant to subsection (b).

"(d) For purposes of this section, the Secretary shall determine the fair market value of the amount of petroleum product otherwise required of any importer pursuant to subsection (b) at the locations and times that such importer entered petroleum prod-

uct into the United States for consumption, use, or warehousing.

"EFFECTIVE DATE

"SEC. 184. The provisions of this part shall take effect beginning in fiscal year 1992.".

(b) The table of contents of the Energy Policy and Conservation Act is amended—

(1) by inserting at the end of the items for Part C of Title I the following items:

"PART D—PETROLEUM PRODUCT PROVIDED BY IMPORTERS TO THE SPR AND THE DEPARTMENT OF DEFENSE

"Sec. 181. Program Goals.
"Sec. 182. Percentage Determinations.
"Sec. 183. Provision of Petroleum Product.
"Sec. 184. Effective Date.";

(2) by redesignating Part D in the items for title I as Part E; and

(3) by redesignating the item for section 181 as the item for section 191.

TITLE VII—OUTER CONTINENTAL SHELF

SEC. 8001. COASTAL STATE AND COMMUNITY OUTER CONTINENTAL SHELF IMPACT ASSISTANCE.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding a new Title V as follows:

"SECTION 1. SHORT TITLE.

"This title may be cited as the 'Coastal State and Community Outer Continental Shelf Impact Assistance Act'.

"SEC. 2. DEFINITIONS.

"For purposes of this title the term—

"(1) "coastal State" means any State of the United States bordering on the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, or the Gulf of Mexico;

"(2) "coast line" has the meaning given such term under the Submerged Lands Act (43 U.S.C. 1301 et seq.);

"(3) "Secretary" means the Secretary of the Interior; and

"(4) "new revenues" means:

(A) all bonuses paid as a result of lease sales conducted pursuant to the Outer Continental Shelf Lands Act on or after February 5, 1991;

(B) all rents and other moneys payable to the Secretary on or after February 5, 1991 related to a lease issued pursuant to the Outer Continental Shelf Lands Act; and

(C) all royalties attributable to a well or mining operation from which production commenced on or after February 5, 1991 and payable to the Secretary under the Outer Continental Shelf Lands Act;

plus interest thereon.

"SEC. 3. COASTAL STATE AND COMMUNITY OUTER CONTINENTAL SHELF IMPACT ASSISTANCE FUND.

"(a) ESTABLISHMENT.—There is established an interest bearing account in the Treasury of the United States to be known as the Coastal State and Community Outer Continental Shelf Impact Assistance Fund (hereinafter in this Act referred to as "the Fund").

"(b) PAYMENTS TO FUND.—Beginning in fiscal year 1992, the Secretary shall pay into the Fund not later than 60 days after the end of the preceding fiscal year, an amount equal to 37.5 percent of all new revenues, as defined herein, derived during the preceding fiscal year which are attributable to an Outer Continental Shelf lease any part of which is within 200 geographical miles of the coast line.

"SEC. 4. DISPOSITION OF FUND.

"(a) STATE IMPACT ASSISTANCE.—(1) Six months after the end of fiscal year 1991, and annually thereafter, the Secretary shall transmit to the coastal state the revenues payable to such coastal state pursuant to this Title, plus interest thereon.

"(2) The amounts to be paid to coastal states under this subsection shall be, with respect to any such state for any fiscal year, the sum of the amounts calculated, with respect to such state, pursuant to subparagraphs (A), (B), and (C):

"(A) An amount which bears, to one-half of the amount available in the Fund for such fiscal year, the same ratio that the amount of Outer Continental Shelf acreage which is adjacent to such state and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of Outer Continental Shelf acreage which is newly leased by the Federal Government in such preceding year.

"(B) An amount which bears, to one-quarter of the amount available in the Fund for such fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the Outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in such year from all of the Outer Continental Shelf acreage which is leased by the Federal Government.

"(C) An amount which bears, to one-quarter of the amount available in the Fund for such fiscal year, the same ratio that the volume of oil and natural gas produced from Outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all Outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the coastal states in such year.

"(3) For purposes of making calculations under paragraph (2), Outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:

"(A) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of the enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

"(B) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by an interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and the Contiguous Zone, and extended on the basis of such principles.

"(C) If, after the date of enactment of this paragraph, two or more coastal states enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

"(b) COUNTY AND COMMUNITY IMPACT ASSISTANCE.—The revenues paid by the Secretary to a coastal State under subsection (a) shall be used by such state and its subdivisions, as the legislature of the state may direct, giving priority to those subdivisions of the state socially or economically impacted by development of minerals on the Outer Continental Shelf, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public services.

"SEC. 5. RELATIONSHIP TO OTHER LAW.

"The payment of funds pursuant to this title shall be in addition to any payments made to a State under any other provision of this Act or any other provision of law.".

SEC. 8002. REPORT ON THE AVAILABILITY OF THE OUTER CONTINENTAL SHELF FOR LEASING.

(a) REPORT TO CONGRESS.—Within six months after the date of enactment of this Act, the President shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate containing the President's recommendations and findings regarding the availability of areas of the Outer Continental Shelf for oil and gas leasing, development and production.

(b) REPORT CONTENTS.—Such report shall contain but not be limited to the following findings and information:

(1) oil and gas production potential on the Outer Continental Shelf by region;

(2) historical data regarding oil and gas production on the Outer Continental Shelf by region;

(3) the extent to which production from areas of the Outer Continental Shelf currently under moratoria as a result of the decision of the President announced June 26, 1990 would reduce United States dependence on oil from the Middle East and on oil produced by members of the Organization of Petroleum Exporting Countries;

(4) a comparison by Outer Continental Shelf region and on a national basis of the number of oil spills and amount of spilled oil resulting from Outer Continental Shelf production and the number of oil spills and amount of spilled oil caused by vessels transporting imported oil to the United States;

(5) an estimate by region and on a national basis of the net change in the oil spill risk as imports of oil decrease in response to production from new leases on the Outer Continental Shelf;

(6) at least one proposal for an alternative to the current OCS process that would provide for a staged requirement for environmental information and public comment thereon at critical points in the leasing process and during the post-leasing exploration and development phases. Any such proposal shall assume that a potential lessee will be offered full rights to exploration and development at the time of lease sale subject to cancellation. Any proposal under this paragraph shall specify the criteria to be used for cancellation based on environmental considerations;

(7) an analysis of the compensation criteria for OCS lease cancellation under current law, recommended changes thereto, and recommendations for any changes in such compensation under any proposal under paragraph (6); and

(8) identification of gas prone areas under administrative or legislative moratoria.

TITLE IX—OIL AND GAS LEASING IN THE ARCTIC NATIONAL WILDLIFE REFUGE

Subtitle A. Statement of Purpose and Policy and Definitions

SEC. 9101. PURPOSE AND POLICY.—The Congress hereby declares that it is the purpose and policy of this title:

(a) to authorize competitive oil and gas leasing and development to proceed on the Coastal Plain in a manner consistent with protection of the environment, maintenance of fish and wildlife and their habitat, and the interests of the area's subsistence users; and

(b) to provide a new source of funding for energy related programs and projects designed to enhance the Nation's energy security and reduce dependence on imported oil.

SEC. 9102. DEFINITIONS.—When used in this title the term—

(a) "Coastal Plain" means that area identified as such on the map entitled "Arctic National Wildlife Refuge", dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. Sec. 3142(b)(1)) comprising approximately one million five hundred forty-nine thousand acres; and

(b) "Secretary" means the Secretary of the Interior or the Secretary's designee.

Subtitle B. Congressional Determination of Compatibility

SEC. 9201. CONGRESSIONAL DETERMINATION.—Congress hereby determines that oil and gas activities authorized and conducted on the Coastal Plain pursuant to this title so as to result in no significant adverse effect on fish and wildlife, their habitat, and the environment, shall be deemed to be compatible with the major purposes for which the Arctic National Wildlife Refuge was established and no further findings or determinations of compatibility by the Secretary under the National Wildlife Refuge System Administration Act (16 U.S.C. Sec. 668 dd(d)(1)(A)) are required to implement this Congressional determination.

Subtitle C. Coastal Plain Competitive Leasing Program

SEC. 9301. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.—(a) The Congress hereby authorizes and directs the Secretary and other appropriate Federal officers and agencies to take such actions as are necessary to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain. Activities pursuant to such program shall be undertaken:

(1) in accordance with the standards for protection of the environment as required by Subtitle D of this title; and

(2) in a manner to ensure the receipt of fair market value by the public for the mineral resources to be leased.

(b) This title shall be the sole authority for leasing on the Coastal Plain.

SEC. 9302. RULES AND REGULATIONS.—(a) The Secretary shall prescribe such rules and regulations as may be necessary to carry out the purposes and provisions of this title, including rules and regulations relating to protection of the environment of the Coastal Plain, as required by Subtitle D of this title. Such rules and regulations shall be promulgated within nine months after the date of enactment of this title and shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this title and all operations on the Coastal Plain related to the exploration, development and production of oil and gas.

(b) In the formulation and promulgation of rules and regulations under this title, the Secretary shall request and give due consideration to the views of appropriate officials of the State of Alaska and the Government of Canada. The Secretary shall also consult with the Environmental Protection Agency and the Army Corps of Engineers in developing rules and regulations relating to the environment.

(c) The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) of this section to reflect any significant biological, environmental, or engineering data which come to the Secretary's attention.

SEC. 9303. ADEQUACY OF DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—(a) The "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. Sec. 3142), and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. SEC. 4332(2)(C)), is hereby found by the Congress to be adequate to satisfy the legal requirements under the National Environmental Policy Act of 1969 with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title prior to conducting the first lease sale.

(b) Except as provided in subsection (a) of this section, nothing in this title shall be considered or construed as otherwise limiting or affecting in any way the applicability of section 102(2)(C) of the National Environmental Policy Act of 1969 to all phases of oil and gas leasing, exploration, development and production and related activities conducted under or associated with the leasing program authorized by this title, nor shall anything in this title be considered or construed as in any way limiting or affecting the applicability of any other Federal or State law relating to the protection of the environment.

SEC. 9304. LEASE SALES.—(a) Lands may be leased pursuant to the provisions of this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act, as amended (30 U.S.C. SEC. 181).

(b) The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion from, a lease sale;

(2) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale;

(3) review by the State of Alaska and local governments in Alaska which may be impacted by the proposed leasing; and

(4) periodic consultation with the State of Alaska and local governments in Alaska, oil and gas lessees, and representatives of other individuals or organizations engaged in activity in or on the Coastal Plain including those involved in subsistence uses and recreational activities.

(c) The Secretary shall, by regulation, provide for lease sales of lands on the Coastal Plain. When lease sales are to be held, they shall occur after the nomination process provided for in subsection (b) of this section. For the first lease sale, the Secretary shall, consistent with the requirements set forth in subtitle D of this title, offer for lease those acres receiving the greatest number of nominations, but not to exceed a total of three hundred thousand acres. If the total acreage nominated is less than three hundred thousand acres, he shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than three hundred thousand acres of the Coastal Plain be offered in such sale. Thereafter, no more than three hundred thousand acres of the Coastal Plain may be leased in any one lease sale. The initial lease sale shall be held within eighteen months of the issuance of final regulations by the Secretary. The second lease sale shall be held thirty-six months after the initial sale, with additional sales conducted every twenty-four months thereafter so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

(d) Areas of the Coastal Plain deemed by the Secretary to be of particular environmental sensitivity may be excluded from leasing by the Secretary. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives ninety days in advance of excluding any such areas from leasing. If the Secretary later determines that exploration, development, or production will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, the Secretary shall, consistent with the provisions of subsection (c) of this section, offer such lands for leasing.

SEC. 9305. GRANT OF LEASES BY THE SECRETARY.—(a) The Secretary is authorized to grant to the highest responsible qualified bidder by sealed competitive bid any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production removed or sold from the lease.

(b) The Secretary shall not accept a bid for a lease if the Secretary finds, after notice and hearing, that the bidder is not meeting diligent development requirements on any other Federal mineral lease.

(c) ANTITRUST REVIEW.—(1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of such lease sale, except that the Attorney General, after consultation with the Federal Trade Commission, may agree to a shorter review period.

(2) The Attorney General may, in consultation with the Federal Trade Commission, conduct such antitrust review on the likely effects the issuance of such leases would have on competition as the Attorney General, after consultation with the Federal Trade Commission, deems appropriate and shall advise the Secretary with respect to such review. The Secretary shall provide such information as the Attorney General, after consultation with the Federal Trade Commission, may require in order to conduct any antitrust review pursuant to this paragraph and to make recommendations pursuant to paragraph (3) of this subsection.

(3) The Attorney General, after consultation with the Federal Trade Commission, may make such recommendations to the Secretary, including the nonacceptance of any bid or the imposition of terms or conditions on any lease, as may be appropriate to prevent any situation inconsistent with the antitrust laws. If the Secretary determines, or if the Attorney General advises the Secretary, after consultation with the Federal Trade Commission and prior to the issuance of any lease, that such lease would create or maintain a situation inconsistent with the antitrust laws, the Secretary may—

(A) refuse to accept an otherwise qualified bid for such lease, or refuse to issue such lease, notwithstanding subsection (a) of this section; or

(B) modify or impose terms or conditions on the lease, consistent with advice provided by the Attorney General.

(4) The Secretary may issue a lease notwithstanding adverse advice from the Attorney General, or refuse to impose recommended terms or conditions, if the Secretary makes specific findings that approval of the lease is necessary to carry out the purposes of this title, that approval is consistent with the public interest, and that there are no reasonably available alternatives that would have significantly less anticompetitive effects. In such event, the Secretary must notify the lessee and the Attorney General of such findings.

(5) Nothing in this subsection shall restrict the authority of the Attorney General, the Federal Trade Commission, or any other Federal department or agency to secure information, conduct reviews, make recommendations, or seek appropriate relief.

(d) SECRETARY'S APPROVAL FOR SALE, EXCHANGE, ASSIGNMENT, OR OTHER TRANSFER OF LEASES—No lease issued under this title may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

(e) NO ANTITRUST IMMUNITY OR DEFENSES.—Nothing in this title shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

(f) DEFINITIONS.—As used in this section, the term—

(1) "antitrust review" shall be deemed an "antitrust investigation" for the purposes of the Antitrust Civil Process Act (15 U.S.C. 1311).

(2) "antitrust laws" means those Acts set forth in Section 1 of the Clayton Act, 15 U.S.C. Sec. 12, as amended.

SEC. 9306. LEASE TERMS AND CONDITIONS.—An oil and gas lease issued pursuant to this title shall—

(a) be for a tract consisting of a compact area not to exceed two thousand five hundred sixty acres;

(b) be for an initial period of ten years and shall be extended for so long thereafter as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or for so long as drilling or reworking operations, as approved by the Secretary, are conducted on the lease or unit area;

(c) require the payment of royalty as provided for in section 9305 of this title;

(d) require approval of an exploration plan, as provided for in section 9307 of this title;

(e) require approval of a development and production plan, as required in section 9307 of this title;

(f) require posting of bond required by section 9308 of this title;

(g) provide for the suspension of the lease during the initial lease term or thereafter pursuant to section 9309 of this title;

(h) provide for the cancellation of the lease during the initial lease term or thereafter pursuant to section 9310 of this title;

(i) contain the terms and conditions relating to protection of fish and wildlife, their habitat, and the environment, as required by subtitle D of this title;

(j) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and

(k) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this title and the regulations issued thereunder.

SEC. 9307. EXPLORATION AND DEVELOPMENT AND PRODUCTION PLANS.

(a) EXPLORATION PLANS.—All exploration activities pursuant to any lease issued or maintained under this title shall be conducted in accordance with an approved exploration plan or an approved revision of such plan. Prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this title, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any region of the Coastal Plain, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if the Secretary finds that such plan is consistent with the provisions of this title and other applicable law.

(b) OIL AND GAS DEVELOPMENT AND PRODUCTION PLANS.—All development and production pursuant to a lease issued or maintained pursuant to this title shall be conducted in accordance with an approved development and production plan. Prior to commencing development or production pursuant to any oil and gas lease issued or maintained under this title, the holder thereof shall submit a development and production plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any region of the Coastal Plain, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if the Secretary finds that such plan is consistent with the provisions of this title and other applicable law.

(c) REQUIREMENTS APPLICABLE TO EXPLORATION PLANS AND DEVELOPMENT AND PRODUCTION PLANS.—Exploration plans and development and production plans shall include where applicable—

(1) the names and legal addresses of the following persons: the operator, contractors, subcontractors and the owners or lessees other than the operator;

(2) a map or maps showing: (A) the location of a point of reference selected by the operator within the area covered by the plan of operations showing, in relation to that point, existing and proposed access routes or roads within the area, the boundaries of proposed surface disturbance and location of all survey lines; (B) the location of proposed drilling sites, wellsite layout, and all surface facilities; (C) sources of construction materials within the area including but not limited to gravel; and (D) the location of ancillary facilities including but not limited to camps, sanitary facilities, water supply, disposal facilities, pipelines, fuel storage facilities, storage facilities, base of operations, and airstrips. A point of reference selected by the operator within the area of operations shall be marked with a ground monument;

(3) a description of: (A) all surface and ancillary facilities, including but not limited to camps, sanitary facilities, water supply, disposal facilities, pipelines, fuel storage facilities, storage facilities, base of operations, and airstrips; and (B) the major equipment to be used in the operations, including but not limited to equipment and methods for the transport of all waters used in or produced by operations, and of the proposed method of transporting such equipment within the area covered by the plan of operations including to and from the site;

(4) an estimated schedule for any phase of operations of which review by the Secretary is sought and the anticipated date of operation completion;

(5) the nature and extent of proposed operations;

(6) plans for reclamation, including:

(A) the anticipated reclamation work to be performed;

(B) a proposed schedule of reclamation activities to be performed; and

(C) a detailed estimate of reclamation costs;

(7) methods for disposal of all wastes and hazardous and toxic substances;

(8) an affidavit stating that the operations planned will be in compliance with all applicable Federal, State, and local laws and regulations;

(9) contingency plans in case of spills, leaks, or other accidents; and

(10) such additional information as may be required by the Secretary to ensure that the proposed activities are consistent with this title, as well as other applicable Federal and State environmental laws.

(d) PROCEDURES FOR PLAN APPROVAL.—(1) After an exploration or development and production plan is submitted for approval, the Secretary shall promptly publish notice of the submission and availability of the text of the proposed plan in the FEDERAL REGISTER and a newspaper of general circulation in the State of Alaska and provide an opportunity for written public comment.

(2) Within one hundred twenty days after receiving an exploration or development and production plan, the Secretary shall determine, after taking into account any comment received under paragraph (1) of this subsection, whether the activities proposed in the plan are consistent with this title and other applicable provisions of Federal and State law. If that determination is in the affirmative, the Secretary shall return the plan along with a statement of any modifications necessary for its approval. The Secretary, as a condition of approving any plan under this section—

(A) may require modifications to the plan that the Secretary considers necessary or appropriate to make it consistent with this title and other applicable law. The Secretary shall assess reasonable fees or charges for the reimbursement of all necessary and reasonable research, administrative, monitoring, enforcement, and reporting costs associated with reviewing the plan and monitoring its implementation; and

(B) shall require such periodic reports regarding the carrying out of the drilling and related activities as may be necessary or appropriate for purposes of determining the extent to which the plan is being complied with and the effectiveness of the plan in ensuring that the drilling and related activities are consistent with this title and other applicable provisions of Federal and State law.

(e) MODIFICATION OF PLANS.—If at any time while activities are being carried out under a plan approved under this section, the Secretary, on the basis of available information, determines that the continuation of any particular activity under the plan is likely to result in a significant adverse effect on fish or wildlife, their habitat, or the environment, the Secretary, after consultation with the lessee shall—

(1) make modifications to part or all of the plan as necessary or appropriate to avoid the significant adverse effect;

(2) temporarily suspend part or all of the drilling or related activity under the plan for such time as the Secretary considers necessary or appropriate to avoid such significant adverse effect; or

(3) terminate and cancel the plan where actions under paragraphs (1) or (2) will not avoid the significant adverse effect.

SEC. 9308. BONDING REQUIREMENTS.

(a) REQUIREMENT FOR PERFORMANCE BOND.—After approval of an exploration or

development and production plan, the lessee shall be required to file with the Secretary a suitable performance bond. The bond shall be conditioned upon compliance with all the terms and conditions of the lease and all applicable laws. Such performance bond is in addition to and not in lieu of any bond or security deposit required by other regulatory authorities or required by any other provision of law. The lessee may file either a surety bond, or a personal bond consisting of cash or negotiable Treasury bonds of the United States. When negotiable Treasury bonds serve as the personal bond, they shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of a default in the performance of the terms and conditions of the lease.

(b) AMOUNT OF PERFORMANCE BOND.—The performance bond shall be in an amount:

(1) to be determined by the Secretary to provide for reclamation of the lease site in accordance with an approved or revised exploration or development and production plan; plus

(2) an amount set by the Secretary consistent with the type of operations proposed, to provide the means for rapid and effective cleanup, and to minimize damages resulting from an oil spill, the escape of gas, refuse, domestic wastewater, hazardous or toxic substances, or fire caused by oil and gas activities.

(c) ADJUSTMENT OF BOND TO CONFORM TO REVISED PLAN.—In the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond to conform to such modified plan.

(d) DURATION OF BOND.—The responsibility and liability of the lessee and its surety under the bond or security deposit shall continue until such time as the Secretary determines that there has been compliance with the terms and conditions of the lease and all applicable law.

(e) TERMINATION OF LIABILITY. Within sixty days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary, after consultation with affected Federal and State agencies, shall notify the lessee that the period of liability under the bond or security deposit has been terminated.

SEC. 9309. LEASE SUSPENSION.—The Secretary may direct or assent to the suspension of operations and production under any lease granted under the terms of this title: (1) in the interest of conservation of the resource; (2) where there is no available system to transport the resource; or (3) where there is a threat of a significant adverse effect upon fish or wildlife, their habitat or the environment. If such a suspension is directed or assented to by the Secretary, any payment of rental prescribed by such lease shall be suspended during such period of suspension of operations and production, and the term of the lease shall be extended by adding any such suspension period thereto.

SEC. 9310. LEASE CANCELLATION.—

(a) CANCELLATION OF NONPRODUCING LEASE. Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this title, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this title, such lease may be canceled by the Secretary if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at the lease owner's record post office address.

(b) CANCELLATION OF PRODUCING LEASE. Whenever the owner of any producing lease fails to comply with any of the provisions of this title, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this title, such lease may be forfeited and canceled by any appropriate proceeding brought by the Secretary in any United States district court having jurisdiction under the provisions of this title.

(c) ADDITIONAL PROVISIONS. (1) In addition to the authority for lease cancellation provided for by subsections (a) and (b) of this section, any lease may be canceled at any time, if the Secretary determines, after a hearing, that—

(A) continued activity pursuant to such lease is likely to result in a significant adverse effect to fish or wildlife, their habitat, or the environment, or is likely to result in serious harm or damage to human life, to property, or to the national security or defense; and

(B) the likelihood of a significant adverse effect will not disappear within a reasonable period of time or the threat of harm or damage will not disappear or decrease to any acceptable extent within a reasonable period of time.

(2) Such cancellation shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease term continuously for a period of five years, or for a lesser period upon request of the lessee.

(3) Cancellation under this subsection shall entitle the lessee to receive such compensation as the lessee demonstrates to the Secretary to be equal to the lesser of (A) the fair market value of the cancelled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including the costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oil spill or spill of other hazardous or toxic materials, fines, damages, penalties, or removal costs assessed pursuant to section 9315 of this title or other State or Federal environmental laws, any fees paid pursuant to section 9503 of this title, and all other costs reasonably anticipated on the lease; or (B) the excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to the date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee (exclusive of any fines, damages, penalties, or removal costs assessed pursuant to section 9315 of this Act or other State or Federal environmental laws, and any fees paid pursuant to section 9503 of this Act) after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement).

SEC. 9311. ASSIGNMENT OR SUBLETTING OR LEASES.—No lease issued under the authority of this title shall be assigned or sublet, except with the consent of the Secretary.

SEC. 9312. RELINQUISHMENT. The lessee may, at the discretion of the Secretary, be permitted at any time to make written relinquishment of all rights under any lease issued pursuant to this title. The Secretary shall accept the relinquishment by the lessee of any lease issued under this title where there has not been surface disturbance on the lands covered by the lease.

SEC. 9313. UNITIZATION.—For the purpose of conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof and in order to avoid the unnecessary duplication of facilities, to protect the environment of the Coastal Plain, and to protect correlative rights, the Secretary shall require to the greatest extent practicable, that lessees unite with each other in collectively adopting and operating under a cooperative or unit plan of development for operation of such pool, field, or like area, or any part thereof. The Secretary is also authorized and directed to enter into such agreements as are necessary or appropriate for the protection of the United States against drainage.

SEC. 9314. OIL AND GAS INFORMATION.—(a)(1) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this title shall provide the Secretary access to all data and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

(2) If interpreted information provided pursuant to paragraph (1) of this subsection is provided in good faith by the lessee or permittee, such lessee or permittee shall not be responsible for any consequence of the use or of reliance upon such interpreted information.

(3) Whenever any data or information is provided to the Secretary, pursuant to paragraph (1) of this subsection—

(A) by a lessee or permittee, in the form and manner of processing which is utilized by such lessee or permittee in the normal conduct of business, the Secretary shall pay the reasonable cost of reproducing such data and information;

(B) by a lessee or permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information.

(b) The Secretary shall prescribe regulations to: (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained; and (2) set forth the time periods and conditions which shall be applicable to the release of such information.

SEC. 9315. REMEDIES AND PENALTIES.—

(a) GENERAL.—Except as provided in section 9316 of this title, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with, any lease issued under this title. Proceedings may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district in which the Coastal Plain is located.

(b) ACTIONS FOR RELIEF.—At the request of the Secretary, the Attorney General or a United States Attorney shall institute a civil action in the district court of the United States for the district in which any defendant resides or may be found, or in the judicial district in which the Coastal Plain is located, for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this title, any regulation or order issued under this title, or any term of a lease issued pursuant to this title.

(c) CIVIL PENALTIES.—If any person fails to comply with any provision of this title, or any term of a lease issued pursuant to this title, or any regulation or order issued under this title, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable

for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

(d) CRIMINAL PENALTIES.—Any person who knowingly and willfully: (1) violates any provision of this title, any term of a lease issued pursuant to this title, or any regulation or order issued under the authority of this title designed to protect health, safety, or the environment or conserve natural resources; (2) makes any false statement, representation, or certification in any application, record, report or other document filed or required to be maintained under this title; (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this title; or (4) reveals any data or information required to be kept confidential by this Act, shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

(e) LIABILITY OF CORPORATE OFFICERS AND AGENTS FOR VIOLATIONS BY CORPORATION.—Whenever a corporation or other entity is subject to prosecution under subsection (d) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (d) of this section.

(f) CONCURRENT AND CUMULATIVE NATURE OF PENALTIES.—The remedies and penalties prescribed in this title shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this title shall be in addition to any other remedies and penalties afforded by any other law or regulation.

(g) REMOVAL COSTS AND LIABILITY FOR DAMAGES.—Notwithstanding any other provision of law, if any area of the Coastal Plain or adjacent State waters has been or is being polluted by discharges of oil or hazardous or toxic substances from exploration, development, or production of oil or gas or related activities, conducted by, or on behalf of, a responsible party, and if the pollution has damaged or is damaging fish or wildlife, their habitat, or the environment of the Coastal Plain or adjacent State waters, or if such pollution is causing a substantial threat of damaging those fish or wildlife, their habitat, or the environment of the Coastal Plain or adjacent State waters, the responsible party shall be jointly, severally and strictly liable for the removal costs and damages specified in this subsection that arise directly out of or directly result from pollution that has damaged, or is damaging or is causing a substantial threat of damaging fish or wildlife, their habitat, or the environment of the Coastal Plain or adjacent State waters. The Secretary shall make a determination with respect to such liability after notice to the responsible party and an opportunity for hearing. Upon failure of the responsible party adequately to control and remove the pollutant or threat, the Secretary, in cooperation with other Federal, State or local agencies, or in cooperation with the responsible party, or both, shall have the right to accomplish the control and removal at the expense of the responsible party. Funds contained in the Coastal Plain Liability and Reclamation Fund, provided for by section 9503 of this title, may be used to accomplish such control and removal until such time as sufficient funds can be recovered from the responsible party. The removal costs and damages referred to in this subsection are the following—

(1) all necessary removal costs as determined by the Secretary;

(2) damages for injury to, destruction of, loss of, and reclamation of natural resources, including the reasonable costs of assessing such injury, destruction, loss or reclamation; and

(3) damages for economic loss resulting from injury to, or destruction of, real or personal property or natural resources, and loss of subsistence use of natural resources by local residents.

SEC. 9316. EXPEDITED JUDICIAL REVIEW.—Any complaint filed seeking judicial review of an action of the Secretary in promulgating any regulation under this title may be filed only in the United States Court of Appeals for the District of Columbia, and such complaint shall be filed within ninety days from the date of such promulgation, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint. Any complaint seeking judicial review of any other actions of the Secretary under this title may be filed in any appropriate district court of the United States, and such complaint must be filed within ninety days from the date of the action being challenged, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint.

SEC. 9317. ANNUAL REPORT TO CONGRESS.—On March 1st of each year following the date of enactment of this title, the Secretary shall prepare and submit to the Congress an annual report on the leasing program authorized by this title.

SEC. 9318. INTERESTS OF THE INUPIAT ESKIMO PEOPLE.—(a) The prohibitions and limitations contained in section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. Sec. 3143) insofar as they have application to lands or interests therein owned by the Inupiat Eskimo people within the Arctic National Wildlife Refuge, but outside the Coastal Plain, are hereby repealed.

(b) The prohibitions and limitations contained in section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. Sec. 3143) insofar as they have application to lands or interests therein owned by the Inupiat Eskimo people within the Coastal Plain are hereby repealed as of the day after the first lease sale is held pursuant to this title. With respect to the lands and interests therein described in this subsection, no exploratory drilling activities shall be authorized until the day after such lease sale.

(c) The substantive provisions of the final regulations issued pursuant to this title which establish environmental stipulations, terms and conditions for oil and gas leasing on the Coastal Plain shall apply to the exploration and development of all subsurface property interests owned by the Inupiat Eskimo people within the Arctic National Wildlife Refuge; provided that prior to issuance of such regulations, oil and gas exploration and development activities on the land and interests therein described in subsection (a), shall be governed by the stipulations set forth in Appendix 2 of the August 9, 1983 agreement between the Arctic Slope Regional Corporation and the United States.

(d) Any claims for money damages or other available relief brought by Arctic Slope Regional Corporation or Kaktovik Inupiat Corporation alleging that the provisions of this title constitute a taking of contract or property rights under the Fifth Amendment to the Constitution of the United States may be brought within 120 days of its enactment. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceedings in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any claim whether in a proceeding instituted prior to or on or after the date of enactment of this title. Any such proceeding shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

Subtitle D. Coastal Plain Environmental Protection

SEC. 9401. (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, and that shall require the application of the best commercially available technology for oil and gas exploration, development, and production, on all new exploration, development, and production operations, and whenever practicable, on existing operations.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment;

(2) a mitigation plan be implemented to avoid, minimize and compensate (in that order and to the extent practicable) any significant adverse effect assessed under paragraph (1) of this subsection; and

(3) the development of the mitigation plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

SEC. 9402. REGULATIONS TO PROTECT THE COASTAL PLAIN'S FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—

(a) Prior to implementing the leasing program authorized by subtitle C of this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activi-

ties undertaken in the Coastal Plain authorized by this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(b) The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program authorized by subtitle C of this title shall require compliance with all applicable provisions of Federal and State environmental law and shall also require:

(1) as a minimum, the safety and environmental mitigation measures set forth in items one through twenty-nine (1 through 29) at pages 167 through 169 of the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain;

(2) seasonal limitations on exploration, development and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning and migration;

(3) that exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 and that exploration activities will be supported by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods: Provided, That such exploration activities may be permitted at other times if the Secretary determines, after affording an opportunity for public comment and review, that special circumstances exist necessitating that exploration activities be conducted at other times of the year and he finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain;

(4) design safety and construction standards for all pipelines and any access and service roads that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges and other structural devices;

(5) prohibitions on public access and use on all pipeline access and service roads;

(6) stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures and equipment upon completion of oil and gas production operations: *Provided*, That the Secretary may exempt from the requirements of this paragraph those facilities, structures or equipment which the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and which are donated to the United States for that purpose;

(7) appropriate prohibitions or restrictions on access by all modes of transportation;

(8) appropriate prohibitions or restrictions on sand and gravel extraction;

(9) consolidation of facility siting;

(10) appropriate prohibitions or restrictions on use of explosives;

(11) avoidance, to the extent practicable, of springs, streams and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling;

(12) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(13) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, in accordance with applicable Federal and State environmental law;

(14) fuel storage and oil spill contingency planning;

(15) research, monitoring and reporting requirements;

(16) field crew environmental briefings;

(17) avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users;

(18) compliance with applicable air and water quality standards;

(19) appropriate seasonal and safety zone designations around well sites within which subsistence hunting and trapping would be limited;

(20) reasonable stipulations for protection of cultural and archeological resources; and

(21) all other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(c) In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider:

(1) the environmental protection standards which governed the initial Coastal Plain seismic exploration program (50 CODE OF FEDERAL REGULATIONS 37.31–33);

(2) the land use stipulations for exploratory drilling on the KIC-ASRC private lands which are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States; and

(3) the operational stipulations for Koniag ANWR Interest lands contained in the draft Agreement between Koniag, Inc. and the United States of America on file with the Secretary on December 1, 1987.

SEC. 9403. SADLEROCHIT SPRING SPECIAL AREA. (a)(1) The Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map referenced in section 9102 of this title, is hereby designated to be a Special Area. Such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(2) Pursuant to subsection (d) of section 9304 of this title, the Secretary may exclude the Sadlerochit Spring Special Area from leasing.

(3) In the event that the Secretary leases the Sadlerochit Spring Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(b) The Secretary is authorized to designate other areas of the Coastal Plain as Special Areas if the Secretary determines that they are of unique character and interest so as to require such special protection. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of the Secretary's intent to designate such areas ninety days in advance of making such designations. Any such areas designated as Special Areas shall be managed in accordance with the standards set forth in subsection (a) of this section.

SEC. 9404. FACILITY CONSOLIDATION PLANNING. (a) The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources. This plan shall have the following objectives:

(1) avoiding unnecessary duplication of facilities and activities;

(2) encouraging consolidation of common facilities and activities;

(3) locating or confining facilities and activities to areas which will minimize impact on fish and wildlife, their habitat, and the environment;

(4) utilizing existing facilities wherever practicable; and

(5) enhancing compatibility between wildlife values and development activities.

(b) The plan prepared under this section shall supplement any comprehensive conservation plan prepared pursuant to the requirements of section 304(g) of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2394).

SEC. 9405. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN. Notwithstanding Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.), the Secretary is authorized to grant under section 28 of the Mineral Leasing Act (30 U.S.C. 185) rights-of-way and easements across the Coastal Plain for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain. Such terms and conditions shall include requirements that facilities be sited or modified so as to avoid unnecessary duplication of roads and pipelines. The regulations issued pursuant to this title shall include provisions regarding the granting of rights-of-way across the Coastal Plain.

SEC. 9406. ENVIRONMENTAL STUDIES. In addition to any other environmental studies required by law, subsequent to exploring or developing of any area or region of the Coastal Plain, the Secretary shall conduct such additional studies to establish environmental information as he deems necessary, and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide information which can be used for comparison with any previously-collected data for the purpose of identifying any effects on fish or wildlife and their habitat and any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such effects or changes.

SEC. 9407. ENFORCEMENT OF SAFETY AND ENVIRONMENTAL REGULATIONS. (A) RESPONSIBILITY OF THE SECRETARY. The Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this title.

(b) RESPONSIBILITIES OF HOLDERS OF LEASE. It shall be the responsibility of any holder of a lease under this title to—

(1) maintain all operations within such lease area in compliance with regulations intended to protect persons and property on, and fish and wildlife, their habitat, and the environment of, the Coastal Plain; and

(2) allow prompt access at the site of any operations subject to regulation under this title to any appropriate Federal or State inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

(c) ON-SITE INSPECTION OF FACILITIES.—The Secretary shall promulgate regulations to provide for—

(1) scheduled onsite inspection by the Secretary, at least twice a year, of each facility on the Coastal Plain which is subject to any environmental or safety regulation promulgated pursuant to this title or such provisions contained in any lease issued pursuant to this title to assure compliance with such environmental or safety regulations; and

(2) periodic onsite inspection by the Secretary at least once a year without advance notice to the operator of such facility to assure compliance with all environmental or safety regulations.

SEC. 9408. FUNDING FOR ENVIRONMENTAL MONITORING AND ENFORCEMENT.—The Congress authorizes and directs that the Secretary of the Treasury shall make available to the Administrator of the Environmental Protection Agency (Administrator) an amount of $5,000,000.00, not later than 60 days after the first lease sale pursuant to Section 9304 and annually thereafter, until 10 years after oil and gas exploration, production and development activities on the Coastal Plain have ceased. The Administrator shall distribute annually to the State of Alaska not less than 25% of such amount. These moneys shall be used for activities, or in support of activities, within the State of Alaska by the Environmental Protection Agency and the State of Alaska for monitoring compliance with, and enforcing, all Federal environmental laws within their jurisdiction applicable to oil and gas exploration, development and production under this title, and monitoring compliance with, and enforcing, all such laws, with respect to owners, operators, and other persons having business in connection with leases granted pursuant to this title. For purposes of this section, all such Federal environmental laws shall include, but are not limited to, the Clean Air Act (42 U.S.C. 7401–7642), the Solid Waste Disposal Act (42 U.S.C. 6901–6987); the Federal Water Pollution Control Act (33 U.S.C. 1251–1376); the Comprehensive Environmental Response, Compensation, and Liability Act (26 U.S.C. 4611 et. seq. and 42 U.S.C. 9601–9675); and the Safe Drinking Water Act (42 U.S.C. 300f–300j–9). The Administrator and the State of Alaska shall enter into a cooperative agreement to coordinate their responsibilities under this section. The Administrator shall consult with the U.S. Department of Transportation and the State of Alaska on the appropriate role of the State of Alaska in monitoring and enforcing the Hazardous Materials Transportation Act (49 App. U.S.C. 1801–1814). The Administrator shall submit annually a report to the Congress on the amount of funds expended and activities carried out pursuant to this section.

Subtitle E. Land Reclamation and Reclamation Liability Fund

SEC. 9501. LAND RECLAMATION.—The holder of a lease or leases on lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands adversely affected in connection with exploration, development, or transportation activities on a lease within the Coastal Plain. The holder of a lease shall also be responsible for conducting any land reclamation required as a result of activities conducted on the lease by any of the leaseholder's subcontractors or agents. The holder of a lease may not delegate or convey, by contract or otherwise, this responsibility and liability to another party without the express written approval of the Secretary.

SEC. 9502. STANDARD TO GOVERN LAND RECLAMATION.—The standard to govern the reclamation of lands required to be reclaimed under this title, following their temporary disturbance or upon the conclusion of their use or prolonged commercial production of oil and gas and related activities, shall be reclamation and restoration to a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary; except that in the case of roads, drill pads and other gravel-foundation structures, reclamation and restoration shall be to a condition as closely approximating the original condition of such lands as is feasible using the best commercially available technology. Reclamation of lands shall be conducted in a manner that will not itself impair or cause significant adverse effects on fish or wildlife, their habitat, or the environment.

SEC. 9503. COASTAL PLAIN LIABILITY AND RECLAMATION FUND.—(a) Within six months of a commercial discovery within the Coastal Plain, the Coastal Plain Liability and Reclamation Fund (the "Reclamation Fund") is hereby directed to be established by the Secretary.

(b) The Secretary shall collect from the owner of any commercially-produced crude oil or natural gas liquids from the Coastal Plain at the time and point where such crude oil first enters the trans-Alaska pipeline a fee of five cents per barrel. The collection of the fee shall cease when $50,000,000 has been accumulated in the Reclamation Fund, and it shall be resumed at any time that the accumulation of revenue in the Reclamation Fund falls below $45,000,000.

(c) All revenues collected under subsection (b) shall be paid into the Reclamation Fund. The reasonable costs of administration of the Reclamation Fund shall be paid from the revenues in the Reclamation Fund. All sums not needed for administration of the Reclamation Fund or making authorized payments out of the Fund shall be invested prudently by the Secretary in income-producing securities. Income from such securities shall be added to the principal of the Reclamation Fund.

(d) The revenues in the Reclamation Fund shall be available, with the approval of the Secretary, for the following purposes:

(1) to compensate promptly any person or entity, public or private, for any damages caused by oil and gas exploration, development and production activities on or in the vicinity of the Coastal Plain;

(2) to reclaim any area of the Coastal Plain not reclaimed in accordance with the standard set forth in section 9502 of this title, by the operator or the holder of a lease or leases;

(3) up to $15,000,000.00 annually to reclaim and restore:

(A) any area of the Arctic National Wildlife Refuge or other North Slope Federal lands affected by past and future oil and gas exploration, development, or production; and

(B) North Slope non-federal lands affected by future exploration, development, or production on the Coastal Plain,

which are not reclaimed and restored in accordance with applicable Federal and State law;

(4) up to $2,000,000.00 annually to the Director of the Fish and Wildlife Service to monitor and conduct research on fish and wildlife species which utilize the land and water resources of the Coastal Plain; and

(5) to reclaim at the conclusion of the period of exploration, development and production, any area of the Coastal Plain and related lands which have not been properly reclaimed by the operator or lease holder.

(e) The United States shall have legal recourse against any party or entity who is responsible for the reclamation of any area within the Coastal Plain, to recover any funds expended under paragraphs (1), (2), (3) and (5) of this subsection due to a failure by the responsible party to reclaim such area as required by this Act: *Provided*, That such right of recovery shall not be available against any Alaska Natives conducting traditional subsistence use activities. Any funds so recovered shall be deposited in the Reclamation Fund.

(f) Any moneys remaining in the Reclamation Fund fifty years after the period of active oil and gas exploration, development, production and reclamation has been concluded in the Coastal Plain shall be paid into the general fund of the U.S. Treasury.

Subtitle F. Disposition of Oil and Gas Revenues

SEC. 9601. DISTRIBUTION OF REVENUES.—Notwithstanding any other provision of law, all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest charges or other income derived from the leasing of oil and gas resources within the Arctic National Wildlife Refuge, Alaska shall be distributed as follows:

(a) 50 per centum to the State of Alaska; and

(b) 50 per centum to the United States.

SEC. 9602. ENERGY SECURITY FUND.—(a) Revenues distributed to the United States pursuant to subsection 9601(b) shall be deposited into a special account in the Treasury which shall be known as the Energy Security Fund. Revenues may be expended from the Energy Security Fund solely as provided in this section.

(b)(1) Not later than 30 days after the date of enactment of this title, the Secretary of Energy shall initiate a process to identify and prepare a list, in descending order of priority, of energy-related projects or programs to enhance this nation's energy security and reduce dependence on imported oil (hereinafter in this subtitle referred to as "the list"). In preparing the list, the Secretary of Energy shall consult with such governmental or non-governmental entities or individuals as the Secretary deems necessary.

(2) Following notice and comment, the initial list shall be transmitted to the Congress as part of the first budget submitted by the President following the initial deposit of funds in the Energy Security Fund.

(3) Thereafter, annual revisions of the list shall be prepared and transmitted in accordance with paragraph 2.

(c) The list shall consist of specific projects or programs (including an estimate of the costs thereof) identified by the Secretary of Energy relating to: energy efficiency and conservation; energy efficiency in transportation; energy research, development, demonstration, and commercialization; fossil energy, including clean coal technology and oil and gas extraction; electrical energy transmission and generation; advanced nuclear reactor programs pursuant to Title XII of this Act; and renewable energy resources, such as solar, geothermal, and hydroelectric power.

(d) In identifying projects or programs for inclusion on the list, the Secretary of Energy shall give special consideration to those which (A) minimize or reduce reliance on imported oil; (B) reduce energy costs to consumers; (C) enhance reliability of energy supplies and national security; (D) foster the commercialization of new energy tech-

nologies; (E) increase the efficient use of nonrenewable resources such as coal, natural gas, and oil; (F) have the least potential social costs and adverse impacts on the environment; and (G) enhance the diversification of the Nation's domestic energy supply.

(e) The Secretary of the Treasury shall notify the Congress and the Secretary of Energy on an annual basis as to the amounts available for allocation from the Energy Security Fund.

(f) Unless the list is subsequently modified by law, the Secretary of the Treasury is authorized and directed, without further appropriation, beginning one year after the list is transmitted to the Congress pursuant to paragraph (c)(1), to make funds from the Energy Security Fund directly available to the Secretary of Energy to be used to fund those projects or programs on the list in an amount and in the manner and sequence provided therein.

SEC. 9603. JUDICIAL REVIEW AND NON-SEVERABILITY.—(a) Notwithstanding the provisions of section 9316 of this title, any legal action, including an action for declaratory judgment, to challenge the determination made in section 9601(a) of this title of the State of Alaska's share of oil and gas revenues shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court. Any such action shall be brought within ninety days of enactment of this title in an appropriate United States District Court. Such action shall be barred unless a complaint is filed within the time specified. Any review of an interlocutory or final judgment, decree, or order of the United States District Court in such action may be had only upon direct appeal to the Supreme Court of the United States.

(b) Nothing in this section shall be construed to grant causes of action to any person or to waive any defenses which may be available to the United States.

(c) If any action is brought in accordance with subsection (a), no lease sale shall occur under section 9304 of this title until a final nonappealable decision has been issued in any such action.

(d) If the revenue sharing provision of section 9601(a) of this title is held invalid, the remainder of this title shall be void.

Subtitle G. Export Restrictions

SEC. 9701. CRUDE OIL EXPORT RESTRICTIONS.—(a) Notwithstanding any other provision of law, no crude oil produced from lands in the Coastal Plain (except any such crude oil which (1) is exported to an adjacent foreign country to be refined and consumed therein in exchange for the same quantity of crude oil being exported from that country to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in subsection (b)(1)(B) of this section, (2) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign country and reenters the United States, or (3) is transported to Canada, to be consumed therein, in amounts not to exceed an annual average of 50,000 barrels per day, in addition to exports under paragraphs (1) and (2), except that any ocean transportation of such oil shall be by vessels documented under section 12106 of title 46, United States Code) may be exported from the United States, or any of its territories and possessions, subject to subsection (b) of this section.

(b) Crude oil subject to the prohibition contained in subsection (a) may be exported only if—

(1) the President so recommends to the Congress after making and publishing express findings that exports of such crude oil, including exchanges—

(A) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(B) will, within 3 months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refiners which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil in the absence of such an export or exchange, and (II) not less than 75 percent of such savings in costs being reflected in wholesale and retail prices of products refined from such imported crude oil;

(C) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(D) are clearly necessary to protect the national interest; and

(E) are in accordance with the provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following); and

(2) the President includes such findings in his recommendation to the Congress and the Congress, within 60 days after receiving that recommendation, agrees to a joint resolution which approves such exports on the basis of those findings, and which is thereafter enacted into law.

(c) Notwithstanding any other provision of this section or any other provision of law, the President may export oil produced from lands in the Coastal Plain to any country pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before June 25, 1979, or to meet obligations of the United States under the International Energy Program in accordance with voluntary agreements or plans of action under section 252 of the Energy Policy and Conservation Act.

TITLE X—NATURAL GAS

SEC. 10001. OPTIONAL PROCEDURES FOR THE CONSTRUCTION OF NATURAL GAS FACILITIES.

(a) DEFINITIONS.—For the purposes of this section the term—

(1) "Commission" means the Federal Energy Regulatory Commission;

(2) "transportation service" means the transportation in interstate commerce of natural gas by a natural-gas company for itself or any other person;

(3) "rate schedule" means a statement of a rate or charge for a particular classification of transportation in interstate commerce of natural gas, and all terms, conditions, classifications, practices, rules and regulations affecting such rate or charge.

(4) "rate" means a rate or charge demanded or received for a particular classification of transportation in interstate commerce of natural gas, and all terms, conditions, classifications, practices, rules and regulations affecting such rate or charge.

(b) CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.—

(1) CONSTRUCTION.—For the purposes of section 7 of the Natural Gas Act, a certificate of public convenience and necessity is not required for the construction of a facility to provide transportation service: Provided, That the construction of such facility commences after the date of enactment of the National Energy Security Act of 1991.

(2) OPERATION.—Upon the initiation of transportation service rendered by a facility constructed pursuant to paragraph (1), the Commission, pursuant to its authority under section 7 of the Natural Gas Act, shall immediately issue a certificate of public convenience and necessity for such transportation service. The natural-gas company shall accept the certificate. The certificate shall include such reasonable terms and conditions as the public convenience and necessity may require.

(c) RATE SCHEDULES; BOOKS, ACCOUNTS AND RECORDS; AND RATE REVISIONS.—

(1) RATE SCHEDULES.—

(i) Prior to initiating transportation service utilizing a facility constructed pursuant to paragraph (b)(1), the natural-gas company shall file with the Commission the rate schedule for such facility.

(ii) The natural-gas company shall keep in convenient form and place and make open for public inspection the rate schedule for such facility.

(iii) An agreement between the natural-gas company and a person, including itself, who contracts for transportation service to be rendered utilizing such facility, may constitute a rate schedule: Provided, That such agreement is inclusive of all data and information required to be set forth in a rate schedule.

(iv) The rate for a facility constructed pursuant to paragraph (b)(1) shall be established on a stand-alone and incremental basis.

(2) BOOKS, ACCOUNTS AND RECORDS.—A natural-gas company that constructs a facility pursuant to paragraph (b)(1) shall maintain a separate system of books, accounts and records for such facility.

(3) RATE REVISIONS.—

(i) Upon its own motion or upon a complaint by any person, the Commission shall review the rate for a facility constructed pursuant to paragraph (b)(1) to ascertain whether there is a reasonable basis to conclude that such rate may be unjust, unreasonable, unduly discriminatory or preferential within the meaning of the Natural Gas Act.

(ii) If, as a result of such review, the Commission determines that there is a reasonable basis to conclude that such rate may be unjust, unreasonable, unduly discriminatory or preferential, pursuant to its authority under section 5 of the Natural Gas Act the Commission shall initiate a proceeding to determine if the rate is unjust, unreasonable, unduly discriminatory or preferential within the meaning of the Natural Gas Act.

(iii) If, as a result of the proceeding initiated under section 5 of the Natural Gas Act, the Commission finds that such rate is unjust, unreasonable, unduly discriminatory or preferential within the meaning of the Natural Gas Act, pursuant to its authority under section 5 of the Natural Gas Act the Commission shall determine the just and reasonable rate, charge, classification rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order.

(d) RATE BASE TREATMENT.—A natural-gas company may not, for ten years subsequent to the date on which a facility constructed pursuant to paragraph (b)(1) was placed into service, allocate the costs incurred for the construction, operation or maintenance of such facility to any other service rendered by such company.

(e) OTHER LAWS.—Except as expressly provided in this section, facilities constructed

under authority of paragraph (b)(1) shall be subject to all applicable federal and state laws.

SEC. 10002. TRANSPORTATION OF NATURAL GAS UNDER THE NGPA.

Section 311 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371) is amended by—

(a) striking "AUTHORIZATION OF CERTAIN SALES AND TRANSPORTATION" and inserting in lieu thereof "AUTHORIZATION OF CERTAIN SALES, TRANSPORTATION AND CONSTRUCTION";

(b) striking "Commission Approval of Transportation" and inserting in lieu thereof "Commission Approval of Transportation and Construction"; and by

(c) striking paragraph 311(a)(1), and inserting in lieu thereof the following:

"(1) INTERSTATE PIPELINES.—

"(A) TRANSPORTATION.—The Commission may, by rule or order, authorize any interstate pipeline to transport natural gas on behalf of any other person.

"(B) CONSTRUCTION.—The Commission may, by rule or order, authorize the construction of facilities to transport natural gas in interstate commerce pursuant to subparagraph (A).

"(C) JUST AND REASONABLE RATES.—The rates and charges of any interstate pipeline with respect to any transportation authorized under subparagraph (A) shall be just and reasonable (within the meaning of the Natural Gas Act).

"(D) NON-DISCRIMINATORY TRANSPORTATION.—Any transportation authorized under subparagraph (A) shall not be unjust, unreasonable, unduly discriminatory or preferential (within the meaning of the Natural Gas Act).".

SEC. 10003. NEPA COMPLIANCE.

(a) LEAD AGENCY.—In cases where Federal Energy Regulatory Commission authorization of the construction or operation of facilities or projects under the Natural Gas Act or the Federal Power Act may be deemed a major Federal action under the National Environmental Policy Act or requires the preparation of other environmental documents, the Commission shall be the lead agency and shall have primary authority for compliance with section 2 and title I of the National Environmental Policy Act. The Commission may set reasonable time limits for consultation with other Federal agencies which participate in the review of a proposed facility or project pursuant to the National Environmental Policy Act to complete their review of any potential environmental impacts of the construction or operation of such facility or project, and for such other agencies to consult and submit comments to the Commission.

(b) ENVIRONMENTAL DOCUMENTS.—Where environmental documents are prepared in connection with applications for authority to construct or operate facilities or projects under the Natural Gas Act or the Federal Power Act, the Federal Energy Regulatory Commission shall permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant to prepare such environmental document. The contractor shall be chosen by the Commission in its sole discretion. The Commission shall establish procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act.

SEC. 10004. RATES AND CHARGES.

(a) NOTICE OF CHANGES.—The first and third sentences of section 4(d) of the Natural Gas Act (17 U.S.C. 717c(d)) are amended by striking "thirty days' notice" and inserting in lieu thereof "sixty days' notice".

(b) REFUNDS OF OVERCHARGES.—The third and fourth sentences of section 4(e) of the Natural Gas Act (17 U.S.C. 717c(e)) are amended to read as follows: "Where changes in rates or charges are thus made effective, the Commission may, by order, require the natural-gas company to furnish a bond, to be approved by the Commission, to refund any amounts ordered by the Commission, to keep accurate accounts in detail of all amounts received by reason of such changes, specifying by whom and in whose behalf such amounts were paid, and, upon completion of the hearing and decision, to order the natural-gas company to refund, with interest, the portion of such rates or charges by its decision found to be not justified. At any hearing involving a rate or charge sought to be changed, the burden of proof to show that the changed rate or charge is just and reasonable shall be upon the natural-gas company, and the Commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible.".

SEC. 10005. UTILIZATION OF RULEMAKING PROCEDURES.

The first sentence of section 403(c) of the Department of Energy Organization Act (42 U.S.C. 7173(c)) is amended to read as follows: "Any function described in section 402 of this Act which relates to the establishment of rates and charges under the Federal Power Act or to the establishment of rates and charges, the issuance of a certificate of public convenience and necessity, or the abandonment of facilities and services under the Natural Gas Act may be conducted by rulemaking procedures.".

SEC. 10006. REVIEW OF COMMISSION ORDERS.

(a) NATURAL GAS ACT AMENDMENTS.—

(1) REHEARING.—Section 19(a) of the Natural Gas Act (15 U.S.C. 717r(a)) is amended by striking "Unless the Commission acts upon the application for rehearing within thirty days after it is filed, such application may be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within sixty days after it is filed, such application shall be deemed denied: Provided, That the Commission may, for extraordinary cause, extend the period for rehearing an additional sixty days.".

(2) COURT REVIEW.—Section 19(b) of the Natural Gas Act (15 U.S.C. 717r(b)) is amended by striking the first through third sentences and inserting the following in lieu thereof: "Any party to a proceeding under this act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the circuit court of appeals of the United States for any circuit wherein the natural-gas company to which the order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within thirty days after the order of the Commission upon the application for rehearing, a written petition praying that the order of the Commission be modified or set aside in whole or in part. The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

(b) NATURAL GAS POLICY ACT AMENDMENTS.—

(1) REHEARING.—Section 506(a)(2) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(a)(2)) is amended by striking "Unless the Commission acts upon such application for rehearing within 30 days after it is filed, such application shall be deemed to have been denied." and inserting in lieu thereof "Unless the Commission issues a final order on the application for rehearing within 60 days after it is filed, such application shall be deemed denied: Provided, That the Commission may, for extraordinary cause, extend the period for rehearing an additional sixty days.".

(2) COURT REVIEW.—Section 506(a)(4) of the Natural Gas Policy Act (15 U.S.C. 3416(a)(4)) is amended by striking the first through third sentences and inserting the following in lieu thereof: "Any person who is a party to a proceeding under this Act aggrieved by any final order issued by the Commission in such proceeding may obtain review of such order in the United States Court of Appeals for any circuit in which the party to which such order relates is located or has its principal place of business, or in the United States Court of Appeals for the District of Columbia circuit. Review shall be obtained by filing a written petition, requesting that such order be modified or set aside in whole or in part, in such Court of Appeals within 30 days after the final action of the Commission on the application for rehearing required under paragraph (2). The petition shall set forth specifically the ground or grounds upon which such petition is based. A copy of such petition shall forthwith be transmitted by the clerk of the court to the chairman of the Commission and thereupon the Commission shall file with the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.".

SEC. 10007. LIMITED ANTITRUST RELIEF FOR INDEPENDENT GAS PRODUCER COOPERATIVES.

(a) DEFINITIONS—For the purposes of this section, the term—

(1) "antitrust laws" shall mean the Federal laws defined in section 2(37) of the Natural Gas Policy Act of 1978;

(2) "independent producer" means any person whose natural gas production does not exceed 6 million cubic feet per day: Provided, That any person who is an interstate pipeline, intrastate pipeline or local distribution company, as defined in sections 2(15), (16), and (17) of the Natural Gas Policy Act of 1978, or who is an affiliate of such person, as defined in section 2(27) of the Natural Gas Policy Act of 1978, may not be considered an independent producer for the purposes of this section;

(3) "independent producer cooperative" shall mean any group of independent producers formed and operated for the purpose of pooling natural gas to enable the cooperative members to bargain effectively for the sale of the natural gas to any person: Provided, That such group is not formed or operated for the purpose of raising prices.

(b) LIMITED ANTITRUST RELIEF.—

(1) In any civil action under the antitrust laws, the formation or operation of an independent producer cooperative shall not be deemed illegal per se, but shall be illegal only if the anticompetitive effects substantially outweigh the procompetitive effects.

(2) Nothing in this section shall affect the ability of the United States, any State or a

private party from obtaining an injunction against an independent producer cooperative for conduct that is proven to be illegal under the standard set forth in paragraph (1).

SEC. 10008. VEHICULAR NATURAL GAS JURISDICTION.

(a) DEFINITIONS.—For the purposes of this section—

(1) the term "VNG" means natural gas for ultimate use as a fuel in a motor vehicle, and includes compressed natural gas.

(2) the term "Motor Vehicle" includes any automobile, truck, bus, van, or other on-road or off-road motor vehicle, including a boat.

(b) PERSONS WITH HINSHAW EXEMPTIONS.—

(1) PLACE OF ULTIMATE CONSUMPTION.—For purposes of section 1(c) of the Natural Gas Act, in the case of any sale of VNG, such VNG shall be deemed to be "ultimately consumed" within the state in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another state.

(2) STATE REGULATION.—For purposes of section 1(c) of the Natural Gas Act, certification from a State commission to the Federal Energy Regulatory Commission that such State commission has regulatory jurisdiction over the rates, services and facilities of a person (who receives natural gas from another person within or at the boundary of a State all of which natural gas so received is ultimately consumed within such State) and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction even in cases where such State commission does not have jurisdiction by reason of State law, or is not exercising jurisdiction, over the sale for resale or transportation of VNG.

(c) PERSONS WITH SERVICE AREA DETERMINATIONS.—For purposes of the Natural Gas Act—

(1) SALE FOR RESALE.—In the case of a sale for resale of VNG by the holder of a service area determination under section 7(f) of the Natural Gas Act, such sale for resale shall be subject to the exclusive jurisdiction of the state commission in the state in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another state.

(2) TRANSPORTATION.—In the case of transportation of VNG by the holder of a service area determination under section 7(f) of the Natural Gas Act, such VNG shall for purposes of section 7(f)(2) of the Natural Gas Act be deemed to be "consumed" within the state in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another state.

(3) STATE REGULATION.—In case of a sale for resale of VNG, or the transportation of VNG, by a holder of a service area determination under section 7(f) of the Natural Gas Act, such sale for resale or transportation shall be deemed to be subject to the exclusive jurisdiction of the State commission of the State in which such sale for resale or transportation occurs whether or not the sale for resale or transportation of VNG is subject to the jurisdiction of the State commission under State law.

TITLE XI—TRANSPORTATION AND ALTERNATIVE FUELS

Subtitle A—Corporate Average Fuel Economy

SECTION 11001. SHORT TITLE.

This subtitle may be cited as the "Motor Vehicle Fuel Efficiency Act of 1991".

SEC. 11002. DEFINITIONS.

Section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) is amended by adding at the end the following new paragraphs:

"(15) The term 'light truck' means an automobile other than a passenger automobile."

"(16) The term 'vehicle class' means (i) all passenger automobiles; (ii) all light trucks; or (iii) a class of light trucks as determined by the Secretary of Transportation under section 502(b)(4).".

SEC. 11003. AVERAGE FUEL ECONOMY STANDARDS FOR PASSENGER AUTOMOBILES.

Section 502(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)) is amended by striking subsection (a) and inserting the following:

"(a)(1) Except as otherwise provided in subsection (c), the average fuel economy for passenger automobiles manufactured by any manufacturer in any model year after model year 1984 shall not be less than the number of miles per gallon established for such model year under the following table:

"Model year	"Average fuel economy standard
"1985 through 1995	27.5 miles per gallon.
"1996 through 2001	Determined by the Secretary under paragraph (2)(A).
"2002 and thereafter	Determined by the Secretary under paragraph (2)(B).

"(2) Not later than July 1, 1992, the Secretary shall prescribe, by rule, for each manufacturer of passenger automobiles, average fuel economy standards for—

"(A) passenger automobiles manufactured by such manufacturer in model years 1996 through 2001; and

"(B) passenger automobiles manufactured by such manufacturer in model years 2002 and thereafter.

"(3) The average fuel economy standard prescribed by the Secretary for any manufacturer under paragraph (2) (A) or (B) shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level for such manufacturer as determined under subsection (d).".

SEC. 11004. AVERAGE FUEL ECONOMY STANDARDS FOR LIGHT TRUCKS.

Section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) is amended further by striking subsection (b) and inserting the following:

"(b)(1) The Secretary shall, by rule, prescribe average fuel economy standards for light trucks which are manufactured by any manufacturer in each model year before model year 1996. Such standards shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level which such manufacturers are able to achieve in each model year to which this subsection applies. Any standard applicable to a model year under this subsection shall be prescribed at least 18 months prior to the beginning of such model year.

"(2) Not later than July 1, 1992, the Secretary shall prescribe, by rule, for each manufacturer of light trucks, average fuel economy standards for—

"(A) light trucks manufactured by such manufacturer in model years 1996 through 2001; and

"(B) light trucks manufactured by such manufacturer in model years 2002 and thereafter.

"(3) The average fuel economy standard prescribed by the Secretary for any manufacturer under paragraph (2) (A) or (B) shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level for such manufacturer as determined under subsection (d).

"(4) Any rule prescribed by the Secretary under this subsection may provide for separate standards for different classes of light trucks (as determined by the Secretary).".

SEC. 11005. EXEMPTIONS FOR MANUFACTURERS OF LIMITED NUMBERS OF PASSENGER AUTOMOBILES.

Section 502(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(c)(1)) is amended by inserting "for any model year prior to model year 1996" immediately before the period at the end of the first sentence.

SEC. 11006. CALCULATION OF AVERAGE FUEL ECONOMY STANDARDS FOR INDIVIDUAL MANUFACTURERS.

Section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) is amended further by striking subsection (d) and inserting the following:

"(d)(1) The Secretary shall determine the maximum feasible average fuel economy achievable for passenger automobiles, light trucks, or class of light trucks manufactured by any manufacturer (i) during model year 1996 through 2001 and (ii) during model year 2002 and thereafter by—

"(A) determining, in accordance with subsection (e)(2), the maximum feasible average fuel economy (in miles per gallon) of all automobiles of such vehicle class manufactured by all manufacturers during such period;

"(B) calculating the percentage increase in the average fuel economy of all automobiles of such vehicle class that the maximum feasible average fuel economy determined in paragraph (1) represents compared to the average fuel economy of all automobiles of such vehicle class manufactured in model year 1990 as determined in accordance with section 503; and

"(C) increasing the average fuel economy of automobiles of such vehicle class manufactured by such manufacturer in model year 1990 by the percentage increase calculated in accordance with paragraph (2).

"(2) The Secretary may apply different percentage increases to different vehicle classes, but shall apply the same percentage increase calculated under paragraph (1)(B) to all manufacturers of automobiles of such vehicle class.".

SEC. 11007. DETERMINATION OF MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.

Section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) is amended further by striking subsection (e) and inserting the following:

"(e)(1) For purposes of subsections (a)(1), (b)(1), and (c), in determining maximum feasible average fuel economy, the Secretary shall consider—

"(A) technological feasibility;

"(B) economic practicability;

"(C) the effect of other Federal motor vehicle standards on fuel economy; and

"(D) the need of the Nation to conserve energy.

"(2) For purposes of subsections (a)(2) and (3), (b)(2) and (3), and (d), in determining the maximum feasible average fuel economy of all passenger automobiles, light trucks, or a class of light trucks, as the case may be, manufactured by all manufacturers during (i) model years 1996 through 2001 or (ii) model year 2002 and thereafter, the Secretary shall assume that, taken as a whole, the population of automobiles of such vehicle class manufactured by all manufacturers during such model year—

"(A) uses all fuel-saving technologies and designs that are capable of being commercialized by the appropriate period, considering—

"(i) the time at which improved or new technologies and designs could be introduced and the rates at which they might penetrate the market under existing industrial capabilities; and

"(ii) any technical, financial, regulatory, organizational, and marketing limitations to deploying improved or new technologies by such period;

"(B)(i) with respect to passenger automobiles, attains the same performance level (measured by the product of torque and axle ratio divided by curb weight) as passenger automobiles manufactured in model year 1990, taken as a whole; and

"(ii) with respect to light trucks or class thereof, attains performance levels and utility comparable to such class manufactured in model year 1990;

"(C) reflects the same size mix and interior volume as automobiles of such model type manufactured in model year 1990, taken as a whole;

"(D) meets all applicable emission standards; and

"(E) meets all applicable automobile safety standards.".

SEC. 11008. AMENDMENT OF STANDARDS.

Section 502(f) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(f)) is amended—

(1) by striking "subsection (a)(3)" and inserting "subsection (a)(2)" each place it appears; and

(2) by striking "if required by paragraph (4) of subsection (a)," in paragraph (2)(B).

SEC. 11009. PROCEEDINGS.

Section 502(h) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(h)) is amended by striking "Proceedings under subsection (a)(4) or (d)" and inserting "Any proceeding to promulgate or amend a rule under this section".

SEC. 11010. CREDIT TRADING.

(a) CARRYING FORWARD CREDITS.—Section 502(1)(1)(B)(ii) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(1)(1)(B)(ii)) is amended to read as follows:

"(ii) to the extent that such credit is not so taken into account pursuant to clause (i), shall be available to be taken into account with respect to the average fuel economy of that manufacturer—

"(I) for any three consecutive model years immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard with respect to credits earned for exceeding average fuel economy standards for model years prior to 1996; and

"(II) until used with respect to credits earned for exceeding average fuel economy standards for model years 1996 and thereafter.".

(b) TRANSFERRING CREDITS.—Section 502(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(1)) is amended by striking paragraph (3) and inserting the following:

"(3) Credits under this subsection may be transferred among manufacturers and among vehicle classes of a manufacturer in accordance with rules issued by the Secretary under paragraph (4).''; and

(2) redesignating paragraph (4) as paragraph (4)(A) and inserting at the end the following new subparagraph:

"(B) Not later than 24 months after the date of enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary shall issue rules implementing the credit trading system authorized by paragraph (4).".

(c) CONFORMING AMENDMENTS.—Section 502(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(1)) is amended further—

(1) by striking "automobiles which are not passenger automobiles" and inserting "light trucks" in paragraph (2); and

(2) by striking "class of automobiles" and inserting "light trucks" in paragraph (2).

SEC. 11011. CALCULATION OF FUEL ECONOMY FOR LIGHT TRUCKS.

Section 503(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)(2)) is amended by adding before the period the following:

"that are based upon the method required by this section for calculation of average fuel economy of passenger automobiles".

SEC. 11012. AIRBAG CREDIT FOR SMALL PASSENGER AUTOMOBILES.

(a) AIRBAG CREDIT.—Section 503(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)) is amended—

(1) in paragraph (1) by inserting ", subject to paragraph (4)," immediately before "be calculated"; and

(2) by adding at the end the following new paragraph:

"(4)(A) If a manufacturer manufactures small passenger automobiles which comply with Federal Motor Vehicle Safety Standard Number 208 by means of airbags for the driver seating position only or for both the driver and front seat outboard seating positions, average fuel economy for purposes of section 502(a) and (c) shall be calculated as provided under subsection (a)(1), except that in the calculation of the sum of terms under subsection (a)(1)(B) the term applicable to any model type of small passenger automobile for which there are automobiles so equipped with airbags shall be determined by adding—

"(i) the fraction that is created by dividing the number of small passenger automobiles of such model type that are equipped with airbags for the driver seating position only, by 105 percent of the fuel economy measured for such model type,

"(ii) the fraction that is created by dividing the number of small passenger automobiles of such model type that are equipped with airbags for both the driver and outboard front seating positions, by 110 percent of the fuel economy measured for such model type, and

"(iii) the fraction that is created by dividing the number of small passenger automobiles of such model type that are not so equipped, by the fuel economy measured for such model type.

"(B) For purposes of this paragraph, the term 'small passenger automobile' means a passenger automobile (i) with a wheel base of less than 100 inches, or with a curb weight of 2,750 pounds or less, and (ii) whose measured fuel economy is at least 35 miles per gallon.".

(b) CONFORMING AMENDMENT.—Section 502(e) of the Motor Vehicle Information and Costs Savings Act (15 U.S.C. 2002(e)) as amended by section 11007 of this Act is amended further by adding at the end the following new paragraph:

"(3) In determining maximum feasible average fuel economy, the Secretary shall not consider the alternative calculation for airbag-equipped passenger automobiles under section 503(a)(4).".

SEC. 11013. EXPLANATORY BOOKLET DISTRIBUTED BY SECRETARY OF ENERGY.

(a) MINIMUM NUMBER OF COPIES DISTRIBUTED.—Paragraph (1) of section 506(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(b)) is amended by adding at the end the following new sentence:

"During the 12-month period beginning on the first day of the first month after the date of enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary of Energy shall distribute no less than 100 booklets each year to each dealer and shall distribute as many in addition to 100 booklets as are reasonably requested by dealers from time to time.".

(b) TECHNICAL AMENDMENTS.—(1) Section 506(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(b)(1)) is amended further by striking "Administrator of the Federal Energy Administration" and inserting "Secretary of Energy".

(2) Section 506(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(e)) is amended by striking "Federal Energy Administrator" and inserting "Secretary of Energy".

SEC. 11014. EXCESSIVE FUEL CONSUMPTION FEE.

The Motor Vehicle Information and Cost Savings Act is amended by striking section 507 (15 U.S.C. 2007) and inserting the following:

"EXCESSIVE FUEL CONSUMPTION FEE

"SEC. 507. (a) If the average fuel economy calculations reported by the EPA Administrator to the Secretary under section 503(d) indicate that the average fuel economy of any manufacturer does not meet the applicable average fuel economy standards established under section 502(a), (b), or (c), the Secretary shall assess the manufacturer an excessive fuel consumption fee in an amount determined under section 508.

"(b) The amount of the fee shall be assessed by the Secretary by written notice.

"(c) (1) Not later than 30 days after a determination by the Secretary under subsection (a) that a manufacturer has failed to meet any applicable average fuel economy standard under section 502, such manufacturer may apply to the Federal Trade Commission for a certification under this subsection. If the manufacturer shows and the Federal Trade Commission determines that reduction of the fee which the Secretary shall otherwise assess is necessary to prevent a substantial lessening of competition in that segment of the automobile industry subject to the standard with respect to which such fee is assessed, the Commission shall so certify. The certification shall specify the maximum amount that such fee may be reduced. To the maximum extent practicable, the Commission shall render a decision with respect to an application under this subsection not later than 90 days after the application is filed with the Commission. A proceeding under this subsection shall not have the effect of delaying the manufacturer's liability under this section for a fee for more than 90 days after such application is filed, but any payment made before a decision of the Commission under this subsection becomes final shall be paid to the court in which the fee is collected, and shall (except as otherwise provided in paragraph (2)) be held by such court, until 90 days after such decision becomes final (at which time it shall be paid into the general fund of the Treasury).

"(2) Whenever a fee has been assessed and collected from a manufacturer under this section, and is being held by a court in accordance with paragraph (1), and the Secretary subsequently determines to reduce such fee pursuant to section 508(c), the Secretary shall direct the court to remit the appropriate amount of the fee to such manufacturer.

"(d) Any manufacturer assessed a fee under this section may obtain review of a determination (i) of the Secretary to assess such fee or (ii) of the Federal Trade Commission under subsection (c) in the United States Court of Appeals for the District of Columbia Circuit, or for any circuit wherein the manufacturer resides or has his principal place of business. Such review may be obtained by filing a notice of appeal in such court within 30 days after the date of such determination, and by simultaneously sending a copy of such notice by certified mail to the Secretary or the Federal Trade Commission, as the case may be. The Secretary or the Commission, as the case may be, shall promptly file in such court a certified copy of the record upon which such determination was made. Any such determination shall be reviewed in accordance with chapter 7 of title 5, United States Code.

"(2) If any manufacturer fails to pay a fee after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Attorney General shall recover the amount for which the manufacturer is liable in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order assessing the fee shall not be subject to review.

"(e) A claim of the United States for a fee assessed against a manufacturer under this section shall, in the case of the bankruptcy or insolvency of such manufacturer, be subordinate to any claim of a creditor of such manufacturer which arises from an extension of credit before the date on which the judgment in any collection action under this section becomes final (without regard to subsection (d)).".

SEC. 11015. AMOUNT OF THE EXCESSIVE FUEL CONSUMPTION FEE.

Subsections (a), (b), (c), and (d) of section 508 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(a)-(d)) are amended to read:

"AMOUNT OF THE EXCESSIVE FUEL CONSUMPTION FEE

"SEC. 508. (a)(1) The Secretary shall determine the amount of the excessive fuel consumption fee to be assessed under section 507 with respect to passenger automobiles manufactured in any model year by multiplying the base fee provided in subsection (b) by (i) the number of tenths of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer during such model year is exceeded by the applicable average fuel economy standard established under section 502(a) or (c), multiplied by the number of passenger automobiles manufactured by such manufacturer during such model year, reduced (at the election of the manufacturer) by (ii) credits available under section 502(l) for such model year.

"(2) The Secretary shall determine the amount of the excessive fuel consumption fee to be assessed under section 507 with respect to light trucks manufactured in any model year by multiplying the base fee provided in subsection (b) by (i) the number of tenths of a mile per gallon by which the applicable average fuel economy standard exceeds the average fuel economy of the light trucks manufactured by such manufacturer during such model year, multiplied by the number of light trucks to which such standard applies manufactured by such manufacturer during such model year, reduced (at the election of the manufacturer) by (ii) credits available under section 502(l) for such model year.

"(b) For purposes of calculating the amount of any civil penalty under this section, the amount of the base fee shall be—

"For model years:	
"Prior to 1993	$5.00
"1993	$10.00
"1996	$20.00
"1997 and thereafter	The amount of the fee applicable in the prior model year as adjusted in accordance with the annual implicit price deflator for the gross national product during such model year.

"(c) The Secretary shall have the discretion to reduce the amount of the fee calculated under this section only to the extent—

"(1) necessary to prevent the insolvency or bankruptcy of the manufacturer,

"(2) such manufacturer shows that its failure to meet the standards of section 502 resulted from an act of God, a strike, or a fire, or

"(3) the Federal Trade Commission has certified that reduction of such fee is necessary to prevent a substantial lessening of competition, as determined under section 507(c).

"(d)(1)(A) The Secretary shall, by rule in accordance with the provisions of this subsection and subsection (e), substitute a higher amount for the amount of the base fee which would be used to calculate the fee under subsection (a) in the absence of such rule, if the Secretary finds that—

"(i) the additional amount of the fee which may be imposed under such rule will result in, or substantially further, substantial energy conservation for automobiles in future model years for which such higher fee may be imposed; and

"(ii) subject to subparagraph (B), such additional amount of fee will not result in substantial deleterious impacts on the economy of the United States or any State or region of any State.

"(B) Any findings under subparagraph (A)(ii) may be made only if the Secretary finds that it is likely that—

"(i) such additional amount of fee will not cause a significant increase in unemployment in any State or region thereof;

"(ii) such additional amount will not adversely affect competition; and

"(iii) such additional amount will not cause a significant increase in automobile imports.

"(2) Any rule under paragraph (1) may not provide that the amount per tenth of a mile per gallon used to calculate the fee under subsection (a) be less than the base fee or more than twice the base fee provided by subsection (b).".

SEC. 11016. ESTABLISHMENT OF THE EXCESSIVE FUEL CONSUMPTION FUND.

Section 508 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008) is amended further by adding at the end the following new subsection:

"(f)(1) There is hereby established in the Treasury of the United States a separate fund, to be known as the Excessive Fuel Consumption Fund. The Fund shall consist of all fees collected by the Secretary under this section.

"(2) Subject to appropriation, the Secretary of Energy may make expenditures from the Fund for purposes of—

"(A) providing financial assistance to the States in accordance with section 514; and

"(B) funding other energy conservation programs, to the extent that the amount available in the Fund exceeds the amount needed under subparagraph (A).

"(3) The Secretary of the Treasury shall hold the Fund and, after consulting with the Secretary of Transportation and the Secretary of Energy, shall report annually to the Congress on the financial condition and operations of the Fund during the preceding fiscal year. The budget of the Fund shall be included in the Budget of the United States Government.".

SEC. 11017. SCRAPPAGE OF OLDER VEHICLES.

The Motor Vehicle Information and Cost Savings Act is amended further by adding at the end thereof the following new section:

"SCRAPPAGE OF OLDER VEHICLES

"SEC. 514. (a) The Secretary of Energy shall provide financial assistance to State programs encouraging the voluntary removal from use and the marketplace pre-1980 model year automobiles.

"(b)(1) Within 180 days after the enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary of Energy, after consulting with the EPA Administrator, shall adopt rules necessary to review and approve State programs that qualify for financial assistance under subsection (a).

"(2) Any rules adopted by the Secretary of Energy under paragraph (1) shall require that to qualify for federal assistance under subsection (a) at least 50 percent of the cost of the program be paid for from State or private funds.

"(c) The Secretary of Energy is authorized, subject to appropriation, to make expenditures from the Excessive Fuel Consumption Fund for purposes of this section.".

SEC. 11018. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DESIGNATION OF THE EPA ADMINISTRATOR.—Section 502 (g)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(g)(1) is amended by striking "Environmental Protection Agency" and inserting "EPA".

(b) ELIMINATION OF THE SECRETARY'S ADJUSTMENT AUTHORITY.—Section 502(l)(1)(B) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002 (l)(1)(B)) is amended by striking "any adjustment under subsection (d) of this section".

(c) DESIGNATION OF THE ENERGY AND COMMERCE COMMITTEE.—Section 503(b)(3)(D)(ii)(II) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(3)(D)(ii)(II)) is amended by striking "Interstate and Foreign Commerce" and inserting "Energy and Commerce".

(d) LEGISLATIVE VETO.—Section 504(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2004(a)) is amended by striking "(or in the case of an amendment submitted to each House of the Congress under section 502(a)(4), at any time prior to 60 days after the expiration of the 60-day period specified in section 502(a)(5))".

Subtitle B—Alternative Fuels

SEC. 11101. MASS TRANSIT PROGRAM.—(a) COOPERATIVE AGREEMENTS AND JOINT VENTURES.—(1) The Secretary, in consultation with the Administrator of the Urban Mass Transit Administration, may, consistent with this Act and the Alternative Motor Fuels Act of 1988 (Pub. L. No. 100-494), enter into cooperative agreements and joint ventures proposed by municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility, including safety of specific vehicle design, of using natural gas or other alternative fuels for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include in-

terested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(b) COST-SHARE.—(1) The Secretary may not enter into any cooperative agreement or joint venture under subsection (a) with any municipal, county or regional transit authority unless such government body agrees to provide at least 25 per centum of the costs of such demonstration.

(2) The Secretary, at his discretion, may grant such priority under this section to any entity that demonstrates that the use of natural gas or other alternative fuels used for transportation would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(c) AUTHORIZATION.—There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 11102. TRAINING PROGRAM.—(a) PROGRAM.—The Secretary of the Department of Labor shall establish and carry out a training and certification program for technicians who are responsible for vehicle installation of equipment that converts gasoline or diesel-fueled vehicles to the capability to run on natural gas or other alternative fuels alone, or on natural gas or other alternative fuels and either diesel fuel or gasoline, and for the maintenance of such converted vehicles. Such training and certification programs shall provide these technicians with instruction on the correct installation procedures and techniques, adherence to specifications, vehicle operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these vehicle conversions.

(b) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with, and provide financial assistance to, under this section, appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(c) CONSISTENCY.—The program under this section shall be consistent with the Alternative Motor Fuels Act of 1988 (Pub. L. No. 100-494).

(d) AUTHORIZATION.—There is authorized to be appropriated not more than $5,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

Subtitle C—Electric Vehicle Technology Development and Demonstration

SEC. 11201. SHORT TITLE.—This subtitle may be cited as the "Electric Vehicle Technology Development and Demonstration Act of 1991".

SEC. 11202. DEFINITIONS.—For purposes of this subtitle, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "conventionally fueled vehicle" means a vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source;

(3) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, and that may include a nonelectrical source of power designed to charge batteries and components;

(4) "eligible nonattainment area" means a nonattainment area that the Secretary designates as an eligible nonattainment area under section 1134(b);

(5) "life cycle costs" means all costs associated with the purchase, operation, maintenance, and disposal of a vehicle; and

(6) "nonattainment area" means a nonattainment area identified by the Administrator pursuant to section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

SEC. 11203. IDENTIFICATION OF NONATTAINMENT AREAS.—(a) The Secretary, in consultation with the Administrator, shall identify, not later than thirty days after the date of the enactment of this Act, the nonattainment areas in the United States in which the use of conventionally fueled vehicles contributes significantly to that nonattainment and in which the use of electric vehicles could contribute to attainment of applicable National Ambient Air Quality Standards. The Secretary shall provide notification to those nonattainment areas so identified.

(b) The Secretary, after consultation with the Administrator and not later than thirty days after notification of the nonattainment areas identified under subsection (a), shall designate nonattainment areas eligible to participate in the program authorized by this subtitle.

SEC. 11204. APPLICATIONS FROM MANUFACTURERS.—(a) Not later than thirty days after the Secretary designated the eligible nonattainment areas under section 11203(b), the Secretary shall make an initial request for applications from manufacturers to develop, demonstrate, certify, manufacture, sell, warranty, and service electric vehicles in one or more eligible nonattainment areas. Additional requests for applications may be made if the Secretary determines that the responses to the initial request are inadequate.

(b) The request for applications shall require a manufacturer to identify the following:

(1) any eligible nonattainment area in which the electric vehicles will be sold;

(2) the quantity of vehicles that will be available for sale in each area;

(3) the dealership network or other means to be used by a manufacturer to distribute, market, and sell vehicles;

(4) the type of vehicle (which may include light to medium duty cargo or passenger vehicles);

(5) the specifications and performance characteristics of each vehicle;

(6) the maintenance and other support services that will be available to a purchaser;

(7) the selling price of a manufacturer for varying volumes of production of each type of vehicle;

(8) information regarding the life cycle costs, including projected costs of operating and maintaining an electric vehicle in comparison with operating and maintaining a conventionally fueled vehicle;

(9) the level of involvement (cost-sharing or otherwise), if any, that State or local government entities will have in the manufacturer's proposal, and how that involvement will affect the level of Federal cost-sharing required; and

(10) other information that the Secretary deems necessary.

SEC. 11205. SELECTION OF MANUFACTURERS.—(a) After consulting with the Secretary of Commerce, the Secretary of Transportation, and the Administrator, and not later than one hundred eighty days after the initial request for applications is made under section 11204, the Secretary may select one or more manufacturers eligible to receive reimbursement payments for the development, demonstration, manufacture, and sale of electric vehicles.

(b) The Secretary shall select a manufacturer based upon the overall quality of the proposal, including the following:

(1) The ability of a manufacturer, directly or indirectly, to develop, demonstrate, manufacture, distribute, sell and service a significant number of electric vehicles;

(2) The commitment of the manufacturer to distribute, sell and service electric vehicles in various regions of the country.

(3) The suitability of the vehicles for use as a cargo or passenger vehicle;

(4) The quality of the vehicle with respect to safety and environmental considerations;

(5) The long-term technical viability of the vehicle, and the ability of the manufacturer to incorporate subsequent advancements, modifications, and technology;

(6) The ability and commitment of a manufacturer to reduce the life cycle costs of electric vehicles over a period of five years or less after selection to a level at least equal to comparable conventionally fueled vehicles;

(7) The selling price of a manufacturer for varying volumes of production of vehicles, the proposed discount (as defined in section 11206), and life cycle costs of the electric vehicles;

(8) The extent to which the involvement of state or local government in the program will permit the reduction of the Federal cost share per vehicle to be supported or will otherwise be used to leverage the federal cost-sharing to be provided among a greater number of vehicles;

(9) Other criteria that the Secretary deems necessary.

SEC. 11206. DISCOUNTS TO PURCHASERS.—(a) A manufacturer selected by the Secretary shall offer a purchaser a discount equal to either:

(1) An amount which represents the excess of the estimated life cycle costs of the electric vehicle over the life cycle costs of a conventionally fueled vehicle of comparable type; or

(2) An amount by which the selling price of the electric vehicle exceeds the suggested retail price of a conventionally fueled vehicle of comparable type.

In no case shall the discount be greater than 50 per centum of the selling price by varying volumes of production.

(b) The Secretary, not later than thirty days after a manufacturer has provided notice in the form and manner specified by the Secretary of the sale of an electric vehicle, shall pay a manufacturer a payment not to exceed the discount for each electric vehicle sold.

(c) To be eligible for payment under subsection (b), a manufacturer shall certify to the Secretary the following:

(1) the discount to the purchaser does not lower the selling price of each electric vehicle below the suggested retail price of a conventionally fueled vehicle of comparable type;

(2) the actual selling price of the vehicle is equal to the selling price specified in the manufacturer's proposal to the Secretary reduced by the full amount of the discount received, calculated as specified above, unless the Secretary agrees to a request by the manufacturer to adjust the selling price as specified in the contract to reflect higher costs actually incurred in production;

(3) the vehicle will be used primarily in the eligible nonattainment area in which the vehicle will be purchased;

(4) the purchaser has agreed to provide the manufacturer with information regarding operation, maintenance, and usability of the vehicle for five years after purchase; and

(5) the manufacturer will provide such information regarding the development, demonstration, manufacture, sale, and maintenance of electric vehicles that the Secretary requests for a period of five years, beginning in fiscal year 1992.

(d) The Secretary may enter into contracts with manufacturers of electric vehicles for purposes of carrying out this Act.

SEC. 11207. REPORTS TO CONGRESS.—The Secretary shall report to Congress in fiscal years 1992 and 1994 on the programs and projects supported under this subtitle and the progress being made toward accomplishing the goals of this subtitle.

SEC. 11208. AUTHORIZATION.—There is authorized to be appropriated for purposes of this subtitle $10,000,000 for each of the three fiscal years following the date of enactment of this Act.

TITLE XII—ADVANCED NUCLEAR REACTOR COMMERCIALIZATION

SEC. 12001. SHORT TITLE.

This title may be cited as the "Civilian Advanced Nuclear Reactor Commercialization Act of 1991.".

SEC. 12002. FINDINGS, PURPOSES, AND DEFINITIONS.

(a) FINDINGS.—Congress finds that—

(1) energy generated from nuclear fission now supplants the burning of fossil fuels in an economical fashion and contributes substantially to safe and reliable supplies of electricity while reducing the rate and scope of environmental pollution; and

(2) it is in the national interest for the federal government to provide leadership in encouraging advanced nuclear reactor technologies so that such technologies may be adopted as needed.

(b) PURPOSES.—The purposes of this title are to—

(1) require the Secretary to make decisions that will focus the Department's civilian nuclear programs in a way that will lead toward commercialization of advanced nuclear reactor technologies;

(2) authorize the Secretary to encourage the use where needed of advanced nuclear reactor technologies; and

(3) ensure the timely availability of advanced nuclear reactor technologies, including technologies that exhibit passive safety features.

(c) DEFINITIONS.—For purposes of this title, the term—

(1) "advanced nuclear reactor technologies" includes, but is not limited to, advanced light water reactors; modular high-temperature, gas-cooled reactors; and liquid metal reactors, for the generation of commercial electric power from nuclear fission.

(2) "Commission" means the Nuclear Regulatory Commission;

(3) "Department" means the Department of Energy; and

(4) "Secretary" means the Secretary of Energy.

SEC. 12003. PROGRAM.

(a) The Secretary shall carry out a comprehensive program in accordance with the provisions of this title to encourage the deployment of advanced nuclear reactor technologies that to the maximum extent practicable—

(1) are cost-effective in comparison to alternative sources of commercial electric power of comparable availability and reliability; including consideration of the impact on the rate and scope of global climate change;

(2) utilize modular construction techniques;

(3) facilitate standardized design, construction, licensing, and operation;

(4) exhibit passive safety features; and

(5) incorporate features that advance the objectives of the Nuclear Nonproliferation Act by discouraging diversion of fissile material for use in nuclear weapons.

(b) CERTIFIED DESIGNS.—(1) The program of the Secretary under subsection (a) shall include appropriate steps for the development and submission for certification by the Commission of completed standard designs for commercial nuclear reactors, or the components thereof, that the Secretary determines exhibit some or all of the characteristics set forth in subsection (a).

(2) The Secretary shall provide Congress with an annual report describing the progress in the previous year in certifying standard designs under paragraph (1) and setting forth plans for the certification program for the coming year.

SEC. 12004. DECISIONS BY THE SECRETARY.

(a) PUBLIC MEETINGS.—(1) Within 60 days after the date of the enactment of this title, the Secretary shall commence public meetings to develop information upon which to base the decisions and recommendations required by this section.

(b) PUBLIC MEETINGS ON FUTURE PROGRAM.—These public meetings shall examine—

(1) the need for, and the potential for adoption in the future by electric utilities or other entities of, advanced nuclear reactor technologies that are available or under development for the generation of energy from nuclear fission;

(2) how the federal government, acting through the Secretary (including actions of the Secretary under this title), can be effective in ensuring the availability of these advanced nuclear reactor technologies when they may be needed;

(3) whether the Secretary should solicit cooperation from the private sector in carrying out the advanced nuclear reactor technology commercialization programs authorized in sections 12005 and 12006; and

(4) potential alternative funding sources to carry out the purposes of this title.

(c) In carrying out the public meetings under subsection (a) the Secretary shall offer members of the public an opportunity to provide information and comment and solicit the views of the Commission and other interested parties.

(d) REPORT.—(1) The public meetings shall conclude no later than 180 days after the date of the enactment of this title.

(2) Within 90 days after the conclusion of the public meetings the Secretary shall submit to Congress a report summarizing the results of the public meetings and setting forth the Secretary's plan for carrying out the purposes of this title. The report shall indicate how the Secretary's plan will further the purposes set forth in section 12002(b) and the objectives set forth in section 12003(a). In developing the plan the Secretary shall take into account—

(A) the views received during the public meetings;

(B) the need, as determined by the Secretary, for available commercial electric power supply technologies based on nuclear fission and the time when necessary action to satisfy this need will become urgent; and

(C) the probability that the Secretary's actions under this section will contribute substantially to the availability of commercial electric power from advanced nuclear reactor technologies.

(e) DECISIONS ABOUT FUTURE COMMERCIALIZATION PROGRAMS.—As part of the report under subsection (d) the Secretary shall issue a decision whether or not to conduct the solicitations authorized under sections 12005 and 12006, together with the reasons for this decision.

SEC. 12005. COMMERCIALIZATION OF NUCLEAR REACTOR TECHNOLOGY.

(a) USE OF AUTHORITY OF THE SECRETARY.—The Secretary shall use the authority under this section and other authorities available to the Secretary to encourage the siting, financing, licensing, construction, and operation of facilities for the generation of commercial electric power from nuclear fission in regions where the Secretary, after consultation with appropriate agencies in the affected states, finds a need for additional electric generating capacity.

(b) SOLICITATION.—(1) At any time after publication of the report under section 12004(d), the Secretary, in consultation with the Commission, may solicit proposals for collaboration with one or more private parties who agree to become applicants for necessary permits for the construction and operation of facilities for the generation of commercial electric power from nuclear fission. In any solicitation under this subsection, the Secretary shall offer, in the case of accepted proposals, to—

(A) assist in the identification of private financing arrangements that to the maximum extent practicable under existing law minimize the risk in financing the construction and operation of the proposed facility;

(B) appear on behalf of applicants before any authority, including the Commission or appropriate state and local regulatory authorities, with jurisdiction over the proposed facility;

(C) be responsible for the costs of any new requirements imposed by the Commission after issuance by the Commission of a license for the construction of the proposed facility, provided that the federal government shares equitably in the revenues from operation by the facility; and

(D) otherwise seek to expedite the construction and operation of the proposed facility using authority available to the Secretary.

(2) Any person may petition the Secretary requesting an additional solicitation pursuant to paragraph (1). If the Secretary determines such solicitation would advance the purposes of this title, the Secretary shall solicit proposals.

(c) COMMENT.—The Secretary shall offer an opportunity for interested persons, including the Commission, to comment on any proposal received under subsection (b). The Secretary shall offer technical assistance to any applicant whose proposal shows promise for selection under this section and shall permit such applicant to modify his proposal. The Secretary shall consult with the Commission on ways to improve the prospects for licensing any proposed facility that may be acceptable under this section.

(d) Selection.—(1) Within 180 days after receipt of a proposal under subsection (b), the Secretary shall decide whether to select any proposal submitted under this title.

(2) The decision to accept any proposal shall be transmitted promptly to Congress, and not less than 45 calendar days shall pass before such decision is effective.

(3) The interpretation and application of the selection criteria set forth in subparagraphs (A) through (F) are within the sole discretion of the Secretary. In deciding whether to select a proposal under this section, the Secretary shall take into account—

(A) the extent to which the technology proposed exhibits the characteristics set forth in section 12003(a);

(B) whether acceptance of the proposal will encourage use of a standard reactor design for the technology in question;

(C) the probability that the facility can be successfully financed, constructed, and licensed;

(D) the probability under the proposal that the federal government will receive an equitable share of revenues from operation of the proposed facility;

(E) the importance of the Secretary's contribution under this section to successful construction and operation of the proposed facility; and

(F) the extent to which the successful construction and operation of the facility will improve the availability of nuclear reactor technologies for generating commercial electric power.

(4) If the Secretary determines that no proposals submitted pursuant to subsection (b) are acceptable, the Secretary may solicit additional proposals.

(e) FUNDING.—To the extent provided in advance in appropriations Acts, the Secretary may provide funds to cover costs referred to in subsection (b)(1)(C).

(f) LICENSING.—(1)(A) The facilities covered by any proposal selected under subsection (d) shall be subject to Commission licensing as provided by the Atomic Energy Act of 1954, as amended by Title XIII of this Act, and this paragraph.

(B) The Commission may issue a combined construction permit and operating license for a facility covered by a proposal selected under subsection (d) after providing an opportunity for a hearing under section 189a. of the Atomic Energy Act, if the Commission finds that there is reasonable assurance that the facility will be constructed and will operate in conformity with the application for the facility, applicable provisions of the Atomic Energy Act, and applicable regulations of the Commission. The Commission shall ensure through inspections, tests and analyses that construction is completed in conformity with the combined construction permit and operating license.

(C) Before operation of any facility licensed under this subsection, the Commission shall publish in the Federal Register a notice of the intended operation of the facility, and shall provide a thirty-day period within which any person whose interest may be affected may file a written objection to operation of the facility on the ground that the facility has not been constructed or will not operate in conformity with the license. The objection must set forth with specificity and in reasonable detail the facts and arguments upon which the objection is based, and may be accompanied by a request for a hearing. Unless a prior hearing is granted in accordance with the requirements of this subsection, operation of the facility shall commence and the Commission shall publish a brief statement of any issues raised in the objection and their resolution by the Commission.

(D) The Commission may grant a hearing under this subsection only if—

(i) a showing is made that a substantial dispute of material fact exists that has not been previously considered by the Commission and that cannot be resolved with sufficient accuracy except at a hearing; and

(ii) a showing is made that there has been nonconformance with the combined license that has not been corrected and that could materially and adversely affect the safe operation of the facility.

Following completion of any hearing, the Commission shall decide whether or not to modify or condition the license.

(2) Within two years after selection of a proposal under subsection (d), the Secretary shall recommend to the Commission any changes in Commission regulations that would improve, consistent with existing law, prospects for the successful licensing of the facilities covered by such proposal.

SEC. 12006. COMMERCIALIZATION OF ADVANCED REACTOR TECHNOLOGY.

(a) USE OF AUTHORITY OF THE SECRETARY.—The Secretary shall use the authority under this section and other authority available to the Secretary to commercialize promising advanced nuclear reactor technologies for the generation of commercial electric power.

(b) REQUEST FOR PROPOSALS.—

(1) Within 90 days after the publication of the report under section 12004(d), the Secretary, after consultation with the Commission, may issue a draft request for proposals for the construction of a commercial-scale reactor employing advanced nuclear reactor technology that—

(A) exhibits the characteristics set forth in section 12003(a);

(B) minimizes to the extent practicable the volume or toxic lifetime of nuclear waste produced and the cost of nuclear waste disposal;

(C) is reasonably designed to maximize acceptance by the public, the financial community, electric utilities, state electric utility regulators, and the Commission; and

(D) could provide commercial electric power to a utility grid as soon as practicable but no later than the year 2010.

(2) Any proposal under paragraph (1) shall—

(A) set forth the management structure for the project specifying a single entity that will be in control of the project; and

(B) indicate how this structure ensures timely operation of the facility within the budget proposed.

(3) The Secretary shall offer an opportunity for interested persons to comment on the draft request for proposals. The Commission shall comment on such draft request. The Secretary shall consider and publish a summary response to any comments received within 90 days after issuance of the draft request for proposals.

(4)(A) Within 180 days after publication of the report under section 12004(d)(2), the Secretary may issue a request for proposals under this section. Final proposals may be submitted to the Secretary within 180 days after the request for proposals is issued under this paragraph, except that the Secretary may extend this deadline for up to an additional 180 days if the Secretary determines that such extension is necessary to permit promising proposals to be submitted.

(B) The Secretary may provide technical assistance for the development of proposals the Secretary considers promising.

(C) The Secretary may modify and reissue the request for proposals under subparagraph (A) so as to encourage the submission of additional proposals if, in his judgment—

(i) there will be insufficient competition among the proposals received under this section; or

(ii) there are promising advanced nuclear reactor technologies which are not represented in the proposals received and receipt of proposals representing such technologies would foster competition or advance the purposes of this title.

(5)(A) The Secretary shall decide whether to select any proposal received under this section within 180 days after the corresponding initial proposal is submitted.

(B) The decision to accept any proposal shall be transmitted promptly to Congress, and not less than 45 calendar days shall pass before such decision is effective.

(C) The interpretation and application of the selection criteria set forth in clauses (i) through (vii) are within the sole discretion of the Secretary. In deciding whether to select a proposal under this section, the Secretary shall take into account—

(i) the extent to which the advanced nuclear reactor technology proposed exhibits the characteristics set forth in section 12003(a);

(ii) the probability that the commercialization project can be successfully financed, constructed, and licensed;

(iii) the importance of the federal contribution under this subsection to successful commercialization of the technology proposed;

(iv) the extent to which the successful construction of the project will improve the availability of advanced nuclear reactor technologies;

(v) the probability that technology and design features exhibited by the project can be deployed commercially by the utility industry in a timely fashion;

(vi) the probability under the proposal that the federal government receive an equitable share of revenues from operation of the proposed facility; and

(vii) the extent to which selection of the project otherwise furthers the purposes of this title.

(c) FUNDING.—To the extent provided in advance in appropriations Acts, the Secretary may provide funds for construction of a commercialization project under an acceptable proposal selected under subsection (b). Such funds may be provided only if the proposal selected by the Secretary provides for—

(1) at least 50 percentum of project costs to be provided from non-federal sources; and

(2) non-federal financial responsibility for any and all costs in excess of the specific amounts authorized by the Secretary to be paid under the accepted proposal.

(d) LICENSING.—(1) Any project under this section shall be subject to licensing requirements of the Atomic Energy Act of 1954, as amended, as if such project were a commercial utilization facility under such Act, and may be issued a combined construction permit and operating license in accordance with the provisions of section 12005(f)(1).

(2) Within one year after selection by the Secretary of a proposal under subsection (b), the Secretary shall recommend to the Commission any changes in Commission regulations that would improve, consistent with existing law, prospects for the successful licensing of the commercialization project under this subsection.

SEC. 12007. APPROPRIATIONS.

(a) No more funds may be appropriated to carry out the purposes of this title set forth in section 12002(b) than the amounts set forth in subsection (b). This title shall be the exclusive source of authorization for appropriations of funds to support any activities of the Secretary leading to the commercialization of advanced nuclear reactor technologies.

(b)(1) For the fiscal year beginning on October 1, 1992, not more than $100 million may be appropriated for activities described in subsection (a);

(2) For the fiscal year beginning October 1, 1993, not more than $200 million may be ap-

propriated for activities described in subsection (a); and

(3) For the fiscal year beginning October 1, 1994, not more than $200 million may be appropriated for activities described in subsection (a).

SEC. 12008. REPORTS.

(a) RECOMMENDATIONS BY THE COMMISSION.—

(1) Within two years after the selection of a proposal under section 12006, the Commission, after consultation with the Secretary and opportunity for public comment, shall submit to Congress specific recommendations for changes in law that the Commission finds necessary for the timely licensing, consistent with the public health and safety, of commercial nuclear power reactors whose design is based on the project under section 12006.

(2) The Secretary shall provide Congress with the comments on the recommendations of the Commission submitted under paragraph (1).

(b) REPORT BY THE COMMISSION.—

(1)(A) In order to assess whether the purposes of this title may be achieved in whole or in part by the availability in the United States of advanced nuclear reactor technologies already in use or under development in other nations, the Secretary shall review commercial nuclear reactor technologies in use or under development in other nations and, within one year after the date of the enactment of this section, provide Congress and the Commission with an initial assessment of the extent to which any such technologies may exhibit characteristics set forth in paragraphs (1), (2) and (4) of section 12003(a).

(B) If the Secretary finds that a technology reviewed under subparagraph (A) has the potential to exhibit such characteristics, he shall identify the technology and include a thorough discussion of his findings in the assessment under this paragraph.

(2) Within one year after receipt of the Secretary's initial assessment under paragraph (1), the Commission shall report to Congress on the problems of licensing under the Atomic Energy Act of 1954, as amended, of commercial nuclear reactor technologies that the Secretary has identified under subparagraph (1)(B).

(3) Before submitting the report under paragraph (2) the Commission shall make available to the public a draft report and provide opportunity for comment on the draft report.

(4) The report of the Commission under paragraph (2) shall identify specific impediments to licensing under the Atomic Energy Act of 1954, as amended, for each technology considered and shall indicate how, or if, such impediments might be removed by amendments to law or regulation consistent with the public health and safety.

(c) REPORT BY THE SECRETARY.—The Secretary, in consultation with the Commission, shall submit an annual report to Congress on activities under this title assessing the progress during the previous year in achieving the purposes of this title and the prospects for further progress in the coming year.

TITLE XIII—NUCLEAR REACTOR LICENSING

SEC. 13001. SHORT TITLE.

This title may be cited as the "Nuclear Reactor Licensing Act of 1991.".

SEC. 13002. REACTOR LICENSING.

Section 189a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) is amended by redesignating paragraph (1) as paragraph (1)(A) and inserting the following:

"(B) In the case of an application for a combined license to construct and operate a facility under subsection 161h., the Commission shall hold a hearing on such application prior to the granting of the combined license. Upon the completion of construction of the facility and upon finding the facility authorized has been constructed and will operate in conformity with the combined license, and in the absence of any good cause being shown to the Commission why operation should not proceed in accordance with the combined license, operation may proceed notwithstanding the pendency before the Commission of a request for a hearing under this section unless:

"(i) a showing is made that a substantial dispute of material fact exists that has not been previously considered by the Commission and that cannot be resolved with sufficient accuracy except at a hearing; and

"(ii) a showing is made that there has been nonconformance with the combined license that has not been corrected and that could materially and adversely affect the safe operation of the facility.

"Any hearing held under this section after the granting of a combined license to construct and operate a facility shall be limited to issues of nonconformance with the combined license.".

TITLE XIV—URANIUM

Subtitle A— Uranium Enrichment

SEC. 14001. SHORT TITLE.—This subtitle may be cited as the "Uranium Enrichment Act of 1991."

SEC. 14002. DELETION OF SECTION 161v.—Subsection 161v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 14003. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.— The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011-2296) is further amended by—

(a) inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY"; and

(b) adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.— For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION.—

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101-9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes:

"(1) to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"(2) to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"(3) to market and sell enriched uranium and uranium enrichment and related services to—

"(A) the Department for governmental purposes; and

"(B) qualified domestic and foreign persons;

"(4) to conduct research and development as required to meet corporate objectives for

the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"(5) to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"(6) to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"(7) to maintain a reliable and economical domestic source of enrichment services;

"(8) to conduct its activities in a manner consistent with the health and safety of the public;

"(9) to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"(10) to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"d. may—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

"e. shall sell to the Department as provided in this title, and without regard to section 57e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

"a. shall have perpetual succession unless dissolved by Act of Congress;

"b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"e. may adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and the Administrative Services Act of 1949, as amended;

"(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition; *Provided*, that advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"g. with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly-owned Government corporations;

"j. notwithstanding any other provision of law, and without need for further appropriation, may use monies, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

"k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"n. may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

"o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized; and

"q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

"r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the Judgment Appropriation (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute; *Provided*, That this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under Section 1601 of this title.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGULATIONS.—

"a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts and the December 18, 1987 Settlement Agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue

in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

"c. Except as provided elsewhere in this title, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR.—

"a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation; *Provided, however,* That upon enactment of this title, the President shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503 c., except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, United States Code;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least 30 days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, United States Code, including the setting of the appropriate amount of, and paying, any dividend under section 1506 c. and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility:

"a. (1) The specific responsibilities of the Corporate Board shall be to:

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"b. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers and memoranda of, or in use by, the Corporation.

"c. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and the ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504 a. The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504 a. during their term of employment, regardless of any recommendation received or not received under this title.

"d. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"e. Upon expiration of the initial term, each Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"f. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"g. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"h. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in section 5314 of title 5, United States Code, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"i. (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources and to the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—Officers and employees of the Corporation shall be officers and employees of the United States:

"a. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent

shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code; Provided, that the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503 c. and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"b. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (5 U.S.C. chapter 83, subchapter III) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (5 U.S.C. chapter 84). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"c. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

"d. Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"e. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"f. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—In order to enable the Corporation to exercise the powers and duties vested in it by this title:

"a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: *Provided*, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion Plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: *Provided further*, That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) The Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: *Provided*, That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as "AVLIS", technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION.—

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock

for the United States: Provided, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING.—

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as "bonds") in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: Provided, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: Provided, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING.—

"a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: Provided, however, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection (a), amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505 a. at any time. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: Provided, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The costs of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the

Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS.—

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than 90 days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such terms appears in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS.—

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152, 153 b.(1), and 158 of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b.(1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c.(1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b.(1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility with respect to secrecy orders imposed under sections 181 through 187 of title 35, United States Code.

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b.(3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING.—

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection a. that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection b., the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection a. As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any li-

censing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—

"a. In order to render financial assistance to those states and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed to make payments to state and local governments as provided in this section. Such payments shall be in lieu of any and all state and local taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities, and income are expressly exempted from taxation in any manner or form by any state, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

"b. The Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the state and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: *Provided, however*, That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) In no event shall the payment made to any taxing authority for any period be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: *Provided*, That no payment shall be made to the extent that the tax would apply to a period prior to the enactment of this title.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I.—

"a. Any references to the term 'Commission' or to the Department in sections 105 b., 110 a., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230 and 232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of state, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS.—

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1–7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12–27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8–9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of Section 170 of this Act.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to obtain necessary funds with which to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT.—

"a. Three years after enactment of this title or January, 1993, whichever is later, the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection a., the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT.—

"a. ESTABLISHMENT OF FUND.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the 'Fund'). In accordance with section 1402j, such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702; and

"(B) Any interest earned under subsection b.(2).

"b. ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been re-

covered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS.—

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

SEC. 14004. TREATMENT OF THE CORPORATION AS BEING PRIVATELY OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, state and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651–678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this subtitle, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 14005. MISCELLANEOUS PROVISIONS.—(a) Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end the following: "(N) United States Enrichment Corporation.".

(b) In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) The Atomic Energy Act of 1954, as amended, is further amended in section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) Subsection 905(g)(1) of Title 2, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

(f) Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Pub. L. No. 100-202, is repealed.

SEC. 14006. LIMITATION ON EXPENDITURES.—For fiscal year 1991, total expenditures of the United States Enrichment Corporation shall not exceed total receipts.

SEC. 14007. SEVERABILITY.—If any provision of this subtitle, or the application of any provision to any entity, person or circumstance, shall for any reason be adjudged by a court of component jurisdiction to be invalid, the remainder of this title, or the application of the same shall not be thereby affected.

SEC. 14008. EFFECTIVE DATE.—Except as otherwise provided, all provisions of this subtitle shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this title; Provided, however, That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501 a. of the Atomic Energy Act of 1954, as amended by this title and previous Acts.

SUBTITLE B—URANIUM

PART 1—SHORT TITLE, FINDINGS AND PURPOSE, DEFINITIONS

SEC. 14101. SHORT TITLE.

This subtitle may be cited as the "Uranium Security and Tailings Reclamation Act of 1991."

SEC. 14102. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds for purposes of this subtitle that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 per centum drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901–7942)—

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners or licensees of active uranium and thorium sites and the Federal Government have each benefitted from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and,

(8) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE.—It is the purpose of parts 2 and 3 of this subtitle to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 14103. DEFINITIONS.

For purposes of this subtitle—

(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual by-product material;

(2) the term "byproduct material" has the meaning given such term in section 11e.(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation established under section 1202 of Title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U-235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance

agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

PART 2—URANIUM REVITALIZATION

SEC. 14111. VOLUNTARY OVERFEED PROGRAM.

(a) The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1992, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this title or domestic uranium actually produced by a domestic uranium producer before the enactment of this title and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) Within ninety days of the date of enactment of this title, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery, reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 14112. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this title, use of the Reserve shall be restricted to military purposes and government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this title shall be restricted to military purposes.

SEC. 14113. RESPONSIBILITY FOR THE INDUSTRY.

(a) The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium: Provided, however, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to subsection (b).

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 14114. GOVERNMENT URANIUM PURCHASES.

(a) After the date of enactment of this title, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: Provided, that this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this title.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 14115. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.

The Secretary shall issue appropriate regulations to implement the purposes of this subtitle.

PART 3—REMEDIAL ACTION FOR ACTIVE PROCESSING SITES

SEC. 14121. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 14122 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this subtitle and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subparagraphs (A), (B) and (C) shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—Provided however, (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 14123, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a pro-rated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 14122. REGULATIONS.

The Secretary shall issue regulations governing reimbursement under section 14121. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 14121.

SEC. 14123. AUTHORIZATION.

There is authorized to be appropriated for purposes of this part not more than $300,000,000 increased annually as provided in section 14121 based upon an inflation index as determined by the Secretary.

TITLE XV.—PUBLIC UTILITY HOLDING COMPANY ACT REFORM

SEC. 15001. EXEMPT WHOLESALE GENERATORS.

(a)(1) "Exempt wholesale generator" shall mean any person who is engaged directly, or indirectly through one or more affiliates of such person as defined under section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935, exclusively in the business of owning or operating all or part of one or more eligible facilities and selling electric energy at wholesale; *Provided*, That the term "exempt wholesale generator" shall exclude an affiliate of a registered holding company, which affiliate was in existence as of the date of enactment of this title, unless the Commission has consented.

(2) "Eligible facility" shall mean a facility, wheresoever located, used for the generation of electric energy exclusively for sale at wholesale (including inter-connecting transmission facilities necessary to effect such sale at wholesale), but shall exclude any facility for which consent is required under paragraph (3) and has not been obtained. For purposes of this subsection, the term "facility" shall include a portion of a facility.

(3) As of the date of enactment of this title, if a rate or charge for, or in connection with, the construction of a facility, or for electric energy produced by a facility (other than any portion of a rate or charge which represents recovery of the cost of a wholesale rate or charge) was in effect under the laws of any State, consent with respect to such facility shall be required from any State commission having jurisdiction over such rate or charge.

(b) An exempt wholesale generator shall not be considered an "electric utility company" under section 2(a)(3) of the Act and, whether or not a subsidiary company, an affiliate, or an associate company of a holding company, shall be exempt from all provisions of the Act.

(c) Notwithstanding any provision of the Act, a holding company that is exempt under section 3 of the Act shall be permitted without condition or limitation under such Act to acquire and maintain an interest in the business of one or more exempt wholesale generators.

(d) Notwithstanding any provision of the Act and the Commission's jurisdiction as provided under subsection (e), a registered holding company shall be permitted without the need to apply for, or receive approval from the Commission, and otherwise without condition under the Act, to acquire and hold the securities, or an interest in the business, of one or more exempt wholesale generators.

(e) The issuance of securities by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, the guarantee of securities of an exempt wholesale generator by a registered holding company, the entering into service, sales or construction contracts, and the creation or maintenance of any other relationship in addition to that described in subsection (d) between an exempt wholesale generator and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under the Act; *Provided*, That:

(1) Section 11 of the Act shall not prohibit the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located), and such ownership by a registered holding company shall be deemed consistent with the operation of an integrated public utility system; and

(2) The ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located) shall be considered as reasonably incidental, or economically necessary or appropriate to the operations of an integrated public utility system.

SEC. 15002. OWNERSHIP OF EXEMPT WHOLESALE GENERATORS AND QUALIFYING FACILITIES.

The ownership by a person of one or more exempt wholesale generators shall not result in such person being considered as being primarily engaged in the generation or sale of electric power within the meaning of sections 3(17)(C)(ii) and 3(18)(B)(ii) of the Federal Power Act, as amended.

SEC. 15003. ELECTION TO AVOID PURCHASE FROM OR OWNERSHIP OF EWGS.

(a) An electric utility company that intends to avoid purchasing electric energy from exempt wholesale generators may file a declaration of this intent with the Federal Energy Regulatory Commission in such form as such commission may prescribe. Such declaration shall specify a period of no longer than ten years during which such declaration shall remain in effect and shall be irrevocable during the period specified. An electric utility company may file such a declaration from time to time as it finds desirable.

(b) Upon the filing of a declaration under subsection (a), the electric utility company making the filing shall, without the need for action by the Federal Energy Regulatory Commission or any other body, be prohibited from purchasing electric energy from any exempt wholesale generator during the period specified in the declaration.

(c) No State commission shall impose any penalty, directly or indirectly, through exercise of ratemaking authority or otherwise, upon an electric utility company or an affiliate or associate company thereof, on account of the filing of a declaration as provided under subsection (a), either in advance of such filing or subsequently.

(d) Notwithstanding any other provision of this title, no electric utility company that has filed a declaration under subsection (a), nor any affiliate or associate company thereof, shall acquire or own an interest in the business of an exempt wholesale generator during the period in which such declaration remains in effect. Nor shall any such electric utility company, or affiliate or associate company thereof, make any offer, during the period in which such declaration remains in effect, to sell electric energy from an exempt wholesale generator in whose business it would acquire or own an interest after such declaration expires.

(e)(1) Any violation of the prohibitions of this section shall be deemed to constitute a violation of the Federal Power Act, as amended, and the provisions of such Act shall apply to the enforcement, and imposition of penalties for violations, of the prohibitions of this section.

(2) For purposes of the enforcement of the prohibitions of this section, a State commission shall be deemed to be a person under section 314 of the Federal Power Act, as amended.

SEC. 15004. PRESERVATION OF STATE AUTHORITY.

Except as provided in section 15003, nothing in this title shall preempt or otherwise restrict such power as a State commission may have, in accordance with State and Federal law and in the absence of the enactment of this title, to judge the prudence of a purchase of electric energy at wholesale, allow or disallow the inclusion of the cost of such a purchase in rates subject to such commission's jurisdiction, or otherwise exercise its functions.

SEC. 15005. REFERENCES TO THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

For purposes of this title, all references to "the Act" shall mean the Public Utility Holding Company Act of 1935, as amended. All of the terms used in this title and defined in the Public Utility Holding Company Act of 1935 shall have the same meaning as defined therein.

SUMMARY OF THE NATIONAL ENERGY SECURITY ACT OF 1991

TITLE I.—FINDINGS AND PURPOSES

TITLE II.—DEFINITIONS

TITLE III.—ENERGY EFFICIENCY

Building Energy Efficiency Standards.—Amends ECPA to extend the existing Federal Building Energy Efficiency Standards for new construction to new public housing units, and authorizes the Secretary of Energy (the "Secretary") to provide financial and technical assistance to state and local governments which intend to adopt the Federal Building Energy Efficiency Standards.

Residential Energy Efficiency Ratings.—Directs the Secretary to provide financial assistance to States and local organizations to support a national program to develop an energy rating system for residential buildings. Under this provision, all residential buildings would receive an energy efficiency rating at the time of sale.

Improving Efficiency in Energy-Intensive Industries.—Directs the Secretary to pursue a research and development program and joint venture program to improve efficiency in energy-intensive industries and industrial processes.

Report.—Directs the Secretary to give energy efficiency high priority in the areas of planning, research and development, private assistance, and Federal procurement. The Secretary is directed to prepare a report which evaluates energy efficiency policies and their potential to decrease overall U.S. energy use per unit of GNP.

Voluntary Guidelines for Industrial Plants.—Requires the Secretary, in cooperation with utilities and major industrial energy consumers, to establish voluntary guidelines for the conduct of energy audits, and for the installation of insulation, in industrial facilities for purposes of identifying cost-effective options for reducing energy use.

Energy Efficiency Labeling for Windows and Window Systems.—Requires the Secretary to provide financial assistance to support the voluntary development of a nationwide program to develop energy ratings and labels for windows and window systems and requires the Secretary to develop such a program if it is not developed voluntarily.

Energy Efficiency Information.—Directs the Administrator of the Energy Information Administration to expand the scope and frequency of data collection under the National Energy Information System in order to improve the ability of the Department of Energy to evaluate the effectiveness of energy efficiency policies and programs.

Energy Efficiency Labeling for Lamps and Luminaires.—Requires the Secretary to provide financial and technical assistance to support the voluntary development of a labeling program for light bulbs used in residential applications. The Secretary is required to develop such a program if it is not developed voluntarily by the lighting industry.

Commercial and Industrial Equipment Efficiency.—Amends EPCA by adding utility distribution transformers to the list of covered products and requires the Secretary to conduct a study of electric motors and pumps, electric lights, and utility distribution transformers in order to determine the practicability and effect of establishing performance standards for these products.

Federal Energy Management Amendments.—Amends NECPA to strengthen the existing Federal Energy Management Program by requiring, to the extent funding is available, Federal agencies to install energy efficiency improvements with pay-back periods of 10 years or less. The section also establishes a $50 million Federal Energy Efficiency Project Fund for use in funding these energy efficiency improvements in Federal facilities. In addition, the section directs the General Services Administration (GSA) to identify the energy cost-effectiveness of items listed in the GSA product schedules. Finally, this section directs the Adminis-

trator of the GSA to consider fuel efficiency when purchasing government vehicles.

Plan Regarding Demonstration of New Technology.—Requires the Secretary to submit a plan to Congress for the demonstration in Federal facilities, or by Federal agencies, of energy efficiency technologies that have received Federal assistance for research and development and which the Secretary has determined are ready for commercialization.

Encouragement of Investment in Conservation and Energy Efficiency Resources and Study of Certain State Ratemaking Policies.—Adds new ratemaking standard in Title I of PURPA with respect to the treatment of regulated electric utilities by state regulatory authorities. Adds a requirement for the Secretary to perform a study of State laws and policies regarding least cost energy planning.

Conservation Grants to State Regulatory Authorities.—Establishes a grant program for purposes of encouraging the consideration of demand side management by state regulatory authorities.

Used Oil Energy Production.—Amends EPCA to promote the collection, refining, rerefining, and reprocessing of used lubricating oil into fuel for transportation and other petroleum products through market incentives and the removal of legal disincentives.

Insular Areas Energy Assistance Program.—Provides direction to the Secretary, under existing authorization, for providing financial assistance to Insular area governments, for the purposes of encouraging the adoption of energy efficiency and renewable energy measures.

TITLE IV.—RENEWABLE ENERGY

Committee on Renewable Energy Commerce and Trade (CORECT).—Designates additional duties for CORECT to foster U.S. policies which will enhance economic development in lesser-developed countries and promote the U.S. manufacture and export of energy efficient and renewable energy technologies. Directs the Secretary, under CORECT, to develop a comprehensive data base and information dissemination system in order to provide information on country-specific technical and energy needs.

Joint Ventures for Renewable Energy Development for Oil Displacement and Technology Export Training.—Expands the joint venture program under the Renewable Energy and Energy Efficiency Technology Competitiveness Act to include biofuels energy systems, geothermal energy, solar water heating technology, photovoltaic and wind energy systems, biomass direct combustion or gasification and fuel cells technology. Requires the Secretary to conduct a joint venture for energy technology export training.

Report on Waste Minimization Technologies in Industry.—Requires the Secretary to undertake a report evaluating opportunities to minimize waste outputs from production processes in U.S. industry.

Section 401 Certification.—Clarifies limitations on State ability to place conditions on Clean Water Act certification for hydropower facilities.

Streamlining of Federal Power Act Regulation.—Removes overlapping conditioning authority of Federal government agencies with respect to hydroelectric projects for purposes of streamlining hydroelectric licensing process. Removes FERC jurisdiction with regard to hydroelectric projects of 1500 kilowatts or less.

Improvement at Existing Hydroelectric Facilities.—Authorizes studies to increase hydroelectric energy available from existing Federal facilities and projects.

TITLE V.—COAL, COAL TECHNOLOGY AND ELECTRICITY

Coal Research, Development and Demonstration Program.—Directs the Secretary to establish and conduct a research, development and demonstration program to assure development of advanced coal-based technologies, to be commercially available by the year 2010, which control NOx and SO2 and achieve greater energy efficiency.

Non-fuel Use of Coal.—Requires the Secretary to submit a research, development, and demonstration plan and implement a program for technologies for the non-fuel use of coal. Such technologies include the production of coke, carbon-based chemical intermediates, and coal treatment processes.

Coal Exports.—Requires the Secretary to submit to Congress a plan for expanding the export of United States coal.

Clean Coal Technology Export Coordinating Council.—Establishes a Clean Coal Technology Export Coordinating Council to facilitate and expand the export and use of clean coal technologies, with a priority on such transfer and use in lesser-developed countries. Requires the Council to develop a data base and information dissemination system relating to clean coal technologies.

Coal Fuel Mixtures.—Requires the Secretary to prepare a report on technologies for combining coal with other materials, such as oil or water fuel mixtures.

Coal-Fired Locomotives.—Directs the Secretary to conduct a research, development and demonstration program for utilizing "ultra-clean coal-water slurry" in diesel locomotive engines.

Data Base and Report on Coal Transportation.—Requires the Secretary to establish a data base and prepare a report regarding coal transportation rates and distribution.

Applicability of New Source Review to Existing Electric Utility Steam Generating Units.—Addresses the so-called WEPCo issue concerning EPA's interpretation of new source performance standards and new source review in the case of physical changes at existing powerplants. The concern is that EPA's continued adherence to this policy could: (1) increase the cost of compliance with the Clean Air Act Amendments of 1990 by precluding cost-effective compliance options; and (2) dissuade electric utilities from undertaking physical changes to improve powerplant efficiency and maintain reliability. This section embodies those parts of a "WEPCo fix" proposed by the Administration that require new statutory authority: (1) applicability of new source review requirements to pollution control projects; and (2) determination of best available control technology for nitrogen oxide emissions controls.

Excess Capacity Study.—Requires the Secretary to submit report on physical impediments to transfer of excess electrical energy from regions with surpluses to regions with shortages.

TITLE VI.—RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIALIZATION ACTIVITIES

Energy Research, Development, Demonstration, and Commercialization Priorities—Directs the Secretary to set priorities and prepare a management plan for research, development, demonstration, and commercialization activities consistent with the purposes of the Act.

Natural Gas End-Use Technologies.—Authorizes the Secretary to carry out a program to promote the commercialization on a cost-shared basis, of natural gas utilization technologies including stationary source emissions control and efficiency improvements, natural gas storage, transportation fuels, and fuel cells.

Natural Gas Supply Enhancement.—Authorizes the Secretary to carry out a program, on a cost-shared basis, of research, development and demonstration to increase the recoverable natural gas resource base, including efforts in the following areas: Increased recovery from discovered conventional resources, economic recovery of unconventional natural gas resources, surface gasification of coal, and recovery of methane from biofuels.

High Efficiency Heat Engines.—Instructs the Secretary to carry out a program of research, development, demonstration, and commercialization on high efficiency heat engines including advanced gas turbine cycles.

TITLE VII.—STRATEGIC PETROLEUM RESERVE

Oil Security Premium.—Beginning in FY 1992, DOE must implement a program for: 1) filling the Strategic Petroleum Reserve at 220,000 barrels per day; and 2) meeting the petroleum product needs of the Department of Defense. Oil importers would be required to provide petroleum products for these purposes in an amount equal to a percentage of their total imports as determined by the Secretary of Energy.

TITLE VIII.—OUTER CONTINENTAL SHELF

Coastal State and Community OCS Impact Assistance.—Provides impact aid to coastal States and communities affected by OCS leasing and development in the amount of 37.5 percent of "new" OCS revenues, as defined by the bill.

Report on Availability of the Outer Continental Shelf for Leasing.—Requires the President to submit report containing information on OCS potential, the extent to which OCS production could offset U.S. dependence on foreign oil, a proposal regarding current OCS leasing and post-leasing procedures, and an analysis of OCS lease cancellation compensation criteria.

TITLE IX.—OIL AND GAS LEASING IN THE ARCTIC NATIONAL WILDLIFE REFUGE

Leasing Program.—Authorizes a competitive oil and gas leasing program for the Coastal Plain of the Arctic National Wildlife Refuge, Alaska.

No Significant Adverse Effect Standard.—Requires the Secretary of the Interior to implement such a program (through regulations and lease stipulations) so as to result in no significant adverse effect on fish and wildlife, their habitat, or the environment of the Refuge, and to require the application of the best commercially available technology for oil and gas exploration, development and production.

Lease Sales.—Requires the Secretary of the Interior to promulgate regulations to carry out the leasing program no later than 9 months after the date of enactment of the Act; to conduct the first lease sale within 18 months after the issuance of these regulations; and to conduct the second lease sale 36 months after the first sale.

Environmental and Reclamation Provisions.—Provides for site-specific environmental and mitigation measures; land reclamation requirements; and environmental monitoring and enforcement provisions.

Energy Security Fund.—Provides that the federal share (50 percent) of any revenues from ANWR is deposited in a special fund in the Treasury—the Energy Security Fund—to be used, without further appropriation, by the Secretary of Energy to fund energy-related programs and projects designated to

enhance the nation's energy security and reduce reliance on imported oil.

Export Prohibition.—Prohibits export of oil produced from ANWR, except under specified limited circumstances.

TITLE X.—NATURAL GAS

Optional Procedures for the Construction of Natural Gas Facilities.—Authorizes the construction of interstate pipeline facilities without a certificate of public convenience and necessity under Natural Gas Act section 7. Facilities constructed under this section would not receive the benefits of a section 7 certificate, *i.e.*, federal right of eminent domain and inclusion in rate base. Authority to construct under this section would be an option to the section 7 process.

Transportation of Natural Gas Under the NGPA.—Natural Gas Policy Act section 311(a)(1) authorizes interstate pipelines to transport natural gas without such service becoming subject to the FERC's jurisdiction under the Natural Gas Act. This section amends section 311(a)(1) to: (1) eliminate the "on behalf" standard as a precondition to section 311 transportation; and (2) confirm authority to construct pipeline facilities to be used solely for purposes of section 311 transportation.

NEPA Compliance.—Designates the FERC as the lead agency for purposes of NEPA compliance in cases where the FERC's authorization of facilities under the Natural Gas Act or the Federal Power Act may be deemed a major Federal action. This section also authorizes the FERC to set time limits for other Federal agencies' participation in the NEPA process and directs the FERC to permit contractors selected by the FERC and paid by the applicant to prepare environmental documents (*i.e.*, environmental assessments and environmental impact statements) required in order for the FERC to comply with its NEPA obligations.

Rates and Charges.—Amends Natural Gas Act section 4 to provide: (1) a 60-day posting requirement for rate change filings (current law provides 30 days); (2) bonding and refund obligations attach to all changes in rates (currently these obligations attach only to rate increases); and (3) the applicant carries the burden of proof on all proposed rate changes (not just rate increases as under current law).

Utilization of Rulemaking Procedures.—Amends Department of Energy Organization Act section 403(c) to state that the FERC shall have authority to utilize rulemaking procedures for certificate proceedings to establish rates and charges under the Natural Gas Act and Federal Power Act and is silent as to certificate proceedings. The purpose of this change is to permit the FERC to expedite certificate proceedings by not being bound to hold a trial-type hearing in contested cases.

Review of Commission Orders.—Under Natural Gas Act section 19 and Natural Gas Policy Act section 506 a party aggrieved by a FERC order must apply for rehearing of that order before seeking judicial review. This section amends section 19 and section 506 to state that the FERC must take final action on an application for rehearing of a FERC order within 60 days of the filing of such application, but may, for extraordinary cause, extend the period for rehearing for an additional 60 days. The purpose of this amendment is to prevent the FERC from avoiding final action on rehearing by issuing a tolling order. This section also shortens the period for seeking judicial review of a FERC order from 60 days to 30 days and requires an appellant's petition for review to state with specificity the grounds on which the petition is based.

Limited Antitrust Relief for Independent Producer Cooperatives.—Provides limited antitrust relief for cooperatives formed by independent producers for the purposes of pooling natural gas to enable effective bargaining for the sale of such gas. An independent producer is defined as one whose production does not exceed 6 million cubic feet per day and excludes affiliates of interstate pipelines, intrastate pipelines and local distribution companies.

Vehicular Natural Gas Jurisdiction.—Confirms that certain activities related to the sale and distribution of natural gas as a vehicular fuel will not cause entities that are currently exempt from Natural Gas Act jurisdiction to forfeit such exemptions.

TITLE XI.—TRANSPORTATION

Subtitle A.—Corporate Average Fuel Economy

New Standards.—Directs the Secretary of Transportation to adopt new corporate average fuel economy (CAFE) standards. Separate standards would be set for each manufacturer, each vehicle class (cars, light trucks, or class of trucks), and for two periods—model years 1996–2001 and model year 2002 and beyond. Each standard would require the manufacturer's vehicle class to achieve "maximum feasible" CAFE.

How New Standards Are Set.—The Secretary of Transportation is to determine the maximum feasible CAFE by assuming that vehicles in each class:

Will use all known fuel-saving technologies that can be expected to be applied;

Will maintain MY 1990 performance levels;

Will maintain the MY 1990 size mix and interior volume;

Will meet applicable emission requirements; and

Will meet applicable safety standards.

The Secretary must then determine the percentage increase in the MY 1990 CAFE of all vehicles in the class necessary to achieve the maximum feasible CAFE for the entire class for each period, and apply that percentage to each manufacturer.

Credit Trading.—Credits for exceeding CAFE standards under current law are made tradable among manufacturers and among vehicle classes. Beginning with credits earned in MY 1996, credits can be carried forward until used, instead of just three years under current law.

Excessive Fuel Consumption Fee.—Manufacturers are assessed an excessive fuel consumption fee if they fail to meet CAFE standards. The amount of the fee is determined by multiplying $20 (increased from $5 in current law) by: (i) the number of tenths of miles per gallon the applicable CAFE standard exceeds the manufacturer's actual CAFE; and (ii) the number of vehicles of the class made by the manufacturer during the applicable model years. Existing law is modified so that exceeding CAFE standards is no longer "unlawful", but the fee for exceeding the standards is quadrupled starting in 1996.

Scrappage Programs.—Funds from the excessive fuel consumption fee may be appropriated to fund state programs designed to take pre-1980 cars off the road. Excess funds may be appropriated for other energy efficiency and conservation programs.

Subtitle B.—Alternative Fuels

Natural Gas and Other Alternative Fuels/Mass Transit Program.—Provides for cooperative agreements and financial assistance to municipal, county, or regional transit authorities in large urban areas to demonstrate the feasibility of using natural gas or other alternative fuels for mass transit. Authorizes $30 million for each of fiscal years 1992, 1993, and 1994.

Natural Gas and Other Alternative Fuel/Training Program.—Establishes a Department of Energy training and certification program for technicians who install equipment that converts gasoline or diesel powered vehicles to those vehicles capable of running on natural gas or other alternative fuels. Authorizes $5 million for each of the fiscal years 1992, 1993, and 1994.

Electric Vehicle Demonstration Program.—Authorizes a $50 million demonstration program to address the cost penalty between electric and conventional vehicles. The program is designed to overcome technical and economic barriers to widespread use of electric vehicles.

TITLE XII.—ADVANCED NUCLEAR REACTOR COMMERCIALIZATION

Selection of Nuclear Technologies.—Requires the Secretary of Energy to undertake a decision process, with full public input, to select nuclear technologies to be supported for commercialization. Criteria to be considered in the selection process would include cost-effectiveness in comparison to alternative sources of electricity; ability to utilize modular construction techniques; adaptability to standardized design, construction, and licensing; use of passive safety features; and presence of features to discourage nuclear proliferation. The Secretary would solicit proposals from the private sector for two kinds of projects under this title.

Demonstration of Institutional Arrangements.—The first type of project would be for purposes of demonstrating improved siting, licensing, and financial arrangements and would be intended for near-term commercialization of advanced technologies. The purpose of federal involvement would be to lend support to the project in developing innovative private financing and in testing a more streamlined licensing process. No federal funds would be expended to finance this project unless new regulatory requirements were imposed after issuance of a construction license.

Commerical-Scale Demonstration of Advanced Technology.—The second type of project would be built for purposes of demonstrating commerical-scale construction, licensing, and operation of an advanced reactor and would be intended for technologies that are further away from commercialization. Federal funds would be available to support this project, but at least 50 percent of the total estimated cost would have to be provided by the private sector. Responsibility for any cost overruns would have to be assumed by the private sector.

Licensing by the Nuclear Regulatory Commission.—Any facility that is selected for either project under this title would be licensed by NRC. Statutory authority is provided for NRC to issue a combined construction and operating license for any project built under this title, codifying NRC's recently-promulgated rule providing for a combined license. The opportunity for a second hearing prior to operation of a project authorized under this title would be quite limited. A second hearing prior to operation would be provided if the NRC determined that it was necessary to ensure safe operation of the facility.

TITLE XIII.—NUCLEAR REACTOR LICENSING

This title would augment the Nuclear Regulatory Commission's licensing rule in 10 C.F.R. Part 52 to limit the opportunity for a post-construction licensing hearing. The Commission's rule in Part 52 provides for a

combined construction and operating license, instead of a separate construction license and operating license. The U.S. Court of Appeals for the D.C. Circuit has upheld the major portion of this rule, including the authority to issue a combined license. The court found, however, that NRC lacked sufficient statutory authority to limit the scope of a second pre-operational hearing. This title would provide that statutory authority and limit the scope and opportunity for a second pre-operational hearing.

TITLE XIV.—URANIUM ENRICHMENT

Subtitle A.—United States Uranium Enrichment Corporation

Establishment of Corporation.—Establishes the United States Enrichment Corporation as a wholly-owned government corporation for purposes of taking over the uranium enrichment enterprise operated by the Department of Energy. The Corporation is established as an agency and instrumentality of the United States and directed to (1) perform uranium enrichment and sell this service to the Department of Energy and qualified persons; (2) conduct research and development; and (3) operate as a commercial enterprise on a profitable and efficient basis in order to maximize its long-term economic value. The Corporation would be run by an Administrator, appointed by the President and confirmed by the Senate, and would have a five-member part-time Corporate Board appointed by the President.

Transfer of Property to the Corporation.—Transfers to the Corporation all DOE property related to uranium enrichment except the Gaseous Diffusion Plant in Oak Ridge, Tennessee, and facilities related to the Gas Centrifuge Enrichment Program. The Oak Ridge Gaseous Diffusion Plant will be transferred to the Corporation at the time of decontamination and decommissioning but not earlier than 2000. Facilities related to research and development of the Advanced Vapor Laser Isotope Separation technology are not transferred, but the Corporation is provided access to them for research and development purposes.

Initial Debt.—Sets the initial debt of the Corporation at $364 million and requires that this amount be recovered with interest from enrichment customers over a 20-year period. This amount represents the difference between revenues and appropriations, with interest, from 1969 when the commercial enrichment program began through the end of 1986.

Repeal of Section 16v, of the Atomic Energy Act.—Repeals section 16v. of the Atomic Energy Act of 1954 which contains the current pricing requirements applicable to the uranium enrichment enterprise. Requires the Corporation to set prices for products, materials, and services that recover over the long term the costs of performing and maintaining corporate functions including research and development; depreciation of assets; repayment of the initial $364 million debt and future borrowing; decontamination, decommissioning, and remedial action costs; and reasonable profit.

Decontamination and Decommissioning.—Provides for sharing the costs of decontamination and decommissioning and remedial action for uranium enrichment equipment between commercial customers and DOE on the basis of separative work that has been performed with such equipment for the benefit of either group. A decontamination and decommissioning fund is established, with annual payments into the fund by the Corporation.

Subtitle B.—Uranium

Voluntary Overfeed Program.—Directs the Corporation to establish a voluntary overfeeding program for a period of not less than five years to be made available to enrichment service customers. Overfeeding is the use of additional uranium in the enrichment process, the effect of which is to reduce power costs otherwise incurred by the enrichment enterprise. Under this program, customers supplying additional uranium would be credited with the value of reduced power costs. The overall effect of the overfeeding program should be to produce a modest increase in the demand for domestic uranium.

National Strategic Uranium Reserve.—Establishes a National Strategic Uranium Reserve consisting of 50,000,000 pounds of uranium. Use of the reserve is restricted to military and government research purposes. The amount of uranium provided for the reserve is approximately the same as the amount of uranium which is in current stockpiles and allocated to DOE's national defense activities.

Additional Provisions.—Restricts government purchases of uranium to that which is of domestic origin and is purchased from domestic uranium producers. Establishes a continuing responsibility of the Secretary of Energy for the viability of the domestic uranium industry, including a responsibility to encourage export of domestic uranium. Creates a program to reimburse licensees of uranium and thorium mill sites for the costs of reclamation of uranium and thorium mill tailings generated as a result of sales to the federal government for defense purposes.

TITLE XV.—PUBLIC UTILITY HOLDING COMPANY ACT REFORM

Removes impediments to independent power production contained in the Public Utility Holding Company Act of 1935.

BACKGROUND AND SUMMARY OF TITLE XV OF THE NATIONAL ENERGY SECURITY ACT OF 1991—PUBLIC UTILITY HOLDING COMPANY ACT REFORM

Title XV of the National Energy Security Act of 1991 would remove the impediments to independent power production contained in the Public Utility Holding Company Act of 1935 (PUHCA). This paper outlines the policy basis for such change and the technical workings of Title XV.

I. THE CURRENT REGULATORY SITUATION

Traditional Regulation

Electric generation has traditionally been supplied on a monopoly basis by utilities subject to cost-of-service regulation. Under cost-of-service regulation, utilities are permitted to charge rates that allow them to recover their expenses plus a reasonable return on capital investment (rate base). Wholesale sales between utilities (sales for resale) are generally regulated by the Federal Energy Regulatory Commission (FERC) under the Federal Power Act. Retail sales (sales for consumption) are generally regulated by state public service commissions.

Until the 1970's, factors affecting electric utilities were predictable; the real price of electricity declined; and cost-of-service regulation functioned fairly well. Since then, various changes (high real interest rates, unpredictability of demand, increasing construction costs to name a few) have raised concerns about the current system.

Cost-of-service regulation is intended to simulate the effect of a competitive market. In rough terms, a business in a competitive market expects to receive what cost-of-service regulation provides: recovery of expenses and a profit on capital invested. Nevertheless, in actual operation cost-of-service regulation creates a poor match of risk to reward. It gives utilities a chance of recovering all costs (because of the imperfect substitution of regulators for competitors) while eliminating the possibility that gains from increased productivity can be kept (therefore removing the most potent incentive for efficiency). Or conversely, cost-of-service regulation can be used by regulatory commissions as an arbitrary device for heaping all risks on utilities and penalizing them unfairly.

Lessons and Limitations of the PURPA Experience

Until recently, it was thought that electric generation has the characteristics of a natural monopoly. That is, it was assumed that a single utility in a given market will always be able to reduce costs through economies of scale such that smaller competitors are driven out of business. Experience under the Public Utility Regulatory Policies Act of 1978 (PURPA) has provided reason to question this assumption.

PURPA created a special class of electric generating projects, known as Qualifying Facilities (QFs). QFs must be either cogeneration facilities (facilities that produce electricity and useful thermal energy) or small power production facilities (facilities whose primary energy source is solar, hydropower, waste, biomass, wind or other renewable resources). Both kinds of QFs receive various advantages. The most important of these are: (1) exemption from the Federal Power Act, the Public Utility Holding Company Act of 1935, and state utility regulation; and (2) a requirement (subject to certain conditions) that utilities purchase power offered by QFs at each utility's "avoided cost", the cost that a utility avoids by not generating the power itself or purchasing it elsewhere.

Contrary to original expectations, PURPA has produced an explosion of QF development (approximately 25,000 MW). This process has occurred under increasingly competitive conditions. In the early years of PURPA, state public service commissions (who are charged with implementing the Act) tended to set avoided cost rates for the purchase of QF power at excessively high levels. However, as QFs began to be able to offer more capacity than utilities needed, state commissions began to allow rates paid for QF power to be negotiated down below the purchasing utility's own avoided cost. More recently, a growing number of states (20 by last count) have adopted, or are in the process of adopting, bidding programs for the acquisition of QF capacity by their native utilities.

In bidding programs, avoided costs prices effectively amount to market rates because they are set through direct competition between QFs and any other competing sources of supply. Bidding programs to date have exhibited a high degree of competition among suppliers. Typically, they have resulted in prices and conditions that, for various reasons, are better for ratepayers than what the purchasing utility can offer. While the track record of bidding is not yet well established, it provides some empirical basis for believing that competition in wholesale power markets can benefit consumers significantly. This result is not surprising. Orthodox economic theory generally holds that workable competition is a superior alternative to regulation.

There are, however, practical problems with continued development of QFs under

PURPA. For small power producers, limitations on the economics of renewable resources means that at present these sorts of QFs cannot make major contributions to power needs. Similarly, future development of cogeneration is becoming increasingly restricted as available steam hosts are used up.

Given the possibilities for competition demonstrated by PURPA, a logical step would be to allow such competition to take place free of the technological restrictions of QF status. In addition, it would make sense in a competitive context to remove two of the other distorting aspects of the PURPA regime: restrictions on ownership of QFs by utilities and the facial requirement that utilities purchase all power offered by QFs. In essence, what is left after these changes are made is the concept of an Independent Power Producer (IPP).

II. INDEPENDENT POWER PRODUCERS

In general terms, an IPP is a person (utility or nonutility) who owns a wholesale generating facility and who, because of a lack of market power, is permitted under the Federal Power Act to charge a market-determined price for elecricity that the facility produces. Lack of market power in this context would mean either that: 1) the IPP is not selling to an affiliated company and does not control transmission access to potential buyers of power from the facility; or 2) the IPP is selling to an affiliate, or it controls transmission access to the buyer, but abuse of market power is prevented through regulatory oversight or conditions (example: A market-priced power sale between affiliates is approved because the rate is below a similar arms length transaction between the affiliate-buyer and an unaffiliated entity). These conditons for being an IPP (and therefore being entitled to charge market rates) have been established by FERC in a series of case rulings.

III. THE NEED FOR CHANGES TO THE HOLDING COMPANY ACT

Limitations on IPP Development Under PUHCA

The QF experience under PURPA suggests that consumers could benefit from the existence of IPPs as a supply option. The need for such an option may be more than theoretical. A growing numbr of analysts predict large demands for new generation in the 1990s and note with alarm that much of it has not been planned. More to the point, there are at this moment a number of willing utility buyers and willing sellers (both utility and nonutility) for IPP projects who are stymied in their efforts. The obstacle standing in the way of these projects is not the need to get FERC approval for market rates, but the effective bar posed by the Public Utility Holding Company Act of 1935.

As a practical matter, IPP projects generally must be developed in a holding company format, whether they are to be developed by utilities or nonutilities. First, there is general consensus that the financial markets will require IPPs to be project financed. That is, debt lenders will provide capital only if it is secured by a corporate entity which controls project assets and revenues. Equity participants in turn will demand that their liability be non-recourse (i.e. limited to the value of project assets). The only effective way for these requirements to be met is by creating a separate corporate entity to develop an individual project and thus turning the equity owner into a holding company. Second, for reasons of organizational convenience, corporations generally desire to separate different lines of business into separate subsidiaries, again requiring a holding company structure. Third, to the extent that utilities develop IPPs, regulators will generally require the creation of separate subsidiaries for purposes of risk separation and cost accounting.

Unfortunately, the ownership of an IPP in a holding company format generally makes a parent owner (and its IPP) subject to the Holding Company Act. Under PUHCA, when a corporation owns more than ten percent of a separate corporate entity engaged in the business of electric generation (i.e. an IPP), it generally becomes a "holding company" subject to the provisions of the Act. All holding companies under the Holding Company Act must either become "exempt holding companies" or "registered holding companies."

As the name implies, exempt holding companies are not subject to most provisions of the Holding Company Act. However, in order to be exempt, a holding company must meet one of five criteria set out in section 3 of PUHCA. These criteria variously restrict a holding company's geographical scope of operations, its ability to be engaged in anything other than utility business, or its ability to be engaged in the utility business itself. In addition to the narrow focus of these criteria, other provisions of the Holding Company Act restrict utility (i.e. IPP) acquisitions by exempt companies and give the SEC (which administers the Act) discretion to revoke an exemption in the public interest. Thus, status as an exempt holding company offers only very limited opportunities for IPP development.

In the case of registered holding companies, PUHCA is considerably more restrictive. For those companies that are not currently registered, the burdens of such status effectively preclude it as an option. Among other provisions, the Holding Company Act pervasively regulates the issuance and acquisition of securities by registered companies, requires registered companies to be operated as integrated utility systems, generally prohibits the ownership of utility and nonutility businesses which are not related to the operation of an integrated system, and requires simplification of corporate structures. Even for those companies that are already registered, the provisions of the Act requiring operation as an integrated system and restricting entry into unrelated businesses effectively prohibit most opportunities for IPP development.

In short, whether one is a non-utility, a simple investor-owned utility, an exempt holding company, or a registered holding company, the Holding Company Act stands as a practical bar to most opportunities for IPP development. While there are a few ways in which the restrictions of the Act may be circumvented, they have limited use. Thus, to the extent that positive opportunities for competition in wholesale power generation exist, they will be lost without changes in PUHCA.

The Obstacles To Competition In PUHCA Can Be Removed Consistent With The Public Interest

The problems that the Holding Company Act was originally intended to remedy are today largely prevented by other statutory regimes. When the Act was enacted in 1935, control of the electric utility industry was concentrated in a few large holding companies whose operations were abusive both to investors and ratepayers. Problems included excessive profits from transactions between affiliates, issuance of securities on the basis of unsound asset values, statements of earnings based on paper profits from affiliate transactions, and the use of inconsistent accounting practices. At that time, however, the two federal securities acts and the Federal Power Act had only just been enacted. State utility laws were in their nascent stages and in some cases did not even exist. Since then the regulatory regimes created by these statutes have come into their own and to a large extent provide duplicative protections to those contained in the Holding Company Act. The Holding Company Act in turn has become somewhat superfluous.

IV. SUMMARY OF THE LEGISLATION

Section 15001

Subsection (a)

Title XV uses the term "Exempt Wholesale Generator" (EWG), rather than IPP, to designate entities exempt from PUHCA in order to clarify that the legislation is dealing only with structural problems in PUHCA. The term "IPP" generally denotes an entity that receives market pricing under the Federal Power Act. Since the legislation does not deal with market pricing it adopts different terminology for purposes of clarity.

Under paragraph (1), an EWG is basically a corporate person who is engaged exclusively in the wholesale generation of business. Section 2(a)(11)(B) of PUHCA mentioned in paragraph (1) references downward affiliates. Thus, for purposes of the legislation an EWG could be "EWG holding company" as well as an individual EWG affiliate engaged in developing specific projects.

The definition of an EWG has been drafted so as to permit an EWG to sell wholesale power that it has not necessarily generated itself. It appears that buyers of wholesale power may frequently desire to purchase capacity in increments that exceed what the most economical unit would produce. Consequently, the legislation would permit an EWG, for example, to generate 350 MW and purchase an additional 50 MW in order to meet a purchaser's 400 MW capacity need.

Paragraph (1) excludes affiliates of a registered holding company that are in existence as of the date of enactment from being EWGs, unless the SEC consents. Without this provision a number of existing affiliates of registered companies would automatically become exempt from the Holding Company Act upon enactment and thus be able to circumvent the approvals required for affiliates of registered companies under subsection (e).

EWGs may only own "eligible facilities". Under paragraph (2) of subsection (a), an "eligible facility" is any generating facility which is used exclusively for wholesale generation and for which any regulatory approvals required under paragraph (3) have been obtained.

Paragraph (3) requires approval from the state regulatory authority of any state in which a facility is in retail rate base or generating retail construction work in progress (CWIP) as of date of enactment. In most cases state law is likely to require such approval independently, but it is not clear that this will be true in all cases. Thus, approval is required under the legislation so as to ensure that ratepayers are not disadvantaged by a change in the status of a facility that has received financial benefits (i.e. CWIP or rate base treatment) based on the assumption of dedicated service to such ratepayers. The problem dealt with in paragraph (3) does not arise in the case of pre-existing wholesale facilities because it is clear that any change in the status of such facilities requires FERC approval under the Federal Power Act.

Finally, for purposes of subsection (a) a "facility" includes a portion of a facility.

Thus, a given generating unit could produce power for sale at wholesale and retail, and the undivided portion producing wholesale power could be an "eligible facility" owned by an EWG.

Subsection (b)

Subsection (b) exempts EWGs in their corporate personalities from all provisions of PUHCA. By providing that an EWG is not an "electric utility company" under PUHCA, the legislation also ensures that a company, which is not currently subject to PUHCA, cannot become subject to it by owning an EWG. This follows because the Holding Company Act only regulates "holding companies", and a holding company is defined in relevant part as a company that owns an electric utility company.

Subsection (c)

For exempt holding companies, the chief obstacle to the ownership of EWGs (other than problems covered in subsections (a) and (b)) is the restrictive terms of exempt status as provided in section 3 of PUHCA. Subsection (c) simply makes it clear that section 3 and related provisions do not bar EWG ownership by exempt holding companies.

Subsection (d)

Subsection (d) provides that a registered holding company may without further condition under PUHCA acquire an EWG. In the absence of this provision, the acquisition by a registered company of any securities or interest in any business would require SEC approval.

Subsection (e)

Subsection (e) provides that if a registered holding company wants to: (1) issue securities (e.g. common equity) for purposes of financing an EWG; (2) guarantees the securities (e.g. debt) of an EWG; or (3) enter into service, sales, or construction contracts, or other relationships with an EWG (other than mere ownership), such actions remain subject to the SEC's existing jurisdiction under PUHCA, except that the provisions of section 11 of the Act are effectively negated for such purposes.

Section 11 requires each registered company to be operated as an integrated system and requires all of a registered company's businesses to be "functionally related" to integrated system operation. In the absence of section 11's prohibitions and policies, any approvals required under PUHCA for the creation of relationships between a registered company and an EWG will be made under the SEC's remaining authorities.

One of the advantages available to EWGs is the use of leveraged capital structures (i.e. those with a high proportion of debt) as a possible means of lowering overall capital costs. Typically, non-utility generation to date has employed such leveraging. The intention of title XV is that EWGs owned by registered holding companies have this same opportunity on equal terms. As a matter of regulatory policy, the SEC has generally required registered companies to maintain a 65% debt-equity ratio on a consolidated basis. It is assumed that the SEC will take into account the generally higher debt ratio of EWGs and in considering the consolidated balance sheet of a registered company not automatically and inflexibly apply for 65% ratio. In particular it would not make sense for EWG debt which is nonrecourse with respect to the registered holding company or its utility affiliates to be considered by the SEC in applying the 65% ratio to the consolidated balance sheet. If there are indications after hearing that the SEC will not be flexible in its consideration of these issues, changes in the legislation may be required.

Finally, the Holding Company Act has always been interpreted by the SEC to exclude regulation of electric power sales since such transactions are regulated under the Federal Power Act. The legislation assumes this continuing interpretation.

Section 15002

PURPA limits ownership of QFs to persons not primarily engaged in the generation of electricity (other than by means of QFs). Under FERC's interpretation of this provision, electric utilities may own no more than 50% of a QF. Section 3 ensures that a nonutility company which acquires an exempt wholesale generator is not forced to divest itself of 50% of an existing QF, and is not limited in its ability to own 100% of a new QF, as a result of an argument that it has become primarily engaged in the generation of electric power.

Section 15003

Section 15003 creates a mechanism by which electric utilities can insulate themselves from being required to purchase power from EWGs. Under this section, a utility may from time to time elect to file a declaration with FERC. Upon filing, the utility is irrevocably prohibited from purchasing power from EWGs during the period specified in the declaration (but no longer than ten years). State commissions are prohibited from directly or indirectly penalizing a utility, or any of its affiliates or associate companies, for filing such a declaration. During the period in which a declaration remains in effect, a filing utility and its affiliates and associate companies are prohibited from owning EWGs or making any offers to sell power from EWGs that they might acquire after such declaration goes out of effect. The provisions of section 15003 are subject to enforcement under the Federal Power Act.

Section 15004

Section 15004 is a savings provision which generally maintains the existing division between federal and state jurisdiction over electric transactions. At present, the precise boundaries between federal and state jurisdiction are murky in situations involving registered holding companies. As a result states fear encroachment by FERC into their ratemaking powers. With the exception of matters reserved by section 15003, section 15004 makes clear that the jurisdictional status quo, such as it is, remains unchanged. Given the fact that section 15003 deals only with EWGs and that EWGs will only exist as a supply option if title XV is enacted, section 15003 does not amount to a true intrusion into existing state authority.

Section 15005

Section 15005 provides that references to "the Act" in Title XV are references to PUHCA. Section 15005 also provides that terms used in Title XV and defined in PUHCA shall have the meanings defined therein.

Mr. WALLOP. Mr. President, the role of the intellectual is to interpret the major forces guiding a society. Early last year, there was a popular theory that modern civilization was at the end of history. The great ideological struggle between democracy and communism was over—the Communists had been soundly defeated. Democracy triumphant would be a force of renewal for former Communist and Third World countries. Events of the past 6 months have thrown this theory into the dust bin of history. The collapse of the Berlin Wall did not eliminate hostile, threatening forces. The world is still in turmoil.

For the moment, the turmoil is real—we are at war. Some have tried to reduce the Persian Gulf conflict to the ridiculous equation of blood for oil. This combat is much larger than that simplistic slogan. The Gulf war is part of a pivotal point in the progress of democracy. For the second time in its history, the U.N. Security Council has authorized the use of force to repel aggression. Today's aggressor, Saddam Hussein, is not motivated by religious fervor or by ideology—he is simply a terrorist. If he had succeeded in his seizure of new resources, he would have enhanced his ability to obtain weapons of mass destruction. Soon, the allied forces will end his terrorism.

Some have argued that the Gulf war demonstrates why we should stop using oil from the Middle East. They have made a blind leap of faith, declaring that our energy requirements can be achieved through conservation and efficiency. It is their belief that installing low E windows, flourescent lights, or electronic ignitions for gas stoves and heaters will solve all our energy problems. I remain a skeptic—but remember that skepticism is not the same as atheism or agnosticism. A skeptic sees a broader more complex picture than the true believer.

I agree that we need conservation. In fact, the three examples I mentioned are already in use. Since 1973, we have improved energy efficiency in our homes, our workplace, and our modes of transportation. For the most part, energy conservation is an easy task. It is easy in comparison to improving our ability to produce energy. Some argue that production is not a problem, that renewables and alternative fuels are the solution. They are a solution, but a solution for tomorrow, not today.

Today's solution requires us to produce energy domestically. Even after peace is restored to the Middle East, we will still be dependent for half of our oil supplies from overseas. We cannot change overnight—the homes in the Northeastern States cannot switch to natural gas or electricity, the coal miners from my home of Sheridan, WY cannot ride bicycles to the coal mines in Montana. We have to accept the hard and dirty task of producing energy. It is hard and dirty in that drilling for oil or mining coal and uranium are real jobs requiring sweat and toil under unpleasant conditions.

If we revive our ability to produce energy while expanding conservation efforts, we will achieve energy security. We must recognize that energy security means environmental security and economic security. By enacting this program, we will reduce pollution throughout the world. We will expand

technologies that use fossil fuels in an environmentally sound manner. We will develop new energy systems that will reduce carbon dioxide emissions, such as the advanced nuclear reactors.

Economic security is strengthened through the development of our own energy resouces. Economic growth will be encouraged by lessening our dependence on foreign energy resources. Some dismiss economic growth as an excuse for the so-called greenhouse effect. They are irritated that people actually want to prosper. And now they will be frustrated by our proposal which protects the environment as we develop energy resources.

The United States has every basic form of energy in abundant supply. We have the opportunity, and now we must demonstrate the will to obtain this goal. As we develop our energy security, we will enhance our environmental, economic, and military security. Today, Senator BENNETT JOHNSTON and I begin this process by introducing the National Energy Security Act of 1991.

One of the most important tasks facing the 102d Congress is the formulation of a long-term, comprehensive, and consensus-based national energy strategy which fosters both domestic energy production and the efficient use of energy supplies. Our energy problems exists not because there is a shortage of domestic energy alternatives, but because of the lack of a long-term, comprehensive, and consensus-based national energy strategy.

The measure contains energy supply and demand initiatives in five complementary areas, and I emphasize, complementary. It is a balanced mix of energy production and conservation initiatives.

First, the measure provides incentives which foster greater use of domestic supplies of fossil fuels—natural gas, oil, and coal—which we have in abundance. We also have the means to produce and use these domestic energy resources consistent with national environmental concerns. In addition to initiatives in the areas of technology transfer and commercialization of new energy technology, and the removal of regulatory barriers, the measure addresses:

The potential of OCS production to offset our excessive reliance on foreign oil;

The effect of current OCS leasing and post-leasing procedures on the ability of our Nation to achieve this potential;

The exploration, development and production of energy resources beneath the Arctic National Wildlife Refuge without any significant adverse effect on the environment and;

A provision for the use of any Federal ANWR revenues to fund energy-related programs designed to enhance the Nation's energy security.

Second, American industry is encountering increasingly tough international competition. Our trade deficit is partially explained by new foreign competition. The challenge is whether we can be more effective in delivering American developed energy technologies to the marketplace as a source for new businesses and jobs. The advancement of new energy and energy related technologies can serve as a critical component in the growth of the U.S. economy. This measure contains several critical energy production initiatives, including:

An advanced coal research and development program to assure the commercialization by 2010 of technologies which achieve greater energy conversion efficiencies consistent with national environmental control requirements;

A program to commercialize nonfuel, coal technologies, for example, for the production of coke and carbon-based chemical intermediates;

Expansion of the duties of CORECT—the Committee on Renewable Energy Commerce and Trade—to promote U.S. manufacture and export of energy efficient and renewable energy technologies, and;

The establishment of a council to foster the export of clean coal technologies manufactured by American industry.

Third, the measure establishes the commercialization of energy technologies as a priority of Federal energy research and development programs. Since the early 1980's, on a bipartisan basis, the Energy and Natural Resources Committee has actively supported the use of joint ventures with American industry to transfer new energy technologies into the marketplace as consumer goods and services. Initiatives in this area also are supported by the Bush administration. The measure authorizes joint ventures in the areas of advanced nuclear reactor technologies, electric vehicles, renewable energy resources, high efficiency heat engines, and the use of natural gas.

Fourth, this measure encourages the commercialization and greater use of renewable energy and energy efficiency alternatives throughout our economy, in the construction and renovation of buildings, including Federal buildings, and throughout industry. But, while initiatives in the areas of renewable energy and energy efficiency are prudent and should be included in a national energy strategy, we must not delude ourselves into thinking they are an adequate response to existing threats to the economic health and energy security of our Nation. Initiatives in this area include:

A number of programs to foster Federal leadership in the areas of buildings owned and operated by the Federal Government;

A program to foster Federal leadership in the purchase of vehicles that are either more efficient or utilize alternative fuels;

A program to encourage State regulatory commissions to consider demand side initiatives in areas of energy efficiency and renewable energy and;

A more equitable approach than current law for the regulation of automobile fuel economy.

On this last point, I would like to make a few observations. In my view, the CAFE provision is preferable to the Bryan bill because it works. It is market-oriented incentive approach. This bill does provide for more flexibility in the standards. It is technologically feasible, not a utopian wish based on dreams. I fully expect and invite detailed comments on this provision by all interested parties. In particular, I invite thoughts on both improvements and alternatives to this title.

Fifth, an important area, the bill promotes the need for nuclear power as an energy option. It ought to go without saying that until we can once again assure that nuclear power is a viable option in our Nation's energy future, the economic and foreign policy implications of our dependence on imported oil will remain a threat to our Nation's economic health and energy security. The measure we introduce today contains several initiatives which are important if the nuclear power option is to be preserved. The inclusion of initiatives in this area is critical to my support for the legislation, among those included are:

A program to demonstrate improved siting, licensing and financing of advanced nuclear reactor technologies that utilize standardized, modular designs and passively safe features;

A program to commercially demonstrate such advanced nuclear reactor technologies;

A proposed U.S. uranium enrichment corporation to revitalize the Federal enrichment enterprise and;

A provision intended to streamline the NRC's regulatory structure that has effectively stalled any possibility of growth in nuclear power generation.

With our grave national concerns about energy security and the environment, we cannot afford to throw away an option that could provide a virtually limitless, and comparatively benign source of electricity.

Finally, and perhaps the most significant area addressed by this legislation, is the removal of regulatory barriers that unreasonably restrict the availability of domestic energy supplies such as natural gas or hydroelectric power, or constrain the deployment of new, advanced and often more environmentally benign energy technologies. Initiatives to facilitate timely regulatory decisions include:

Streamlining Federal hydroelectric licensing process by removal of overlapping Federal regulatory constraints;

Consolidation of the review and decision process at FERC. Too often, proposed natural gas and hydroproject which require FERC authorization do not because they should not be built, but because FERC remains bogged down in bureaucracy, often for years;

Provisions to give small independent natural gas producers limited antitrust relief so as to enable them to more easily form marketing coops for their natural gas. This is not unlike the marketing coops that small farmers participate in;

Removal of the regulatory quagmire facing utilities as a result of the WEPCO case, a situation some of us attempted to remedy last Congress without complete success. Our intent is to resolve this issue in a manner that will permit sound business decisions on life extension and pollution control projects while doing no violence to the Clean Air Act and;

The reform of PUCHA, which is a very controversial subject. I expect that we will explore this matter in great detail during the hearing process to determine what changes, if any, need to be made in this area.

These regulatory provisions represent a good start at removing regulatory barriers. We are open to suggestions as to how they should be improved, or what other provisions should be added to the list.

I fully recognize that an undertaking of this magnitude will not be without controversy, but the American people deserve that we, their elected representatives, face these issues. The National Energy Security Act of 1991 does just that.

This legislation is comprehensive. Yet, even the sponsors will have reservations about some provisions. I know I do. I would note, for example, that the ANWR provision limiting the ability of the State of Alaska to sue over the 50-50 split on ANWR revenues is one I strongly oppose. If the State of Alaska were to win in court and get 90 percent of the royalty revenues instead of 50 percent the authority to lease ANWR in this bill expires. This is a lose-lose approach for Alaska and the Nation. I will work to have it stricken because the prospect of denying America access to up to 3.5 billion barrels of domestic oil should not be the object of Washington's anti-State's right attitudes.

In conclusion, fundamental to the success of any national energy strategy is that it be sufficiently flexible for all domestic energy supply and demand alternatives to compete in the marketplace. Frankly, the current energy situation provides an opportunity to promote competitive, market-oriented energy policies. Everyone's attention is focused on energy issues, yet we have avoided a crisis atmosphere because supplies are sufficient and prices are stable. This is quite a different situation than the last time we debated a national energy policy in 1978. We acted in crisis situation, and the result was a terrible energy policy. It took Ronald Reagan years to correct the problems created by the 1978 legislation. We cannot make that mistake again.

The legislation we are introducing today clearly addresses our energy problems with workable production and conservation measures. It is a market oriented strategy that relies on the strengths of our energy industry. It is an environmental program as well as an energy strategy. We build on our past successes with energy efficiency which reduces energy demands. We prepare for future energy needs by laying the groundwork for new clean energy sources, such as the advanced nuclear reactor, fusion technology, and renewables. Passage of this legislation will be a lasting legacy of opportunity for the men and women now fighting for freedom in the Persian Gulf and for those who follow us into the 21st century.

Mr. President, the job of tryng to put this piece of legislation together with Senator JOHNSTON, the chairman of the committee, has been pleasant, has been challenging, and has been interesting. His staff and my staff and he and I have worked together. We have yielded to each other on some points, and we find yet some things on which we would let the will of the Senate or the committee work, and that is how it should be.

Mr. President, I have now been 14 years in the Senate and interested in energy policy since my first campaign. I have seen reasons for us to enact it over the course of time and yet I have never seen anybody serious about it.

The first thing that happened in the second of the energy crises to which Senator JOHNSTON referred was an act of revenge on the part of the Senate. We were angry because oil was in short supply and so we took our revenge out in rather shortsighted policies, but it was not energy policies. It was tax policies, constraints on production and drilling, and all kinds of things; but it was not an energy policy.

The thing binding us together now is I think the realization there is more than one threat to this Nation for lack of an energy strategy. We have the security threat that is obvious by our increasing dependence on foreign sources of oil in particular and energy in general. That is not hard to understand, and clearly some portion of the effort in the gulf is directly related to our dependence and our lack of security that comes from that dependence.

But rather is a further angle to this thing which I think some people tend to ignore, and that is a dependence of our children and our children's children being developed by this massive debt that is occurring month by month, year by year, in our balance of payments. The balance of payments is as much a threat to our future as our inability, somehow or another, to produce a sufficient amount of energy for our own needs.

So we have a security threat, we have a financial security threat, and then we say, Mr. President, we have as well an environmental threat to America.

It is obvious by any set of statistics that the transport of oil is far more hazardous to the environment than the production of oil. *Exxon Valdez* was not a production problem that came about out of Prudhoe Bay. It was a transportation problem that came out of Valdez between there and the coast.

There is also a certain level of arrogance in those who say let others produce this oil because we do not want to have it here, because it is not produced with such care and such level of environmental restriction as it is produced in our country.

Neither the coal, nor the oil, nor the uranium, nor their products is produced nearly with so much care and environmental concern in the United States as elsewhere in the world.

What we are saying is let them produce it and if they harm or sully or damage their environment, that is theirs; it is not part of our world. There is an environmental cause for us to begin to develop this energy independence.

Mr. President, let me say one other thing; that it is well and good for some to give us this idylic concept that we can save our way out of this and we do not have to end up paying any attention to the production side. Mr. President, the coal miners in my State and the coal miners in your State will not be able to ride to their jobs on bicycles because of the range of terrain and the distances involved.

Mr. President, if every single acre in America that produces corn today, every single acre, were to be devoted to the production of ethanol—no more hogs fed, no more cows fed, no more Wheaties for breakfast, no more corn flakes, no more Mazola Oil, no more corn sweeteners, anything else—if all of it is devoted to the production of ethanol, we would produce 10 percent of America's energy needs. So alternative fuels of and by themselves is not the answer.

What Senator JOHNSTON and I have proposed and what he has so eloquently stated is a balance between conservation and production, between a concern for the environment and a concern for the economic and military and financial security of our country.

Mr. President, it is inconceivable any other country in the world so rich and so blessed as is America with energy

resources and wealth would deny itself so many of those things to the point it put in jeopardy its children's future, its grandchildren's future, and the lives of its current generation. It is not conceivable that we allow that to take place any longer. The American people are entitled to the wealth that they possess and produced in the care and manner in which it will be produced here.

We will continue to consume. We will continue to strive for ways and means to conserve, and the bill represents a good strong balance between not only induced conservation but an encouraged conservation as well as an induced production and an encouraged production.

These things come together at a time and place in history where it just may be the time.

I remind the Congress there are 44 committees and subcommittees in both our Houses which have some say in the turf of the energy battle, whether it is a security one, environmental one, a trade one, or what have you. There are, I think, nine of the President's Cabinet who have some say in energy policy; there are five offices in the Office of the President and seven independent agencies which have some say in this process.

When Senator JOHNSTON says it is controversial, the most controversial thing will be if people will give up their turf long enough to understand the American people are entitled to this policy.

Our staffs have been coordinating with the Department of Energy, Mr. President, and I say we expect the administration's energy strategy within about 2 weeks. In many respects, it will mirror and reflect the effort we have worked on because we have been working with Admiral Watkins, the Secretary. Our staffs have been working together.

But it is time now we do this thing and it is time we put aside the petty battles over turf and look to the interest of the American people. It can be done. And I take my hat off to Senator JOHNSTON and I thank him; it has been a pleasure working with him. If we can get the administration with this, we will end up with an energy strategy for the first time.

Mr. JOHNSTON. I thank my colleague from Wyoming for his comments and for the good work he and the minority staff have done on the Energy Committee, and the majority staff have done as well. It is a monumental effort on their part to put a 264-page bill together. It works well for the Energy Committee this year that we have such an excellent and friendly and cooperative and productive attitude by the distinguished minority member and his staff and all the committee members of the Energy Committee.

Mr. WALLOP. Mr. President, I say once again I thank the Senator. I pointed out there are some things which he would have liked to have had in the bill that are not there; there are some things I would have liked to have had in the bill that are not there. Those will be worked out as the Senate works its will. But what we have put together is what both of us believe will be in the benefit of the people of this country.

Mr. President, I yield the floor.

Mr. WIRTH addressed the Chair.

The PRESIDENT pro tempore. The Chair recognizes the Senator from Colorado, Mr. WIRTH.

By Mr. CRAIG:

S. 342. A bill to amend the Internal Revenue Code of 1986 to allow penalty-free distributions for participants in Operation Desert Storm; to the Committee on Finance.

PENALTY-FREE DISTRIBUTIONS FOR PARTICIPANTS IN OPERATION DESERT SHIELD

• Mr. CRAIG. Mr. President, today I am introducing a bill to make life a little easier back home for the families of our Desert Storm troops.

Many of these families are finding themselves in unexpectedly tough financial circumstances. Those who have put money aside, investing for the future in certain retirement or savings plans, are finding that the tax law will penalize them if they try to make ends meet by withdrawing that money.

That doesn't make sense, at a time when we're searching for ways to ease the special burdens of these families. And, more fundamentally, it's not fair to penalize those who are already making so many sacrifices for our Nation and the world.

My bill recognizes that these are extraordinary times. It would allow individuals who are members of the Armed Forces or Reserves and are active in Desert Storm to withdraw money from annuities, IRA's, and other retirement plans without having to pay the 10-percent Federal tax penalty for early withdrawal. This is a companion bill to legislation being introduced today in the House of Representatives by Congressman TOM CAMPBELL of California.

This bill is not intended to be a comprehensive solution to all the problems faced by our men and women in the Persian Gulf and their families back home. It is my hope, however, that this sensible and fair reform will be included in whatever comprehensive package ultimately passes this body.

Mr. President, our men and women in the gulf are earning every consideration we can give them. Their families back home need to be able to concentrate on providing them the support they need to do the hard and dangerous job we've given them. The very least we can do is prevent them from being penalized for using their own savings to take care of themselves.•

By Mr. JOHNSTON (for himself, Mr. WALLOP Mr. FORD, Mr. DOMENICI, Mr. BINGAMAN, and Mr. CRAIG):

S. 343. A bill to provide for continued United States leadership in high-performance computing; to the Committee on Energy and Natural Resources.

DEPARTMENT OF ENERGY HIGH-PERFORMANCE COMPUTING ACT

Mr. JOHNSTON. Mr. President, today I am introducing a bill entitled the "Department of Energy High-Performance Computing Act of 1991." The bill is very similar to legislation reported by the Committee on Energy and Natural Resources in the 101st Congress, and passed by the Senate as title II of S. 1067, the High-Performance Computing Act of 1990. S. 1067 was a related bill dealing with high-performance computing, introduced by Senator GORE and reported by the Committee on Commerce, Science, and Transportation. Our committee worked closely with the Commerce Committee last year to combine our two related bills prior to passage by the Senate. Unfortunately, the House was unable to act on the legislation before adjournment of the Congress.

Today our committee is starting the process anew with the introduction of this legislation. Our bill includes many of the compromises reached at the end of last year between the two committees. As this process moves forward, I expect that the two committees will again work together to create a national high-performance computing initiative that includes an aggressive program within the Department of Energy and establishes a national high-performance computer network. Senator GORE has already introduced S. 272, the High-Performance Computing Act of 1991, and I look forward to working with him as this process unfolds.

The Energy Committee bill would establish a high-performance computing program within the Department of Energy. As part of the program, the Secretary of Energy is directed to establish a national multi-gigabit-per-second computer network. The bill directs the Secretary to promote education and research in high-performance computing. Finally, the Secretary is directed to establish at least two collaborative consortia to undertake research and development of high-performance computing hardware, software, and networks.

The United States invented high-performance computing and continues to lead the world in the development of high-performance computing. However, that lead is being challenged. Some estimate that the Japanese will dominate the supercomputer market in the early 1990's. Yet, the Japanese did not enter the field of high-performance computing until 1983. Today, outside of the United States, Japan is the single biggest market for, and supplier of,

supercomputers. Even if our lead was not being challenged, the need for increased emphasis on the development of high-performance computing systems is unquestioned.

It is essential that the United States remain aggressive in the area of supercomputer technology. Last year, I quoted from a report released 5 years ago by the White House Science Council Committee on Research in Very High-Performance Computing. The quote bears repeating:

> The bottom line is that any country which seeks to control its future must effectively exploit high performance computing. A country which aspires to military leadership must dominate, if not control, high performance computing. A country seeking economic strength in the information age must lead in the development and application of high performance computing in industry and research.

Many scientific endeavors would not be possible without the use of supercomputers. For example, the data we collect from outer space can only be understood and visualized by a supercomputer. The superconducting supercollider will require supercomputers to understand the data it produces. Weather forecasting becomes more accurate the more powerful the supercomputer. The human genome project is possible only because of high-performance computers.

According to Dr. William Wulf, the former Assistant Director of the National Science Foundation's Directorate for Computer and Information Science and Engineering, supercomputing and high-speed networking can increase the productivity of many American researchers by up to 200 percent.

Important policy questions depend on high-performance computing. Better models of global climate change would lead to better policies to address global warming. In fact, today's supercomputers are inadequate for some global studies that have been designed. The studies are waiting for sufficiently powerful supercomputers. The outcome of these studies could lead to important policy decisions with substantial implications for the world.

American industry has discovered the benefits of high-performance computers. When Airbus, a European consortium, started using supercomputers to help design more efficient airplanes, Boeing and McDonald Douglass were forced to follow. Boeing then used a supercomputer to design a 30-percent more efficient airplane. This savings offset the cost of the supercomputer and helped Boeing to remain competitive.

Arco used a Cray supercomputer to increase production of its Prudhoe Bay oil field resulting in an additional $2 billion in profits. Alcoa used supercomputing modeling to reduce the amount of aluminum needed in its aluminum cans by 25 percent. This reduction saved billions of dollars from reduced materials, production, and transportation costs.

Historically, the Department of Energy and its predecessor agencies played the lead role in the development of high-performance computing, particularly the supercomputer. The biggest single factor accounting for the development of high-performance computing has been the large computational demands required by defense research, particularly in the area of nuclear weapons design.

Supercomputing originated with the Los Alamos problem, the design of the first atomic bomb. In 1945, researchers at Los Alamos National Laboratory used the first large-scale electronic computer, the ENIAC, to help solve the Los Alamos problem. Subsequent collaborations with supercomputer vendors, such as IBM, Univac [now Unisys], Control Data, and Cray Research, have continued to this day, enabling the United States to become the leader in computational science.

In fact, Cray Research would not exist without the Los Alamos National Laboratory of the Department of Energy. In 1976, Cray offered its first supercomputer to Los Alamos without software or an operating system if the laboratory would develop the technologies needed to operate the machine. The Department of Energy and Los Alamos were crucial in getting the first Cray supercomputer to work. Today, Cray is the biggest manufacturer of supercomputers in the world, and Los Alamos is the most powerful scientific computing center in the world, serving more than 8,000 researchers throughout the Nation via a computer network.

The Department's laboratories have become the world's most demanding, sophisticated, and experienced users of supercomputers. Today, the Department of Energy remains the biggest user of supercomputers with more than 33 unclassified supercomputers. The Department of Energy and its laboratories are in a position to help the United States maintain its leadership, strengthen the U.S. computing industry, and encourage deployment of high-performance computing in analysis, design, concurrent, engineering, and manufacturing.

The bill directs the Secretary to establish collaborative consortia between the Department's national laboratories and other Federal laboratories or agencies, education institutions, and industry. The consortia will undertake basic research and development of high-performance computing hardware, software, and networks. The consortia will carry out its research directed at scientific and technical problems which require the application of high-performance computing resources.

The consortia will create an integrated, cooperative effort among industry, universities, and Government in supercomputing to meet the challenge of foreign competition. Manufacturers of high-performance computers will send new prototype computers to the national laboratories for testing. The laboratories will help the manufacturer identify problems, find solutions for them, and write the unique software packages supercomputers require. At the same time, industrial users will become more familiar with supercomputers and their benefits.

The bill establishes a framework in which Government, industry, and the university community can all come together within to keep the United States at the forefront of this critical technology.

The bill also authorizes the establishment of a multigigabit-per-second national research and education computer network. This network will link Government, industry, and the higher education community. Computer users at universities, Federal laboratories, and industry research centers will have access to supercomputers, computer data bases, and other research facilities.

The Federal network will also act as a catalyst for a much larger effort by the Nation as a whole. As services over the network and the number of users increase, the private sector will begin to demand more and more from the network. Universities and private industry will come to rely more and more on the network. Eventually they may be willing to fund the network itself or contribute to its support.

Initially, Federal agencies and Departments will work together to connect their individual networks. Existing user communities of Federal networks will be expanded. New user communities will be brought into these networks. Network speeds and capabilities will be upgraded as the results of research carried out under this legislation becomes fruitful. Eventually, a national network, operating at over a billion bits of data per second will be in place. Even then, the network will continue to grow, becoming faster, connecting more and broader user communities. It will become much like the telephone system we have in place today.

At the same time, each individual agency will be free to operate its own individual network to meet individual agency mission needs. To the extent an agency can contribute to the national network, it should do so. To the extent individual agency mission needs require autonomy from the national network, that autonomy is preserved.

This national network can only succeed as a cooperative effort of all the interested agencies. We do not know what the network will look like in the coming years. Technology to develop the network envisioned in this legislation is still being developed. This legis-

lation governing the network therefore must be flexible. Instead of creating a rigid, unchangeable management structure, the legislation simply directs the Secretary to establish the network, and to do so in consultation with other Federal Departments and agencies.

This country has lost the lead in a great number of technologies. Today, we are poised at a crossroad. We can continue down the road we are on and eventually lose our lead to foreign competition, and perhaps ultimately, the whole supercomputer industry. We can change our course by taking the actions called for in this bill and put to work the resources found within our national laboratories. If we can make this commitment, this country will maintain its preeminent status in the field of high-performance computing.

I ask unanimous consent that the text of the bill and a section-by-section analysis of the bill be printed in the RECORD.

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

S. 343

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

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Department of Energy High-Performance Computing Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that:

(a) advances in high-performance computer science and technology are vital to the Nation's defense, scientific advancement, international competitiveness and long-term prosperity;

(b) the Department of Energy and other Federal agencies have a critical need for a nationwide high-capacity computer network;

(c) the Department of Energy is the Federal agency having the greatest degree of expertise and knowledge in the research, development and use of high-performance computers, associated software and networks;

(d) the Department of Energy's expertise and knowledge is due in part to its ownership and use of the greatest number of high-performance computers of any Federal agency;

(e) the Department of Energy's expertise and knowledge is due in part to its numerous national laboratories that have personnel with particular expertise in the research, design, development and use of high-performance computers, associated software and networks; and,

(f) the Department of Energy is the Federal agency that is particularly well equipped to undertake additional research and development of high-performance computing hardware and associated software, and to design, implement and manage a multi-gigabit-per-second nationwide computer network connecting Federal departments and agencies.

SEC. 3. PURPOSES.

The purposes of this Act are:

(a) to promote the research and development of high-performance computers and associated software; and

(b) to create a multi-gigabit-per-second nationwide computer network for use by the Department of Energy and other Federal departments and agencies.

SEC. 4. DEFINITIONS.

For the purposes of this Act, the term—

(a) "Secretary" the Secretary of Energy;

(b) "Department" means the Department of Energy;

(c) "Federal laboratory" means any laboratory, or any federally funded research and development center, that is owned or leased or otherwise used by a Federal agency or department and funded by the Federal Government, whether operated by the Government or by a contractor;

(d) "national laboratory" means any Federal laboratory that is owned by the Department of Energy;

(e) "educational institution" means a degree granting institution of at least a baccalaureate level; and

(f) "software creation" means any innovation or preparation of new computer software of whatever kind or description whether patentable or unpatentable, and whether copyrightable or noncopyrightable.

(g) "Director" means the Director of the Office of Science and Technology Policy.

SEC. 5. DEPARTMENT OF ENERGY HIGH-PERFORMANCE COMPUTING PROGRAM.

(a) The Secretary, acting in accordance with the authority provided by the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.) shall establish a High-Performance Computing Program (hereinafter referred to as the "HPC Program").

(b) Within one year after the date of the enactment of this Act, the Secretary shall establish a management plan to carry out HPC Program activities. The plan shall—

(1) be developed in conjunction with the Director's overall efforts to promote high-performance computing;

(2) summarize all ongoing high-performance computing activities and resources at the Department that are not classified or otherwise restricted;

(3) describe the levels of funding for each aspect of high-performance computing that are not classified or otherwise restricted;

(4) establish long range goals and priorities for research, development, and application of high-performance computing at the Department, and devise a strategy for achieving them; and

(5) ensure that technology developed pursuant to the HPC Program is transferred to the private sector in accordance with applicable law.

SEC. 6. DEPARTMENT OF ENERGY HIGH-PERFORMANCE COMPUTING PROGRAM ACTIVITIES.

(a)(1) The Secretary shall establish a national multi-gigabit-per-second computer network to be known as the "Federal High-Performance Computer Network."

(2) The Secretary shall provide for the linkage of Federal agencies and departments, and other persons as the Secretary may deem appropriate.

(3) The Network shall be designed, implemented and managed by the Secretary of Energy, in consultation with other Federal departments and agencies.

(4) The Secretary may make use of existing Federal facilities and networks as may be appropriate to carry out the requirements of this section, provided that the Federal department or agency concurs in such use.

(b) The Secretary shall promote education and research in high-performance computational science and related fields that require the application of high-performance computing resources by making the Department's high-performance computing resources more available to undergraduate and graduate students, postdoctoral fellows, and faculty from the Nation's educational institutions.

(c) The Secretary shall establish at least two Collaborative Consortia, and as many more as the Secretary determines are needed to carry out the purposes of this Act, by soliciting and selecting proposals.

(1) Each Collaborative Consortium shall—

(A) undertake basic research and development of high-performance computing hardware and associated software technology;

(B) undertake research and development of advanced prototype networks;

(C) conduct research directed at scientific and technical problems whose solutions require the application of high-performance computing resources;

(D) promote the testing and uses of new types of high-performance computing and related software and equipment;

(E) serve as a vehicle for computing vendors to test new ideas and technology in a sophisticated computing environment; and

(F) disseminate information to Federal departments and agencies, the private sector, educational institutions, and other potential users on the availability of high-performance computing facilities.

(2) Each Collaborative Consortium shall be comprised of a lead institution, which has responsibility for the direction and performance of the consortium, and participants from industry, Federal laboratories or agencies, educational institutions, and others, as may be appropriate.

(3) Each lead institution shall be a national laboratory which has the experience in research on problems that require the application of high-performance computing resources.

(4) the consortium may fund research and development associated with prototype computing technology provided that industrial participants in each consortium shall not be reimbursed for costs associated with their own involvement.

(d) The provisions of the National Cooperative Research Act of 1984 (15 U.S.C. 4301–4305) shall apply to research activities taken pursuant to this section.

(e) Each Collaborative Consortium may be established by a Cooperative Research and Development Agreement as provided in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

(f) The Secretary shall report annually to the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives regarding the HPC Program.

SEC. 7. GOVERNMENT AND PRIVATE SECTOR COOPERATION.

In accordance with applicable law, the Secretary may cooperate with, solicit help from, provide funds to, or enter into contracts with private contractors, industry, government, universities, or any other person or entity the Secretary deems necessary in carrying out the provisions of this Act.

SEC. 8. OWNERSHIP OF INVENTIONS AND CREATIONS.

(a) Except as otherwise provided by the National Competitiveness Technology Transfer Act of 1989 (103 Stat. 1674) and any other applicable law, title to any invention or software creation developed under this Act shall vest in the United States and shall be governed by the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).

(b) Trade secrets and commercial or financial information that is privileged and confidential and which is obtained from a non-Federal party participating in research or other activities under this Act may be withheld in accordance with section 552(b)(4) of title 5, United States Code.

(c) The Secretary, for a period of up to 5 years after the development of information that results from research and development activities conducted under this title and that would be a trade secret or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, if the information had been obtained from a non-Federal party, may provide appropriate protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United State Code.

SEC. 9. AUTHORIZATION.

There is authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

SECTION-BY-SECTION ANALYSIS

Section 1 establishes the short title, "The Department of Energy High-Performance Computing Act of 1991".

Section 2 contains the findings of Congress.

Section 3 contains the purposes of the Act.

Section 4 contains definitions of terms used in the bill.

Section 5 establishes a high-performance computing program within the Department of Energy. The Secretary is directed to establish a management plan to carry out program activities.

Section 6 establishes the program activities. The Secretary of Energy is to establish a national multi-gigabit-per-second computer network to be known as the "Federal High-Performance Computing Network." The Network would link Federal agencies and departments. The Network is to be designed, implemented and managed by the Secretary.

The Secretary is to promote education and research in high-performance computing and related fields. The Secretary is to establish at least two Collaborative Consortia to undertake basic research and development of high-performance computing hardware, software and networks. Also, the Consortia are directed to promote testing and use of new types of high-performance computing, and to disseminate information on the availability of high-performance computing facilities.

The membership of each Consortium would include Federal laboratories, industry, universities, and others. Each Consortium be headed by a Department of Energy national laboratory that has experience in high-performance computing. Industrial participants are not to be reimbursed for costs associated with their own involvement.

Each consortium may be established as a Cooperative Research and Development Agreement as provided by section 3710a of title 15 United States Code. The National Cooperative Research Act of 1984 also applies to research activities undertaken by the consortia.

Section 7 authorizes the Secretary to, in accordance with applicable law, cooperate with and enter into contracts with other Federal agencies and the private sector to carry out the Act.

Section 8 establishes that title to inventions or creations (a defined term which essentially deals with software) vests in the United States in accordance with section 5908 of title 42, United States Code. Trade secrets or commercial or financial information obtained from non-Federal parties is given protection from disclosure.

Section 9 authorizes funding to carry out the purposes of the Act.

• Mr. DOMENICI Mr. President, along with the distinguished chairman and ranking Republican member of the Committee on Energy and Natural Resources, I am pleased to cosponsor the Department of Energy High-Performance Computing Act of 1991.

During the 101st Congress, the Energy Committee reported similar legislation, and worked cooperatively with the Commerce Committee to incorporate the provisions into S. 1067 which the Senate passed unanimously. Unfortunately, the House was unable to act on this bill before adjournment of the Congress.

The legislation we are today introducing contains the two most significant provisions of last year's bill: First, it would create a nation-wide, high-speed computer network; and second, it would create supercomputing collaborative consortia to undertake research and development on high-performance computing hardware and associated software.

Mr. President, this legislation is of national importance because advances in high-performance computing and networking are vital to our economic growth, to our national security and to scientific advancement.

High-performance computing got its start in the late 1940's in the national security field, but today it is ubiquitous. Computers run our telephones; they are used to design automobiles and airplanes; they operate machines on manufacturing lines; they are integral to medical imaging devices; they are used for oil exploration; and they were even involved in the writing of this statement. Computers are now involved in every phase of our everyday life.

Supercomputers are also an integral part of the cutting edge of scientific research. For example, supercomputers are required to run and understand the data created by the superconducting super collider; and the human genome project would only be a dream without a supercomputer; and supercomputers are used to design new drugs to combat illness.

Daily supercomputers are being put to new uses. For example, a recent New York Times article reported that supercomputers were employed to assess the potential damage to the environment of burning the oil that Iraq had spilled into the Persian Gulf. The article also noted that supercomputers are being put to uses such as providing advanced warning of killer storms, predicting changes in global climate and the monitoring of hazardous wastes. I ask unanimous consent that this article be printed at the end of my statement.

Although existing supercomputers are making enormous contributions to our society, in order for these advances to continue today's supercomputer needs to be made tomorrow's home computer.

This legislation would advance supercomputing by creating in the Department of Energy a High-Performance Computing Program—in effect giving the Department a new mission.

Now some may ask why the Department of Energy? The answer is really quite simple: No other Federal agency or organization has the breadth or depth of experience in the use of supercomputers and networks, or in research and development of supercomputers, supercomputer software and allied networks.

High-speed computing was first put to use to design the atomic weapons that were used to end World War II. Today the Department of Energy has more computers than any other Federal agency, and it's National Laboratories are the world's most demanding, sophisticated and experienced users of supercomputers.

If we can harness this knowledge, experience and expertise to develop the next round of supercomputers and associated software—and transfer that technology to private industry—we can materially benefit our society and economy.

The collaborative consortia created by this legislation will be led by the Department's national laboratories, and participants will include private industry, researchers from educational institutions and other Federal laboratories. They will undertake research and development of high-performance computing hardware, software, and networks.

Part and parcel of this effort is the need to interconnect agency supercomputers through a ultra-high-speed-network. That is why this legislation also proposes to create a ultra-high-speed computer network.

Mr. President, it is for these reasons that I cosponsored last year's legislation, and it is for these reasons that I am cosponsoring this legislation. I look forward to working closely with the distinguished committee's chairman and ranking Republican member to move this legislation as quickly as possible.

Mr. President, I ask unanimous consent that the New York Times article mentioned earlier be printed in the RECORD.

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

[From the New York Times, Jan. 31, 1991]

A FRESH EYE ON THE ENVIRONMENT

(By John Markoff)

The world's fastest computers, once used almost exclusively to build nuclear weapons

and crack codes, are finding a variety of new uses as environmental tools.

In the Persian Gulf, for instance, supercomputers were employed to assess the damage to the environment from the burning of huge quantities of oil. The computers also make it possible to warn of killer storms further in advance, to understand the forces changing the global climate and to help monitor the disposal of hazardous wastes.

Concerned about the potential environmental damage if Kuwait oil-fields were set on fire, the Pentagon last year commissioned researchers at the Pacific Sierra Research Corporation, a California consulting company, to create a supercomputer model of such an event. Only a supercomputer, which can perform billions of mathematical operations in a second and can store and retrieve large amounts of data, can accurately simulate the complex chemical interactions in the atmosphere.

The scientists found that little of the smoke generated by such fires would reach the upper atmosphere and prevent sunlight from reaching the earth, creating global climate changes and harming agriculture.

Other scientists, who have built supercomputer simulations detailing the climatological effects of a nuclear war, dispute the underlying assumptions of the Pentagon's model. Dr. Richard Turco, an atmospheric scientist at the University of California at Los Angeles, said that under certain circumstances, enough smoke from the fires could reach the upper atmosphere to cause regional cooling.

Another environmental application of the supercomputer involved smog, which scientists thought dispersed each evening, only to form again in the morning. Recently, using a supercomputer. Carnegie-Mellon University scientists demonstrated that smog stays in place high above the ground, moving lower each morning as warming air circulates, compounding the new day's pollution. That knowledge promoted a broadening of anti-pollution policies aimed mainly at car emissions, and led Los Angeles to adopt the nation's strictest pollution controls.

The supercomputer has proved to be a powerful tool for policy makers, who can use it to experiment rapidly by creating a series of hypothetical situations and measuring the effects of isolated changes. For instance, Carnegie-Mellon used the computer to "remove" cars from the streets of Los Angeles, testing what effect that would have on pollution. In this and thousands of wide-ranging applications, the supercomputer has become indispensable for many public-policy researchers, regulators and corporate executives.

"Even in times of fairly tight budget constraints there is going to be money to buy these tools," said Willis E. Greenstreet, the director of administration at the North Carolina research operation of the Environmental Protection Agency. "It leads to more cost-effective regulation."

Supercomputers, which are thousands of times more powerful than a desktop computer, cost $3 million to $30 million each. They were conceived primarily for military purposes that require billions and billions of calculations, such as creating the models of nuclear explosions that are used in the design of weapons.

ANALYZING THE WEATHER

But in the last two years, financing declined for computer-intensive military research programs, including the "Star Wars" missile-defense system. That forced the country's national research laboratories, which historically pursued advanced weapons programs, to look for new projects.

At the same time, the ability of supercomputers to make forecasts has improved to the point where they have become useful for environmental purposes like weather analysis.

Supercomputers can study the weather through the use of mathematical models that account for dozens of factors, like atmospheric pressure, temperature, regional topography and wind direction. by breaking up a large region into many small areas, highly accurate forecasts can be developed.

Unlike satellite whether images, which simply show current conditions, the supercomputer can reliably predict changes in the weather.

In addition to the environmental project in the Persian Gulf, the military is using supercomputer weather forecasts to plan bombing sorties. Indeed, many countries fighting against Iraq are censoring weather forecasts generated by supercomputers to cut off the Iraqis from such information.

In October 1987, a hurricane unexpectedly struck southern England, killing 13 people and causing millions of dollars' worth of damage. The storm was not predicted by the more modest computers used by British weather forecasters. But scientists at the European Community Medium-Range Weather Facility in Reading, England, were able to predict the storm on their Cray supercomputers and issued a warning.

The cost of the supercomputer is peanuts compared to what you can save," said Gregory J. McRae, a chemical engineer at Carnegie-Mellon. His research on smog formation has been used by California air-quality authorities to help choose the most effective pollution-control strategies.

GREENING OF THE SUPERCOMPUTER

Supercomputers are also widely used for dozens of scientific and engineering tasks, including the simulation of automobile accidents to learn how to design safer cars; the creation of aircraft models to improve their aerodynamic efficiency, and the study of the interplay of specific molecules to create more effective medications.

The complexity of creating models of environmental conditions has made the machines essential for serious scientific analysis.

Environmental projects are the largest and fastest-growing business for Cray Research Inc., the nation's top supercomputer maker.

"It represents the greening of the supercomputer," said John A. Rollwagen, chairman and chief executive of Cray. "It now rivals anything that the weapons business has ever had."

At Cray, which is based in Minneapolis, the number of installed multimillion-dollar supercomputers purchased for weather and environmental applications has jumped to 17 at 15 sites, from 4 machines at 4 sites in 1988. Cray said another dozen machines were used substantially for such environmental applications and for other tasks as well. Supercomputers for environmental uses now account for about 20 percent of Cray's annual revenue.

Cray is getting more orders for environmental applications than any other supercomputer maker, but others are benefiting as well. These include I.B.M., Thinking Machines and Convex Computer in the United States, and NEC and Fujitsu in Japan.

Cray was the main beneficiary last year when ETA Systems Inc., a subsidiary of the Control Data Corporation, whose machines were popular with meteorologists, went out of business. But Cray now faces tough competition from NEC. Computer scientists say NEC's new SX-3 supercomputer rivals the fastest Cray machine. In December, the Japanese company announced that it had sold one of the new supercomputers to a meteorological research center in Brazil.

Cray Research was founded by Seymour Cray, who left in 1989 to form a new company, the Cray Computer Corporation. It, too, is benefiting from the growing environmental market. Cray Computer, based in Colorado Springs, recently announced that it had sold its first Cray 3 supercomputer to the Livermore National Laboratory's energy research center.

STUDYING CLIMATE CHANGES

Computer scientists at the laboratory said the new machine, which many scientists think will be the world's fastest for certain applications when it is installed in 1992, will be mostly used to evaluate competing theories about the forces shaping changes in the global climate.

Weapons researchers at Livermore are also exploring how to use software, developed to monitor radiation leaks at nuclear test sites, to simulate problems caused by hazardous waste.

The Livermore laboratory, which has a stable of supercomputers including machines from Cray Research, Bolt Baranek & Newman and Thinking Machines, is perhaps the most striking example of the contrast between the declining fortunes of the weapons designers and the growing advantages of environmental users.

Robert Borchers, head of computation for Livermore, said it was unlikely that even a single large new supercomputer would be purchased this year for the side of the laboratory that deals with classified weapons.

"We don't know where the money would come from," he said.

In contrast, researchers at the Environmental Protection Agency's research laboratories at Research Triangle Park in Chapel Hill, N.C., said that they had received approval to buy two of the world's largest supercomputers but that they had not decided which to buy. The National Weather Service in Camp Springs, Md., is also planning to buy two machines from Cray Research this year.

ACID RAIN SIMULATIONS

The Environmental Protection Agency now uses Cray and I.B.M. supercomputers to run simulations of the formation of acid rain and smog in the eastern United States and southeastern Canada. Besides providing a better understanding of this phenomenon, the supercomputers offer a daily tool to regulatory officials. They use information gleaned from the models to make decisions on what are permissible emissions from large polluters like power plants, and they can order the plants to reduce output.

"In the Northeast corridor, pollutants created in Baltimore and Washington go upstream to Philadelphia and then go to New York, and all of that goes to Boston," said Gary J. Foley, the director of the E.P.A.'s atmospheric rsesearch and exposure assessment laboratory. "We can look at this string of cities and develop better control strategies using our simulations."•

• Mr. WALLOP. Mr. President, I am pleased to cosponsor the Department of Energy High-Performance Computing Act of 1991 which Senator JOHNSTON is today introducing.

During the 101st Congress, the Committee on Energy and Natural Re-

sources worked closely with the Committee on Commerce, Space and Transportation to develop comprehensive supercomputing and networking legislation, which unanimously passed the Senate. This occurred too late last year for the House to act on the Senate bill.

I had hoped that we would pick up where we left off last year with the Senate-passed bill, but unfortunately that was not agreeable to the Commerce Committee. So instead, both the Energy Committee and the Commerce Committee each start afresh, and differences will have to be worked out before Senate action can occur.

The bill I am today cosponsoring contains the two key elements of last year's bill. First, it would create supercomputing collaborative consortia to undertake research and development on high-performance computing hardware and associated software. Second, it would create a nationwide, ultra high-speed computer network to interconnect Federal agencies and others.

The legislation assigns responsibility for these activities to the Department of Energy because it is the Federal agency which has the greatest degree of expertise and knowledge in the research, development and use of high-performance computers and networks. The Department of Energy is the Federal agency which makes use of the greatest number of high-performance computers.

High-performance computing and networking is not only essential to our Nation's defense activities, it is also increasingly critical to our economic well-being. Industry is turning to the use of supercomputers for product design, testing and production. I doubt that a decade from now there will be a single product invented or produced—be it a consumer or a military product—without the use of high-performance computers and high-speed networks. The only question in my mind is whether those products will be made here in the United States, or produced abroad.

In the academic and research communities, high-performance computing and networking is likewise increasingly important. There is not a line of scientific inquiry that is either not now using supercomputers, or could not benefit from their use.

Mr. President, it is for these reasons that I am today cosponsoring this legislation. I look forward to working with them and the distinguished chairman of the committee, Senator JOHNSTON, in moving high-performance computing legislation through the Senate.●

By Mr. ROTH:

S. 344. A bill to establish the Northern Yukon-Arctic International Wildlife Refuge; to the Committee on Environment and Public Works.

NORTHERN YUKON-ARCTIC INTERNATIONAL WILDLIFE REFUGE ACT

● Mr. ROTH. Mr. President, I rise today to address our needs as well as our opportunities for international cooperation to protect our world's circumpolar region.

During my years in the Congress I have expressed my sincere ideology concerning mankind's responsibility to the environment. Simply stated, it is that man is bound to serve nature through an environmental ethic. Mankind has the responsibility to pass on a life-giving—life-sustaining—environment to future generations. Our natural and cultural heritage rank high among our most priceless and irreplaceable possessions. To loose any of these possessions would be a loss to all of mankind.

It is often exhibited that all ecosystems—from Alaska to Africa, South America to Saudi Arabia—are inextricably connected. Not only can destruction in one small area bruise the conscience of man, but it can affect the fragile ecological balance of a tiny world appear more vulnerable with each passing day. Perhaps this environmental transcendentalism is nowhere more apparent than in the circumpolar region which serves as a sink for global pollution. It gathers the wastes and fallout from all that surrounds it, and we all know the tragic consequences befalling the fragile ecosystem and biosphere. The wind, water, fish, fowl, caribou, and other animals and plants know no political boundaries. Whether the pollution that threatens their pristine and fragile environment comes from the Soviet Union, Brazil, Eastern Europe, or the United States is of little consequence—especially when the contamination begins to affect the native peoples who depend on the ecosystem.

Likewise, the contamination of this precious international resource poses a threat to the Arctic region as a scientific laboratory for comparisons of the Earth's health. As someone recently put it: "If the Arctic Systems fail, the health and the understanding of the health of the entire planet fails." It is for those and other reasons that I commend proposals that encourage international cooperation to protect the precious Arctic area. The Finnish and Pisces Initiatives and the Beringia Cooperative Agreement are very important steps in this process. Likewise, I'm proud to announce my own piece of legislation, that I am introducing today.

Mr. President, today I am introducing legislation to establish a Northern Yukon-Arctic International Wildlife Refuge. Its purpose is to bring these two great nations together in historic cooperation to permanently protect the last complete Arctic ecosystem in North America, North America's Serrengethi, to fulfill our responsibility as stewards of our land, its resources and the life that depends on it.

This effort will protect all shared wild bird resources native to North America that are in an unconfined state and that are protected under the Migratory Bird Treaty Act. Likewise, it protects wetlands, marine mammals—including seals, walruses, whales, and polar bears; and it maintains our commitment to the principles of caribou management as prescribed under the Porcupine Management Agreement. And it provides for continued protection of marine and anadromous fish species that inhabit the coastal waters of the Beaufort Sea. Finally, it reaffirms the commitments we made to the residents of these lands, to continue to provide them with the opportunity for subsistence uses for the resources of these lands.

Each of these objectives is worthy, and this bill is an important step toward caring for our stewardship in the entire Arctic National Wildlife Refuge as it is currently administered under the National Wildlife Refuge Administration Act. However, most important is that this bill demonstrates the willing spirit and many opportunities nations can take advantage of toward the objective of protecting our environment. It is a first step—an important first step. But it is my hope that it serves as an example of what nations can do with shared objectives, a spirit of cooperation, and a little bit of effort.

It is also my hope that we can build on this effort to actively pursue Arctic agreements that lead to an Arctic refuge protection plan. Such a plan should include international protection for shared lands and waters, cultural and historical sites, and management of fish, birds and wildlife, as well as international cooperative efforts to control the sources of pollutants that affect this fragile environment. The legislation that I am introducing today should be one of the building blocks for this effort.

I ask unanimous consent that a copy of this legislation be placed in the RECORD in its entirety at the conclusion of my remarks.

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

S. 344

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 "Northern Yukon-Arctic International Wildlife Refuge Act".

SEC. 2. ESTABLISHMENT OF INTERNATIONAL WILDLIFE REFUGE AREA.

(a) ESTABLISHMENT.—

(1) Effective as of the date the conditions stated in subsection (b) are met, there is established an international wildlife refuge area to be called the Northern Yukon-Arctic International Wildlife Refuge, which shall

include the entire Arctic National Wildlife Refuge administered under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

(2) The Northern Yukon-Arctic International Wildlife Refuge is established—

(A) for the purpose of permanently commemorating the long-existing relationship of peace and good will between the people and Governments of Canada and the United States;

(B) for the purpose of permanently protecting in an undisturbed condition the only remaining complete spectrum of Arctic ecosystems in North America;

(C) in fulfillment of our serious responsibility as stewards of our land, its resources, and the life that depends on it;

(D) for the purpose of permanently protecting all shared wild bird resources native to North America that are in an unconfined state and that are protected under the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), including ducks, geese, and swans of the family Anatidae, species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), species defined as nongame under the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901 et seq.), and wetlands listed as protected under the Convention on Wetlands of International Importance, especially as Waterfowl Habitat, done at Ramsar on February 2, 1971;

(E) for the purpose of maintaining our commitment to the permanent protection of marine mammals, including seals, walruses, whales, and the Beaufort Sea population of polar bears that are protected under the Agreement for the Conservation of Polar Bears, done at Oslo on November 15, 1973 (27 U.S.T. 3918) and mammals listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(F) for the purpose of maintaining our commitment to the principles of caribou management as prescribed under the Porcupine Management Agreement;

(G) for the purpose of continued international cooperation and commitment to the protection of marine and anadromous fish species that inhabit the coastal waters of the Beaufort Sea, whose nearshore waters and brackish lagoon system provide for those fish—

(i) eastward and westward migration routes;

(ii) feeding areas; and

(iii) important spawning and overwintering areas; and

(H) for the purpose of continuing the opportunity, consistent with sound management principles, for subsistence uses by rural residents of Alaska, including natives and non-natives, on the public lands and by Alaska natives on native lands which are essential to native physical, economic, traditional, and social existence, to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands.

(b) CONDITIONS.—The establishment of the Northern Yukon-Arctic International Wildlife Refuge and the inclusion therein of the Arctic National Wildlife Refuge shall become effective upon—

(1) the enactment by the proper authority of the Canadian Government of a provision similar to this Act respecting the Northern Yukon National Park in or near the Yukon Territory, Canada; and

(2) the issuance of a proclamation by the President declaring that such an enactment by the Canadian Government has been made.

SEC. 3. ADMINISTRATION.

For the purposes of administration and the making of appropriations, the United States portion of the Northern Yukon-Arctic International Wildlife Refuge shall continue to be administered under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized such sums as are necessary to carry out this Act.●

By Mr. PELL (for himself and Mr. CHAFEE):

S. 345. A bill to amend the Small Business Act to provide disaster loan eligibility to small business concerns located in States which one-third or more of the depository institutions have been simultaneously closed for a period of at least 5 days; to the Committee on Small Business.

RHODE ISLAND BANKING CRISIS ASSISTANCE ACT

Mr. PELL. Mr. President, the State of Rhode Island is undergoing a financial crisis that has had a catastrophic effect on the lives of many Rhode Islanders. On January 1, Rhode Island's newly elected Governor Bruce Sundlun was forced to close 45 Rhode Island banks and credit unions. This action affected over half of Rhode Island's depository institutions, containing the deposits of over 350,000 people with an estimated value of $1.3 billion.

Since January 1, just over half of these 45 institutions have reopened for business, but depositors at 15 closed institutions remain separated from their money. Many of these people are retired or were living on a very strict budget and depended on their savings for day to day survival.

The reason behind this crisis is the failure of the private insurer that backed the deposits in all the closed institutions. This insurer, the Rhode Island Share and Deposit Insurance Corp. [RISDIC], failed miserably in adequately protecting the deposits of many honest, hard-working, Rhode Islanders.

There is a great deal of blame to be shared for the failure of RISDIC, but the most immediate and urgent question is the fairest and speediest way to help thousands of abandoned depositors.

Governor Sundlun has moved aggressively to fulfill the State's responsibilities and to provide relief to the depositors. But the State and the people need Federal Government assistance in this unprecedented financial disaster.

Action is required, not only for the relief of the depositors but to prevent broader damage to the entire economy of Rhode Island and the surrounding region. The freezing of deposits, including the funds of many otherwise prosperous small businesses, threatens an escalating and spreading economic slowdown. Both the plight of individual depositors and the danger to the general economy demand action.

That is why I am joining with my colleague Senator CHAFEE in introducing a package of bills to help Rhode Island through this crisis.

I am introducing legislation to provide small businessess with disaster relief loans that are tied directly to the type of economic disaster currently taking place in Rhode Island.

This bill would amend the Small Business Act to provide disaster loans to small businessess located in States in which one-third or more of the depository institutions have been simultaneously closed for a period of at least 5 days.

This bill was authored and introduced in the House of Representatives by Congressman RONALD MACHTLEY and cosponsored by Congressman JACK REED. I am joined today in introducing this legislation in the Senate by my colleague Senator JOHN CHAFEE.

I will also be joining Senator CHAFEE in sponsoring two bills he will be introducing in the very near future.

Mr. President, it is my hope that this package of bills will provide much-needed help for those who have been swept-up in this dreadful crisis.

I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

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

S. 345

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

SECTION 1. DISASTER LOANS.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after the undesignated paragraph which begins "*Provided*, That no loan", the following new paragraph:

"(3)(A) Subject to the limitations contained in subparagraph (B), the Administration is empowered to make such disaster loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary to assist, or refinance all or part of the existing indebtedness of, a small business concern located in a State in which, after December 31, 1990, one-third or more of the depository institutions located in such State have been closed simultaneously for a period of at least 5 days resulting in depositors of such institutions being precluded from accessing their funds.

"(B) A loan or guarantee shall be extended to an applicant under this paragraph only if the Administration finds that—

"(i) a substantial percentage of the applicant's funds are held in a depository institution which has closed; and

"(ii) the applicant's need for credit is a direct result of the closing of such institution.

"(C) The Administration may permit deferral of payment of principal and interest for 1 year on a loan extended under this paragraph.

"(D) For purposes of this paragraph, the term 'depository institution' has the meaning such term has under section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C.

461(b)(1)(A)), without regard to clause (vii) of such section.".

(b) CONFORMING AMENDMENTS.—

(1) The material following section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by striking all beginning with the undesignated paragraph which begins "in the administration" through the end and inserting the following:

"Whoever wrongfully misapplies the proceeds of a loan obtained under this subsection shall be civilly liable to the Administrator in an amount equal to one and one-half times the original amount of the loan.".

(2) Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(A) by striking "7(b)(4)," in paragraph (1), and

(B) by striking "7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8)," in paragraph (2).

By Mr. HEINZ (for himself, Mr. BENTSEN, Mr. RIEGLE, Mr. GARN, Mr. HELMS, Mr. KERRY, Mr. HATCH, Mr. D'AMATO, Ms. MIKULSKI, Mr. THURMOND, Mr. LOTT, and Mr. SHELBY):

S. 346. A bill to strengthen the Foreign Agents Registration Act of 1938; to the Committee on Foreign Relations.

FOREIGN AGENTS REGISTRATION ACT

Mr. HEINZ. Mr. President, today I rise to introduce legislation, a somewhat modified version of which I introduced last year to amend the Foreign Agents Registration Act. It would increase disclosure of foreign lobbying and propaganda activity and would improve our ability to achieve that objective through better enforcement. As some of my colleagues may recall, my earlier bill on this subject, which was S. 176 on which this version is based, was the subject of hearings in 1990 but no final action was taken.

The Senator from Rhode Island, the distinguished chairman of the Foreign Relations Committee, Senator PELL, has assured me that it is his intention to act on the bill very early this year, and I am most grateful to him.

Mr. President, the Foreign Agents Registration Act was originally enacted back in 1938 to counteract the efforts of Nazi propaganda and German mercantile interest lobbying to make it possible for the public to understand who was working for German interests, who was working for the Nazis, and how much financial support they were receiving.

The act was not intended to suppress freedom of speech of either Nazi German propagandists or anybody else, or any other rights of such people. It was intended simply as an information gathering and public disclosure device.

Fifty years later we live, of course, in a much different world and that kind of propaganda is no longer the threat it once was. Our main threats today are economic rather than military, and that has led to a growing concern about the role that foreign companies play in American political and economic life.

Our open market and our open investment policy, as well as our continuing trade deficit of well over $100 billion have produced a giant increase in the foreign stake in our economy in the form of sales and profits dependent on imports into the United States and in the form of inward investment. The trade policy actions our Government takes are of critical importance to foreign interests and they maintain an active presence here to monitor and influence those actions.

Pat Choate, formally of TRW, in his book that appeared last fall, entitled "Agents of Influence," provides numerous examples of deliberate Japanese efforts to penetrate our economy—sometimes by illegal means, sometimes not—and then influence our politicians to do nothing about it. An article based on his book was recently published in the Harvard Business Review, and I commend it to my colleagues. It deserves careful reading by all Senators.

I had it reprinted in the RECORD last year. I will not do so again, but I do want to quote one or two particularly compelling paragraphs from his conclusion. Choate says:

Japan's campaign for the United States is completely legal. It plays the American economic game by American rules. It uses the campaign tactics and methods of American politics. It hires Americans to lobby, educate, and influence other Americans. It is the highest stakes political-economic game in the world today, affecting whole industries, billions of dollars, millions of jobs, and, ultimately, the wealth and power of nations.

It is also deeply corrosive of the U.S. political and economic system. The revolving door of Washington, D.C. breeds cynicism and mistrust. It ultimately represents a form of political corruption—completely legal, completely unethical. The problem, of course, is not in Tokyo, but in Washington, D.C.

Americans have all but lost sight of some of the most basic lessons of civics—chief among them the guiding concept of civic virtue. The value of national service—for an individual to be of service to the country and to work on behalf of the country's interests—has been cheapened by a more mundane coin of the realm: personal advancement, self-interest, big money. As a consequence, the United States is not only selling corporate assets and real estate to foreign bidders; also for sale is U.S. integrity and national honor.

Choate goes on to recommend greater public disclosure:

In a democracy, the best disinfectant for corruption is sunshine. All foreign agents—those who represent foreign clients, whether lobbyists, journalists, academics, public relations advisers, political strategists, lawyers, or foundations—should provide full disclosure to the Justice Department. No exceptions.

While Mr. Choate's recommendations focus properly on how best to restore the concepts of integrity and public service in Washington, we should not conclude that all foreign activity in this country, because it is usually legal, must therefore be benign. Some efforts do not lead to consequences that are in our interest.

One anecdote told by James Fallows in his article in Atlantic suggests the worst of this:

The student was an American fluent in Japanese. He had spent the previous three years working at a Japanese-owned electronics plant in Japan. While he was there, the U.S. government accused the plant of dumping its chips, at prices below those permitted under the U.S. anti-dumping law. At that point the company hired two Americans who had just resigned from the Commerce Department. Weeks earlier they had helped draft the anti-dumping agreements that the company was now accused of violating.

"I never felt so humiliated in all my life," the student told my friend. "These guys came in and showed the company how to conceal all the damaging information. They knew exactly how to do it, because they knew where the U.S. inspectors would look. I saw the United States get bamboozled by a Japanese company that was willing to pay a lot of money"—and by Americans willing to do the bamboozling.

This problem can be more directly addressed through revolving door legislation, which Choate also favors, but it makes the point that what the Federal Government does has a big impact on foreign companies, and they are often happy to pay large sums of money precisely to avoid the consequences of our actions.

A noteworthy example relevant to this bill; indeed, one which aroused my interest in this subject, is Toshiba Corp.'s effort to avoid sanctions in the wake of Toshiba Machine's sale to the Soviet Union of precision milling equipment used for the production of submarine propellers. This sale has had a serious adverse impact on the balance of naval power. Not only do the Soviets have the largest submarine force in the world, their ships will now become significantly quieter, and thus more difficult to detect. Estimates of the cost to the United States to compensate for the effects of this sale range from $8 billion to over $100 billion.

While the amount Toshiba spent on representation did not approach those sums, it was still substantial. For example, from 1987 through 1989, the law firm of Mudge, Rose, Guthrie, Alexander & Ferdon reported receiving nearly $11 million from Toshiba to act on its behalf, and they are just one of at least three law firms hired by Toshiba during 1987 for help on this issue.

What further clouds the issue is the fact that only the Toshiba Corp. itself is represented in these numbers. When Senator GARN and I initially proposed sanctions, it is fair to say we did not fully appreciate the diversity and complexity of Toshiba's corporate organization. The company possesses a vast number of holdings around the world, including over 600 subsidiaries and affiliates, a number of which also lobbied on behalf of their parent's interests. One subsidiary, Tokyo Electric Co.,

paid the Washington law firm of Kelley, Drye, & Warren over $213,000 from 1987 to 1989 to lobby on the Toshiba matter.

Kelley, Drye, & Warren was required to file because Tokyo Electric is clearly a foreign entity, although its subsidiary relationship to Toshiba is less well known to the American public, and it would not be immediately obvious that its efforts were on behalf of the same cause.

We have no idea how many other Toshiba subsidiaries have been actively lobbying on behalf of their parent. Toshiba branches or subsidiaries located within the United States are not generally required to file under FARA. Thus, we see only the tip of what may be a very large iceberg. One indication of the size of that iceberg is my calculation that from 1987 to 1990 the total spent by registered agents for Japanese entities was over $120 million. Choate's estimate of the total spend by Japan annually to influence American opinion, a broader category than what I have been discussing, is $400 million.

Mr. President, I ask unanimous consent that an illustrative list of registered agents for Japanese entities along with their reported expenditures be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HEINZ. Mr. President, as a further illustration of the limitations of this law, I would refer Senators to an article that appeared in the March 29, 1990, Wall Street Journal. It tells the story of a consulting firm which was hired by the Department of Energy to analyze the environmental hazards of permitting air shipment of plutonium over Alaska at the same time it had a contract with Japanese utility executives whose companies used the nuclear fuel. This is a relationship our colleague, Senator PRYOR, has called a brazen conflict and a classic example of working both sides of the street.

The head of the firm indicated it had not registered either as a foreign agent or as a lobbyist, despite the obvious lobbying activities detailed in the article.

Without knowing more about the ownership and control of this firm, it is impossible to say whether it should have registered under FARA or whether it would be required to do so under my bill. But it is a dramatic example of a case where the shortcomings in our disclosure laws had a direct impact on policy.

My reading of the law, however, is that it requires registration in a case like this. Apparently the Government did not think so, which by itself is dramatic evidence of the need for Congress to provide clear guidance on registration and disclosure.

Mr. President, I have previously printed in the RECORD a list of American firms which have been identified as representing Japanese companies but which have not so filed under FARA. That list is presently being updated, and I will shortly include it in the RECORD for the information of all Senators.

Let me say this list is compiled on the basis of best information available and should not be considered authoritative, particularly since client relationships change frequently. In addition, since registration is not presently required for most subsidiaries or for clients where the agent did not engage in any reportable activity, the fact that an agent did not register a client does not indicate any violation of FARA has occurred. It does suggest, however, how much we do not know about foreign lobbying activity in Washington.

Correcting this deficiency in filing is the cornerstone of my bill. Right now the Justice Department determines foreign control through an ad hoc approach that focuses on whether the U.S. subsidiary has an actual operational presence here or is just a shell. That approach results in the conclusion that many U.S. companies are not foreign entities even if they are owned and controlled by a foreign party.

This amendment would broaden that approach through use of a control test. Entities that are more than 50-percent foreign owned are presumed under foreign control, and their agents would have to register. Between 20- and 50-percent foreign ownership would also be considered foreign control, subject to presentation of rebuttal evidence. Foreign ownership of less than 20 percent would be presumptively not controlling. The effect of these provisions would be to require the disclosure of activities on behalf of many more U.S. subsidiaries of foreign entities.

The second proposal in my original bill repealed the lawyers' exemption. Currently, lawyers are exempt from registration and disclosure for activities they undertake in the context of administrative or judicial proceedings. While that may have made sense 50 years ago, these days practically all trade policy decisions take place in the context of administrative proceedings like antidumping or countervailing duty cases, or section 301 or section 201 petitions, where few lawyers bother to draw a sharp distinction between formal, on the record proceedings and informal contacts with decision making authorities. Exempting otherwise disclosable activities on behalf of clients in these situations opens up an enormous loophole.

This provision elicited some concern from elements of the trade bar, particularly those with an intellectual property practice, who pointed out that patent filings in the United States under current law are secret. If a lawyer nonetheless had to report under FARA the fact that he had filed an application on behalf of a foreign company, the purpose of our patent law would be defeated. For that reason, in the pending amendment I have modified this provision to maintain the exemption with respect to the filing of patent applications.

The bill's third proposal modifies the reporting timeframe. Currently, agents register initially with the Justice Department containing the provisions of their contract when they begin their representation and then file updates every 6 months thereafter. Unfortunately, the inconsistent reporting dates lead to confusion. Justice is unable to effectively monitor incoming reports, or the lack thereof, nor can anyone conduct effective research. No matter when one reviews the files, there are always reports due in the next few weeks. Unless the information desired is a least 8 months old, it is difficult to track. As a result, my amendment proposes maintaining the initial registration requirement as is, but modifies the procedure so that subsequent filings would be made on January 30 and June 30 of each year. This will ensure greater uniformity of data, will help us track real trends, and will also help Justice to identify missing filings. At the suggestion of the Justice Department, I have added a provision here that permits an entity with a fiscal year other than a calendar year to petition the Justice Department for a different filing deadline.

The fourth provision concerns penalties and enforcement. While the act contains criminal penalties for willful violations, they are rarely imposed because of the difficulty in proving intent and because of their severity. Adding a schedule of civil fines provides a more reasonable option that should encourage compliance. At the suggestion of the Justice Department, I have revised the bill to also provide penalties for late filings and for enforcement through the appropriate U.S. district court rather than a separate administrative proceeding.

It would also help compliance to give the Justice Department authority to summon individuals to appear, testify, or produce records, common authority for agencies enforcing laws that have a public disclosure component. Both these changes were proposed in a 1980 GAO report and again in a report issued last month, but no action has been taken. Mr. President, I ask that the text of the GAO report also be included in the RECORD at the conclusion of my remarks. Again at the suggestion of the Justice Department, I have modified the bill to address the Department's concern that it have administrative subpoena power for its inspection authority under section 5 of the act. The bill will now permit the Attor-

ney General to issue civil investigative demands [CID's] in FARA cases, the same power already provided in a number of other situations.

The final provision of the amendment is new language not contained in S. 176. It clarifies the so-called commercial exemption in order to close a loophole that would otherwise permit U.S. subsidiaries of foreign companies to escape registration. Current law exempts from disclosure agents engaged in bona fide trade or commerce, a term that remains essentially undefined. Without clarification, U.S. subsidiaries whose agents would be captured by the first provision of my amendment could avoid that result simply by switching to the commerce exemption.

In order to limit that possibility, this new provision in my amendment excludes from the commerce exemption any contact with Government officials, other than the initiation of a formal judicial or administrative proceeding or the response to Government requests for information as a part of such proceeding.

Mr. President, the Foreign Agents Registration Act is an important and useful public policy tool. I believe it is in the national interest to maintain a public record of foreign efforts to influence Government policy. We cannot simply assume that because a foreign company has a domestic presence it is automatically pursuing objectives consistent with U.S. policy and national security. This amendment will make the act more effective. Both it and the original act were not designed to punish individuals for their beliefs or representations. They are designed to bring the sunshine of public disclosure onto activities that have heretofore occurred in the dark. Like a lot of things that exist in the dark, sunlight may cause them to shrivel and die, which in my judgment would be a good thing. If not, the amendment will at least provide the public with greater knowledge of lobbying activities in Washington and how policymakers are being influenced, and by doing so will help keep such activities in proper perspective.

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

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

S. 346

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

SECTION 1. STRENGTHENING THE FOREIGN AGENTS REGISTRATION ACT.

(a) DEFINITION OF AGENT OF A FOREIGN PRINCIPAL.—Section 1(c) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(c)) is amended by adding at the end thereof the following new sentence: "For purposes of clause (1), a foreign principal shall be considered to control a person in major part if the foreign principal holds more than 50 percent equitable ownership in such person or, subject to rebuttal evidence, if the foreign principal holds at least 20 percent but not more than 50 percent equitable ownership in such person.".

(b) DEFINITION OF SERVING PREDOMINANTLY A FOREIGN INTEREST.—Section 1(q) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(q)) is amended—

(1) by striking out "and" at the end of clause (ii) of the proviso; and

(2) by inserting before the period at the end thereof the following: ", and (iv) such activities do not involve the representation of the interests of the foreign principal before any agency or official of the Government of the United States other than providing information in response to requests by such agency or official or as a necessary part of a formal judicial or administrative proceeding, including the initiation of such a proceeding.".

(c) SUPPLEMENTAL REGISTRATION.—Section 2(b) of such Act (22 U.S.C. 612(b)) is amended—

(1) in the first sentence by striking out ", within thirty days" and all that follows through "preceding six months' period" and inserting in lieu thereof "on January 31 and July 31 of each year file with the Attorney General a supplement thereto under oath, on a form prescribed by the Attorney General, which shall set forth regarding the six-month periods ending the previous December 31, and June 30, respectively, or, if a lesser period, the period since the initial filing,"; and

(2) by inserting after the first sentence the following new sentence: "Any agent using an accounting system with a fiscal year which is different from the calendar year may petition the Attorney General to permit the filing of supplemental statements at the close of the first and seventh month of each such fiscal year in lieu of the dates specified by the preceding sentence.".

(d) LIMITING EXEMPTION FOR LEGAL REPRESENTATION.—Section 3(g) of such Act (22 U.S.C. 613(g)) is amended by striking out "or any agency of the Government of the United States" and all that follows through "informal" and inserting in lieu thereof "or before the Patent and Trademark Office, including any written submission to that Office".

(e) CIVIL PENALTIES AND ENFORCEMENT PROVISIONS.—Section 8 of such Act (22 U.S.C. 618) is amended by adding at the end thereof the following:

"(i)(1) Any person who is determined, after notice and opportunity for an administrative hearing—

"(A) to have fallen to file when such filing is required a registration statement under section 2(a) or a supplement thereto under section 2(b),

"(B) to have omitted a material fact required to be stated therein, or

"(C) to have made a false statement with respect to such a material fact,

shall be required to pay a civil penalty in an amount not less than $2,000 or more than $5,000 for each violation committed. In determining the amount of the penalty, the Attorney General shall give due consideration to the nature and duration of the violation.

"(2)(A) Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material relevant to an investigation regarding any violation of paragraph (1) of this subsection or of section 5, he may, before bringing any civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for examination.

"(B) Civil investigative demands issued under this paragraph shall be subject to the applicable provisions of section 1968 of title 18, United States Code.".

Exhibit 1

SELECTED AGENTS OF JAPANESE ENTITIES

Entities	1987	1988	1989	1990	Total: 1987–90
Akin, Gump, Strauss, Hauer & Feld	$1,028120.28	$984,400.86	$1,583,481.21	0	$3,596,002.40
Anderson, Hibey, Nauheim & Blair	901,427.61	756,118.20	662,702.12	$397,902.83	2,678,150.70
APCO Associates	726.25	0	262.50	25,270.06	26,258.81
Arnold and Porter	30,236.74	15,000.00	22,028.69	147,392.69	214,658.12
Arter & Hadden	88,000.00	199,293.18	444,344.52	274,383.54	1,006,021.20
Charles E. Butler	112,929.22	125,421.00	59,042.00	61,000.00	297,392.22
Civic Service, Inc	224,071.48	422,635.55	529,158.52	243,064.41	1,418,931.00
Daniel J. Edelman, Inc	64,526.67	0	0	0	64,526.67
Dechert, Price & Rhoads	11,000.00	12,000.00	25,500.00	13,500.00	62,000.00
Dickestein, Shapiro & Morin	152,658.39	206,035.69	0	0	358,694.08
Donald G. Lerch Jr	24,231.79	49,737.12	15,154.39	18,392.31	107,497.61
First Associates, Inc	32,271.02	22,769.07	31,820.25	0	86,860.34
Garvey, Schubert & Barer	225,752.72	113,009.35	244,452.11	110,142.78	693,356.96
Graham and James	0	0	45,000.00	68,975.61	113,975.61
Global U.S.A	1,286,284.77	1,626,331.16	1,571,410.12	851,786.52	5,335,812.40
Heron, Burchette, Ruckert & Rothwell	16,111.25	33,204.85	7,366.15	0	56,682.25
H. William Tanaka	266,358.11	310,590.71	352,305.95	748,353.00	1,677,607.80
Hill & Knowlton	1,245,888.33	1,064,506.42	2,906,701.16	2,618,522.00	7,835,617.80
Hogan & Hartson	103,298.75	79,962.81	83,785.65	58,507.46	325,554.67
International Business-Government Counselors Inc	300.00	0	0	0	300.00
Jack McDonald Co	60,480.00	87,240.00	12,773.50	27,425.00	187,918.50
Japan Auto Manufacturers	823,360.00	986,350.00	959,760.00	1,469,147.00	4,238,617.00
Japan Center of Information and Cultural Affairs	3,883,691.00	0	0	0	3,883,691.00
Japanese Economic Institute of America	826,445.00	926,950.00	879,804.00	552,817.14	3,186,016.00
Japan Iron and Steel Exporters Assoc	204,261.93	191,500.00	213,376.99	186,173.55	795,312.47
Japan National Tourist Org	1,935,948.17	2,043,252.20	2,259,999.68	1,357,240.80	7,596,440.70
Japan External Trade Organization (JETRO)	11,300,033.32	10,480,127.54	15,152,435.44	9,217,471.70	46,150,069.00

Exhibit 1—Continued
SELECTED AGENTS OF JAPANESE ENTITIES

Entities	1987	1988	1989	1990	Total: 1987–90
Japan Tobacco	955,000.00	840,000.00	833,000.00	456,000.00	3,084,000.00
Jones, Day, Reavis & Pogue	126,025.00	0	0	0	126,025.00
Kelly, Drye, and Warren	57,104.31	137,738.31	337,171.67	0	532,014.29
Manatt, Phelps, & Rothenberg	25,000.00	173,753.82	172,868.03	125,260.54	496,882.39
Marks, Murase & White	0	229,985.31	354,352.48	277,702.81	862,040.60
Masaoka & Associates	55,398.01	139,940.61	146,504.98	80,097.85	421,941.45
Milbank, Tweed, Hadley & McCloy	15,225.34	0	0	0	15,225.34
Miller & Chevalier, Chartered	112,693.71	73,122.19	0	0	185,815.90
Mintz, Levin, Cohn, Ferris Glovsky and Popeo, P.C	186,521.35	235,315.35	250,000.00	100,000.00	771,836.70
Mudge, Rose, Guthrie, Alexander & Ferdon	1,457,392.00	5,940,029.52	3,517,501.11	2,950,824.00	13,865,746.00
O'Connor & Hannan	62,428.15	19,363.67	193.39	0	81,985.21
O'Melveny & Myers	0	0	0	133,820.88	133,820.88
Parry and Romani Associates	42,000.00	84,000.00	7,000.00	0	133,000.00
Patton, Boggs, and Blow	334,826.38	334,836.38	247,462.31	118,072.79	1,035,187.90
Paul, Hastings, Janofsky, & Walker	66,479.02	0	286,082.16	763,173.38	1,115,734.60
Paul, Weiss, Rifkind, Wharton, & Garrison	917,891.22	102,707.81	956,339.60	1,022,101.72	2,999,040.30
Pettit and Martin	30,000.00	144,567.75	13,257.49	0	187,825.24
Powell, Goldstein, Frazer & Murphy	212,506.00	44,001.00	109,003.00	780,084.69	1,145,594.70
Robinson, Lake, Lerer	172,966.71	207,100.00	381,727.01	102,828.78	864,622.50
Sedam and Shearer	400.00	39,560.00	29,443.48	45,000.00	114,403.48
Stafford, Burke	90,000.00	60,000.00	60,000.00	30,000.00	240,000.00
Steptone & Johnson	0	0	56,841.75	0	56,841.75
TKC International, Inc	0	103,578.80	141,282.48	114,213.00	359,074.28
Wald, Harkrader and Ross	32,632.15	0	0	0	32,632.15
Washinton Resources and Strategy, Inc	0	5,500.00	4,522.00	8,500.00	18,522.00
Weil, Gotshal, and Manges	190,548.15	152,404.60	199.00	0	343,151.75
Wilbur F. Monroe Associates	82,844.10	161,066.52	170,444.83	0	414,355.45
William & Jensen	43,218.05	46,099.74	45,080.29	29,533.54	134,398.08
Willkie Farr & Gallagher	224,931.29	58,220.36	205,859.60	1,068,980.33	1,557,991.60
Total	29,397,425.73	29,229,317.50	35,555,801.65	26,653,752.40	120,926,297.28

Mr. RIEGLE. Mr. President, I am pleased to join Senator HEINZ once again in sponsoring legislation to amend and strengthen the Foreign Agents Registration Act. This is much needed legislation and I support its expeditious adoption.

The Foreign Agents Registration Act was originally enacted in 1938 to identify Nazi agents engaged in political activities including the spreading of propaganda on behalf of the Third Reich. The act requires that those representing foreign governments or interests publicly report their activities and finances, in order that our Government policymakers and the public are aware of the nature of those trying to influence their views.

Today, unlike 1938 or during the cold war era, there is increasing concern about those spreading propaganda to influence economic rather than political policies in this country. We must make some changes to the Foreign Agents Registration Act to take account of this new reality.

Today, as never before, our country's national security is based on our economic strength. With the ending of the cold war and despite the Persian Gulf crisis, the challenge confronting America in the 21st century is economic. Our task is to determine how to adopt wise policies that will strengthen our country's ability to compete in the global economic competitive environment now confronting us. It is clear that we must undertake a serious debate about how best to do that.

A problem we confront in engaging in such a debate is that the increasingly integrated nature of the world economy, along with America's large trade deficits, open markets, and open investment policy, have given foreign companies and interests a very large stake in our economy.

As their trade surpluses with our country have mounted and their investments in the United States have increased, foreign firms and nations have become most interested in our country's trade and investment policies. They have hired an army of American lawyers, public relations specialists, and political strategists to assist them in tracking and influencing U.S. Government policy in these areas. Pat Choate, a former vice president of TRW, wrote in his recent book, "Agents of Influence," that Japan alone spends more than $400 million per year to influence United States trade and economic policies in order to safeguard its $50 billion per year bilateral trade surplus with our country. This ongoing trade surplus then gives Japanese companies the dollars and economic strength to purchase major American companies and small entrepreneurial firms which are developing high-technology products that will help their owners gain industrial leadership.

We must be aware, informed, and concerned about the role of foreign influence in our national economic policymaking process. But because of defects in the Foreign Agents Registration Act, we lack accurate data on lobbyists for foreign interests. The deficiencies were pointed up in a report entitled "Foreign Agent Registration: Justice Needs to Improve Program Administration," which was prepared by the General Accounting Office in July 1990. In its study, GAO stated that "the administration of foreign agent registration has remained a problem." The study found that disclosure criteria were unclear; that foreign agents frequently failed to register; and that even when they did register, more than one-half of them omitted required information and failed to meet filing deadlines. Thus, GAO concluded, "the Act's goal of providing the public with sufficient information on foreign agents and their activities was not being completely fulfilled."

The bill that Senator HEINZ and I along with several other of our colleagues are introducing attempts to update the Foreign Agents Registration Act to correct weaknesses identified by GAO and to make other changes to take account of the current economic realities facing our Nation.

First, it broadens the definition of who must register as a foreign agent. The bill requires that American companies owned or controlled by foreign firms be recognized as foreign interests. This is necessary in light of the rash of merger and acquisition activity that has made many American companies subsidiaries of foreign firms. Second, the bill corrects a loophole in current law that excluded the many lawyers who represent foreign clients in judicial or administrative proceedings. While foreign interests certainly have the right to counsel in these cases, we need to recognize that their legal representatives are acting on behalf of foreign interests. Third, the bill restructures filing requirements so that an accurate record of those filing as foreign agents can be maintained. Finally, the bill provides that lobbyists who do not register are subject to both civil and criminal penalties. The Justice Department has been reluctant to mete out the criminal penalties called for in current law, but we believe it will be more likely to impose the less severe civil penalties provided in our bill. This will result, we believe, in greater compliance with the law's requirements.

This bill does not regulate foreign lobbyists. It merely provides for a full and accurate disclosure of activity sponsored by foreign companies and na-

tions. It will not constrain activity on behalf of or by foreign interests, but it will shed light on such activities so that the Government, Congress, and the public are aware of the sources of information presented to them.

Foreigners have the right to voice their views on American policy. Their opinions and perspectives can contribute to national debates on economic policies. Certainly, though, their proposals would not always result in the adoption of policies that serve our national interests. Foreign businesses and nations hold a large stake in our economy, and it is no surprise that they advocate policies that may serve their interests even if they are not in the best interests of our Nation. As the United States grapples with the challenges of maintaining our economic sovereignty, American policymakers and the public must know the extent of foreign lobbying. On March 27, 1990, the Foreign Relations Committee held a hearing on Senator HEINZ' bill during which Senators received testimony from Owen Bieber, president of the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America [UAW]. Mr. Bieber told the committee:

> Foreign countries and companies want access to our market—it's the biggest and most open in the world. They want U.S. policies on trade and economic matters that benefit them, particularly as the world economy becomes more global and as foreign ownership of U.S. assets expands . . . It is important to remember that it's up to America to set the rules for our own political process. If, as I believe, foreign influence is distorting that process, then we need to act to remedy that rather than pointing the finger solely at Japan or other countries which devote huge resources to skillfully manipulate our decisionmaking.

I agree with Owen Bieber. The bill we are introducing today will help us to better identify the scope of foreign lobbying and to recognize positions and strategies being advocated by foreign firms and nations. Most importantly, it will help update the Foreign Agents Registration Act so it can fulfill its purpose of helping to protect the integrity of the U.S. Government's decisionmaking process and enable our people to be aware of views and policies advocated by foreign agents. I am pleased to be a cosponsor of this legislation developed by Senator HEINZ and I urge its speedy passage.

Mr. GARN. Mr. President, I am pleased today to cosponsor legislation being reintroduced by Senator HEINZ to strengthen the Foreign Agents Registration Act of 1938. This law was intended to ensure that those representing foreign interests in the period prior to World War II made their affiliations known in a timely and regular fashion. The need is as great today for those who might be influenced by foreign interests to know who is trying to influence them.

My concern with this issue arose from the same source as that of Senator HEINZ, the debate over Toshiba sanctions in 1987 and 1988. I proposed trade sanctions against Toshiba Corp. and Kongsberg Vaapenfabrik of Norway because of a very damaging transfer of technology by them to the Soviet military. I have never been lobbied more heavily than during the long consideration of my amendment.

I was not suprised at intense lobbying by the involved foreign governments, but it was very troubling to see the array of U.S. legal, political, and business talent recruited to the effort. Everyone seemed to be working on behalf of the wrongdoers with very few taking a stand for U.S. national security. It was even more troubling that when Senator HEINZ attempted to get a complete picture of the effort, he found that the reporting rules were so haphazard that relatively few of those involved had to properly identify themselves and the data was too diffuse to be useful.

This bill would amend the law to make it much more useful. We are not facing the Nazis today but the United States faces important policy challenges whose resolution will directly affect foreign interests, all of whom will be working to influence the outcome. Coming debates over national security priorities, export controls, trade policy, and foreign investment will be the critical policy challenges of the next decade. These debates will require input from abroad but they must be resolved in our national interest.

All Members want to ensure that we first represent the views and needs of our own constituents, then that we balance them against international interests that are clearly identified. To that end, I join Senator HEINZ in proposing needed changes to the Foreign Agents Registration Act and urge speedy action on this bill in the 102d Congress.

By Mr. RIEGLE (for himself, Mr. GARN, Mr. DIXON, Mr. HEINZ, Mr. SARBANES, Mr. D'AMATO, Mr. DODD, and Mr. SASSER):

S. 347. A bill to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes; placed on the calendar.

DEFENSE PRODUCTION ACT AMENDMENTS

• Mr. RIEGLE. Mr. President, I rise to introduce legislation to renew and amend the Defense Production Act of 1950. Joining me in this effort are Senators GARN, DIXON, HEINZ, SARBANES, D'AMATO, DODD, and SASSER, all of whom played roles in developing this bill.

The Defense Production Act [DPA] was originally passed to meet the national emergency caused by the Korean war. Only three titles of the original law—I, II & VII—were kept in effect after that war. Title I of the DPA provides to the President the authority to require the priority performance of contracts which have been determined to be necessary for the national defense. Title III authorizes the use of a broad range of economic incentives to assure that American industry will be able to provide the broad range of materials and services that are required for the national defense. These incentives include purchase guarantees, loan guarantees, and loans. Title VII authorizes the President to encourage joint industry undertakings to improve industrial preparedness and give them protection from antitrust suits. That title also gives the President the authority to suspend or prohibit the acquisition, merger, or takeover of a domestic firm by a foreign firm if such action would threaten to impair the national security.

The DPA has been reauthorized and amended numerous times since 1950 and Congress attempted to do that again in the 101st Congress. The bill we are introducing today with minor nonsubstantive technical changes is the exact same legislation that was developed in a House/Senate conference last October that was held to reconcile the differing provisions of H.R. 486 and S. 1379, the respective bills developed by the House and Senate to renew and amend the Defense Production Act of 1950. The Senators sponsoring this legislation are the Senate conferees who signed last year's conference report.

The conference report on H.R. 486, found in House Report No. 101-933 printed on October 23, 1990, was taken up by the House on October 25, 1990, and was passed without objection. Let me repeat that the conference report on H.R. 486 which we are reintroducing today passed the House without objection. It was held up in the Senate by last minute concerns raised by certain individuals within the Department of Defense. At the exact same time the Department of Energy was actively lobbying for its passage.

Last October were were led by DOD officials to believe that the administration had other authorities that could substitute for the DPA and that it did not need the conference bill. That assertion has turned out not to be accurate. As a result, the Federal Government finds itself without emergency authority to allocate supplies of oil among civilian users and without authority to block foreign takeovers of U.S. firms whose ownership by foreigners could threaten the national security. The President also lacks other authorities in the DPA that are needed to safeguard our Nation's national defense and security.

As further evidence of the administration's need for the DPA authorities I note that it recently submitted to the Congress legislation to renew the Defense Production Act. In its transmittal letter the administration stated

that "in light of Operation Desert Shield, there is an urgent need to act quickly" on its proposal. The bill submitted by the administration would not only renew the current DPA law, but would also amend it to give the Department of Energy authorities not found in present law to deal with oil shortages that may be occasioned by the Persian Gulf War. These new authorities sought by the administration were in the DPA conference report passed by the House without objection and they are in the conference report bill which we are introducing today.

We believe it is very important to take up and pass this legislation that will, among other things, renew and amend the Defense Production Act. Both Houses of Congress spent countless hours working on this bill and we should get it on the books as soon as possible. This is much needed legislation as certain actions now being taken by our Government to supply our troops with the goods they need could be subject to legal challenge without it.

I believe very strongly that in addition to renewing the current DPA law we need to pass the changes to it that we developed last year and included in the conference report on H.R. 486. Events in the Persian Gulf have demonstrated how important it is for the United States to have the industrial and technical capabilities to develop and produce high-technology weapons systems. These events have made me even more convinced that the legislation we developed last year is needed. Let me explain why.

The steady erosion of America's defense industrial and technology base has been the subject of numerous DOD, industry, GAO, and congressional reports. A 1988 Defense Department report entitled "Bolstering Defense Industrial Competitiveness" stated the problem succinctly:

> Many basic industries of importance to defense production have declined, threatening the responsiveness of our industrial base. Left unchecked, such erosion could rob the U.S. of industrial capabilities central to national security.

These views of the Defense Department were echoed by most witnesses at the seven hearings held on this matter by the Banking Committee during the 101st Congress.

The competitive standing of many industries vital to our military industrial base is in decline. Since 1982 two-thirds of the contractors who sell manufactured goods to the Department of Defense have left as suppliers to the DOD. In 1982 there were more than 118,000 companies providing goods to the DOD in relevant defense sectors. In 1987 only 38,000 companies in those sectors provided such goods. This shrinkage is even more remarkable in light of the fact that the defense procurement budget increased almost twofold during the same 5-year period.

The result of the departure of so many suppliers from the defense business combined with quality and productivity deficiencies in our industrial sector have made us increasingly dependent on foreign suppliers for the procurement of parts, components and systems critical to U.S. national security. Former Secretary of Defense Frank Carlucci emphasized this point during his July 11, 1989, testimony before the committee by stating "one could single out any number of areas where the Department of Defense is dependent on foreign imports for critical components."

It is my belief that growing dependence on foreign suppliers for critical defense components could be detrimental to the national security of the United States since it raises the risk the foreign interests may gain undue influence over U.S. foreign and domestic policy by leveraging our need for their products and technology against their policy objectives.

Of equal concern is our ignorance regarding the extent of U.S. dependence on foreign suppliers. Although a great number of American industry and Government leaders believe the United States is dependent in certain defense-related industries, there is no precise knowledge of what those areas are or the extent to which we are dependent on foreign suppliers for key weapons technologies. There is no single Governmentwide or for that matter DOD-wide system for gathering data that systematically reflects the extent to which defense contractors are dependent on materials provided by foreign sources. Our current knowledge is based on anecdotal information or ad hoc studies of the defense industrial base by Government and nongovernmental organizations. This is not acceptable and the provisions of this bill attempt to deal with it.

The amendments to the Defense Production Act in our bill address the problems I have just outlined. To improve the competitive position of domestic defense suppliers, the act provides the President authority to undertake peacetime projects to preserve and enhance the capacity and capabilities of segments of the Nation's overall industrial and technology base essential to the national defense. To achieve this end, our bill establishes a separate revolving fund to act as a stable source of financing for eligible projects which foster development or utilization of critical technologies. A revolving fund received strong support from both the public and private sectors. This fund is seen as an effective mechanism for reversing a long history of anemic and erratic financing for industrial resource projects.

The conference bill we are introducing also modifies the act's current offset reporting requirements. Section 309 of current law requires the President to annually prepare and submit a report on the impact of offsets on defense preparedness, industrial competitiveness, employment, and trade to the House and Senate Banking Committees. The provisions in the conference report bill are merely designed to improve data gathering procedures so that such reports will better address the effects of offsets on our defense industrial base and nondefense industry sectors, including the effects resulting from technology transfers.

In order to better identify and analyze areas of growing U.S. dependence on foreign suppliers for critical defense components and technology items, which I discussed earlier, the bill establishes a continuous data collection and analysis system with respect to the operations of defense contractors and subcontractors. Such a system has become increasingly necessary as technology development and high technology manufacturing have become global during the 1980's. To the extent the United States builds down its defense posture in response to the thawing of the cold war, our national security will rely increasingly on contingent military capabilities such as our existing industrial and technological potential. It is imperative that we know where our strengths and weaknesses lie in areas of the industrial base that would have to be mobilized to meet a national emergency.

Title IV of the conference bill which we are introducing today is designed to ensure that our financial institutions in foreign markets receive national treatment, that is an equality of competitive opportunity to compete with domestic firms. We treat foreign firms in our country the same as our domestic firms. We do not always receive similar treatment in some important foreign markets. We must give our negotiators strengthened authority to open foreign markets now effectively closed to our institutions. Title IV does so in a very nonthreatening way. Under its provisions Treasury and the banking and securities regulators are not required to take any actions against firms from countries that discriminate. They are required to negotiate with such countries. To strengthen Treasury's hand in any negotiations, the bill permits our banking and securities regulators, in consultation with the Treasury, to deny applications for regulatory approval filed by banking and securities firms from countries that discriminate against U.S. firms. Any denials would not force foreign financial firms to shrink their existing operations, but could limit their opportunities for future expansion. Before regulators could exercise their authority, however, the Secretary of the Treasury would have to publish in the Federal Register a determination that dis-

crimination against U.S. financial institutions is taking place in a given foreign country. Let me stress that no action is mandated by this legislation. This is totally discretionary legislation. The Treasury Secretary and the regulators have complete discretion under it whether to use the grant of authority being given to them and the regulators are expected to use this new authority only in full consultation with the Treasury Department.

New evidence of the Treasury Department's need for this type of leverage in negotiating to open financial markets is provided in its most recent national treatment study submitted to the Congress on December 1, 1990, as required by section 3601 of the Omnibus Trade Bill of 1988. In his letter transmitting the 1990 National Treatment Study to Congress, Secretary Brady noted that Canada and many European countries have made significant progress in removing barriers to full entry of U.S. financial firms but that "only modest progress has been made in many Asian economies [and] numerous Latin American countries still maintain restrictive financial systems." The report itself notes with regard to Japan that:

* * * despite modest improvements, a variety of factors have kept the Japanese banking market difficult to penetrate and the slow pace of liberalization and deregulation has provided domestic banks with an unfair competitive advantage over foreign banks both in Japan and globally * * * a number of factors including regulated interest rates, restrictive operating regulations, strong ties amoung related firms (keiretsu), excessive compartmentalization of financial markets, and lack of transparency effectively reduce foreign banks' competitive opportunities.

The report also noted with regard to Japan's securities market that:

* * * foreign firms have been excluded from the $400 billion investment trust (mutual funds) market * * *

Other restrictions on pension fund managers and securities firms mean, according to Treasury's report, that "full and easy access to the Japanese investor base and entire range of securities activities remains difficult" for foreign firms.

On January 29 the New York Times carried an article on the latest negotiations held between United States Treasury and Japanese Ministry of Finance officials about opening Japan's financial markets. According to the Times article the Japanese vice minister of finance warned United States officials that if Congress passed the Riegle/Garn Fair Trade in Financial Services Act and Treasury used the authorities provided in that bill to impose restrictions on the operation of Japanese financial firms in this country as leverage to get fair treatment for our firms there, then "Tokyo would respond by curbing credit to the United States * * *." It astounds me that a senior Japanese finance official believes Japanese banks should continue to enjoy opportunities to grow and expand in our market, where they already control 15 percent of all banking assets, but that our firms should continue to be bottled up in Japan, and that if we seek to give our negotiators more leverage to open up their markets they will drive interest rates up in our country. That sort of threat certainly gives us additional reasons to get our economic house in order. If we were not borrowing from Japan to finance our budget deficits, that country could not use this type of threat. Americans should not be in a position where we have to suffer discrimination without complaining lest if we complain we'll suffer greater mistreatment. This sort of threat makes me even more determined to get this title enacted into law as soon as possible and also makes me more convinced than ever that we must reduce our dependence on foreign capital.

The bill also includes an important study on the interdependence of capital markets. This report will give the Congress and administration needed information about the role of foreign financial institutions in our economy and the impact such growing foreign presence has on our monetary policy and national economic sovereignty. The report will also provide needed information about whether a loss of domestic market share by U.S. financial services firms will have a deleterious impact on certain of our high technology industries such as telecommunications and computers. Having an understanding of the synergies involved in these matters will better prepare us to make good public policy on them.

Let me conclude by saying that the bipartisan cooperation we achieved last year in both Houses of Congress in formulating the conference bill we are reintroducing today signals that there is a strong consensus to deal with the problem it addresses. I urge quick adoption of this bill and ask unanimous consent that the January 29 New York Times article I mentioned above be reprinted in full following my statement.

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

[From the New York Times, Jan. 29, 1991]

JAPAN'S STERN WARNING ON TRADE SANCTIONS

(By Clyde H. Farnsworth)

WASHINGTON, January 28.—A top Japanese Treasury official warned today that if the United States applied sanctions against his country because of slowness in opening financial markets, Tokyo would respond by curbing credit to the United States, creating a "very, very harmful" situation.

The warning by Makoto Utsumi, the Vice Minister of Finance for International Affairs, was considered unusually blunt, underscoring rising tensions in negotiations that Washington and Tokyo are holding over longstanding American demands for better access to Japanese financial markets for American financial institutions.

It has long been speculated that American sanctions against Japan could lead to Japanese reprisals in the financial sector. But rarely have Japanese officials spoken so openly about consequences for the United States.

DIFFERENCES NOT NARROWED

After a daylong meeting here, Mr. Utsumi and his American counterpart, David C. Mulford, the Under Secretary of the Treasury for International Affairs, failed to narrow any of their differences over the pace of Japanese financial services deregulation. No date was even set to continue negotiations.

Mr. Utsumi's remarks were delivered at a news conference with Mr. Mulford after the meeting. The meeting was a continuation of talks that began in 1984 to remove barriers in Japan's financial services industry.

The talks have assumed rising importance against the backdrop of a strong Congressional push for legislation that would impose sanctions and Bush Administration plans, expected to be announced soon, for reforming the nation's banking system.

The sanctions bill—introduced by Senator Donald W. Riegle, Jr. of Michigan, the chairman of the Senate Banking Committee, and Jake Garn of Utah, its ranking Republican—would authorize regulators to deny bids for expansion in the United States by financial institutions based in countries that bar American companies from comparable competitive opportunities.

The bill is aimed mainly at Japan, which despite some changes over the years, still maintains an elaborate web of laws and practices that Washington believes keeps foreign banks and securities firms from competing on equal terms with the Japanese.

American officials assert, for example, that controls over interest rates allow Japanese banks to compete more successfully for money, giving them substantial advantages when they expand overseas, like in the United States.

NO BUSH SUPPORT

But the Bush Administration opposes the Riegle-Garn legislation, saying that narrow reciprocity as a principle of trade policy would lead to escalating retaliation.

Mr. Mulford told reporters today that the United States was trying to get Japan to "address the changing environment with regard to rising Congressional concerns about deregulation and access in Japan." He spoke of "new forces that could result in a substantial politicization of the process unless there could be very rapid progress in Japan."

Responding to questions about the Riegle-Garn legislation, which almost cleared the last session of Congress and was recently reintroduced, Mr. Utsumi noted pointed that the United States "is experiencing a credit crunch."•

• Mr. GARN. Mr. President, today I join my colleagues on the Banking Committee in reintroducing the conference report 101-933, the Defense Production Act Amendments of 1990. At the end of the 101st Congress, the report passed the House but failed to pass the Senate because of administration and Member objections to several procurement and reporting provisions. I believe that these objections can be worked out with the administration in the near future.

The most important issue addressed by this bill is reinstatement of basic

DPA authorities. The authorities that lapsed in October are needed to ensure full authority for the President to support the war in the Middle East. The conference report also contains important improvements in the law, as requested by the Department of Energy, to help deal with possible disruptions of world energy supplies. The war in the Middle East has now made these authorities extremely critical.

Title 4 of the conference report also incorporates the Fair Trade in Financial Services Act that is intended to give the Treasury negotiating leverage to open up markets for U.S. financial services companies where they are now being denied "national treatment," or equal market access. This is an approach that I have long favored and which is badly needed in light of the Treasury's most recent national treatment study.

I hope that the bill can be taken up soon and that the problems that delayed its adoption last year can be quickly resolved.●

● Mr. DIXON. Mr. President, I rise to introduce the Defense Production Act Amendments of 1991, a comprehensive bill to modernize and strengthen the Defense Production Act of 1950 to meet today's, and tomorrow's, challenges. The bill extends the President's enhanced authorities under the act through September 30, 1993. Today's events convince me that the Senate needs to give prompt and favorable consideration to this legislation.

Following the introduction of this comprehensive bill, I hope the Senate will agree to a unanimous consent request permitting the Senate to consider and pass a short-term extension of the act's current authorities through March 18, 1991.

During its 40-year history, the Defense Production Act has provided to the President an array of authorities with which to mobilize the Nation's productive capacities for national defense purposes, especially during times of national emergency. Provisions of the act are used during peacetime to give priority to contracts for essential national defense requirements. The demands of Operation Desert Shield, and now Operation Desert Storm, have vividly displayed the importance of the authorities provided by the Defense Production Act. Until its authorities expired on October 20, 1990, the Defense Production Act provided to the President and the Secretary of Defense an important tool, possibly even an essential tool, to assure that our forces deployed in the Persian Gulf have the equipment that they need to effectively confront aggression, countering conventional as well as chemical threats.

Unfortunately, the authorities provided to the President by the Defense Production Act were permitted to lapse in the closing hours of the 101st Congress. Representatives of the administration raised a series of concerns that prevented the Senate's consideration of the conference report accompanying the Defense Production Act Amendments of 1990, H.R. 486, which had been filed on October 23 and approved by the House on October 25.

The conference report was a balanced accommodation between the Senate's version of the Defense Production Act Amendments of 1990, S. 1379, which I introduced on July 24, 1989, and the House version, H.R. 486, introduced by Representative MARY ROSE OAKAR on January 4, 1989. Both bills were closely reviewed by Senate and House Banking Committees, which have jurisdiction over the Defense Production Act. Seven hearings were conducted by the Senate Banking Committee. The House Banking Committee conducted 10 hearings through its Subcommittee on Economic Stabilization, chaired by Representative OAKAR.

Both bills were favorably reported by both committees. In the Senate, we worked very closely with the Committee on Armed Services and the Committee on the Judiciary to fashion a measure that accommodated their concerns. The House and Senate versions of the Defense Production Act Amendments of 1990 were ultimately approved unanimously by the full House of Representatives and the Senate.

Throughout the Senate's consideration of S. 1379, Mr. President, this Senator worked hard to accommodate the concerns of the administration. This cooperation extended throughout the legislative process, addressing concerns informally expressed as well as those highlighted in the administration's "Statement of Policy" issued at the time S. 1379 was considered by the full Senate.

I believe that the spirit of cooperation extended into, and persisted throughout, the conference between the House and the Senate. Representatives of the administration were informally provided access to the conference report as it evolved. They were permitted opportunities to express their concerns with provisions that had their origins in either the Senate bill or the House bill. Numerous changes were made.

Mr. President, many of the conferees, this Senator included, thought that the conference report had not only met our objectives but also was generally acceptable to the administration. Apparently, this was not the case. As I said, Senate consideration of the conference report was blocked, but nonetheless good faith efforts continued to find a resolution. Concerns expressed by the Department of Defense relating to the bill's system for the collection of information on the defense industrial base were adjusted to ease the implementational burdens. Other changes were made.

But in the end, the conference report fell because a senior economic adviser to the President and certain Treasury Department officials maintained that the bill contained provisions that looked "protectionist" and smacked on the beginnings of an "industrial policy" for the United States.

For example, one of the sticking points was a provision sponsored by my good friend from Pennsylvania, Mr. HEINZ, the principal cosponsor of the Senate bill, that would provide the President with additional authority to assure a domestic source for critical components needed for the production, operation, or maintenance of weapon systems essential to execute the national defense strategy of the United States.

With the globalization of high technology trade, and deliberate U.S. policies to cooperate with our allies with respect to defense equipment, dependence on foreign source for critical components is rapidly becoming a reality that cannot simply be ignored. This provision provided a beneficial tool to address this problem. The very availability of this tool to the President was deemed unacceptable.

The bill I am introducing today reflects the text of the conference report as well as some of the modifications to address legitimate implementational concerns expressed by representatives of the Department of Defense. I am pleased to be joined by the chairman and ranking minority member of the committee, Senator REIGLE and Senator GARN, as well as Senators HEINZ, SARBANES, DODD, SASSER, and D'AMATO.

Mr. President, I ask unanimous consent that the text of the Defense Production Act Amendments of 1991 be printed in the RECORD following my statement.

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

S. 347

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Defense Production Act Amendments of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950
PART A—DECLARATION OF POLICY
Sec. 101. Declaration of policy.
PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT
Sec. 111. Strengthening of domestic capability.
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PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT
Sec. 121. Expanding the reach of existing authorities under title III.

Sec. 122. Defense Production Act Fund.
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PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT
Sec. 131. Small business.
Sec. 132. Definitions.
Sec. 133. Delegation of authority; appointment of personnel.
Sec. 134. Regulations and orders.
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Sec. 151. Synthetic fuel action.
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Sec. 157. National Commission on Supplies and Shortages.
PART G—REAUTHORIZATION OF SELECTED PROVISIONS
Sec. 161. Authorization of appropriations.
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TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS
PART A—ENCOURAGING IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE
Sec. 201. Procurement of critical components and critical technology items.
Sec. 202. Recognition of modernized production systems and equipment in contract award and administration.
Sec. 203. Sustaining investment.
PART B—MISCELLANEOUS
Sec. 211. Discouraging unfair trade practices.
TITLE III—AMENDMENT TO RELATED LAWS
Sec. 301. Energy security.
TITLE IV—FAIR TRADE IN FINANCIAL SERVICES
Sec. 401. Short title.
Sec. 402. Effectuating the principle of national treatment for banks and bank holding companies.
Sec. 403. Effectuating the principle of national treatment for securities brokers and dealers.
Sec. 404. Effectuating the principle of national treatment for investment advisers.
Sec. 405. Financial interdependence study.
Sec. 406. Conforming amendments specifying that national treatment includes effective market access.
TITLE V—EFFECTIVE DATES
Sec. 501. Effective dates.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

SEC. 101. DECLARATION OF POLICY.

Section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended to read as follows:

"SEC. 2. DECLARATION OF POLICY.

"(a)(1) The vitality of the industrial and technology base of the United States is a foundation of national security. It provides the industrial and technological capabilities employed to meet national defense requirements, in peacetime and in time of national emergency. In peacetime, the health of the industrial and technological base contributes to the technological superiority of our defense equipment, which is a cornerstone of our national security strategy, and the efficiency with which defense equipment is developed and produced. In times of crisis, a healthy industrial base will be able to effectively provide the graduated response needed to effectively meet the demands of the emergency.

"(2) To meet these requirements, this Act affords to the President an array of authorities to shape defense preparedness programs and to take appropriate steps to maintain and enhance the defense industrial and technological base.

"(b)(1) In view of continuing international problems, the Nation's demonstrated reliance on imports of materials and components, and the need for measures to reduce defense production lead times and bottlenecks, and in order to provide for the national defense and national security, our defense mobilization preparedness effort continues to require the development of preparedness programs, domestic defense industrial base improvement measures, as well as provision for a graduated response to any threatening international or military situation, and the expansion of domestic productive capacity beyond the levels needed to meet the civilian demand. Also required is some diversion of certain materials and facilities from civilian use to military and related purposes.

"(2) These activities are needed in order to improve domestic defense industrial base efficiency and responsiveness, to reduce the time required for industrial mobilization in the event of an attack on the United States or to respond to actions occurring outside the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which could adversely affect national defense preparedness of the United States. In order to ensure national defense preparedness, which is essential to national security, it is also necessary and appropriate to assure the availability of domestic energy supplies for national defense needs.

"(c)(1) In order to ensure productive capacity in the event of an attack on the United States, it is the policy of the Congress to encourage the geographical dispersal of industrial facilities in the United States to discourage the concentration of such productive facilities within limited geographical areas which are vulnerable to attack by an enemy of the United States. To ensure that essential mobilization requirements are met, consideration should also be given to stockpiling strategic materials to the extent that such stockpiling is economical and feasible.

"(2) In the construction of any Government-owned industrial facility, in the rendition of any Government financial assistance for the construction, expansion, or improvement of any industrial facility, and in the production of goods and services, under this or any other Act, each department and agency of the executive branch shall apply, under the coordination of the Federal Emergency Management Agency, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of the geographical dispersal of such facilities in the interest of national defense. However, nothing in this paragraph shall preclude the use of existing industrial facilities.

"(3) To ensure the adequacy of productive capacity and supply, executive agencies and departments responsible for defense acquisition shall continuously assess the capability of the domestic defense industrial base to satisfy peacetime requirements as well as increased mobilization production requirements. Such assessments shall specifically evaluate the availability of adequate production sources, including subcontractors and suppliers, materials, and skilled labor, and professional and technical personnel.

"(4) It is the policy of the Congress that plans and programs to carry out this declaration of policy shall be undertaken with due consideration for promoting efficiency and competition.

"(5) It is also necessary to recognize that—

"(A) the domestic defense industrial base is a component part of the core industrial capacity of the Nation; and

"(B) much of the industrial capacity which is relied upon by the Federal Government for military production and other defense-related purposes is deeply and directly influenced by—

"(i) the overall competitiveness of the United States industrial economy; and

"(ii) the ability of United States industry, in general, to produce internationally competitive products and operate profitably while maintaining adequate research and development to preserve that competitive edge in the future, with respect to military and civilian production.

"(6)(A) The domestic defense industrial base is developing a growing dependency on foreign sources for critical components and materials used in manufacturing and assembling major weapons systems for our national defense.

"(B) This dependence is threatening the capability of many critical industries to respond rapidly to defense production needs in the event of war or other hostilities or diplomatic confrontation.

"(C) The inability of United States industry, especially smaller subcontractors and suppliers, to provide vital parts and components and other materials would impair our ability to sustain our Armed Forces in combat for more than a few months.

"(D) In the event our Armed Forces must face an adversary with a numerical advantage, in the context of a conventional war, it is imperative to preserve and strengthen the industrial and technological capabilities of the United States.".

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

SEC. 111. STRENGTHENING OF DOMESTIC CAPABILITY.

Title I of the Defense Production Act of 1950 (50 U.S.C. App. 2071, et seq.) is amended by adding at end the following new section:

"SEC. 107. STRENGTHENING OF DOMESTIC CAPABILITY.

"(a) IN GENERAL.—To assure availability of critical components and critical technology items essential for the execution of the national security strategy of the United States in peacetime and during graduated mobilization, the President shall take action to implement the requirements of subsection (b)(3) within a 5-year period.

"(b) DOMESTIC PRODUCTION OF CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.—

"(1) ESSENTIAL WEAPON SYSTEMS.—

"(A) DESIGNATION.—The President, acting through the Secretary of Defense, shall review the inventory of weapon systems and defense equipment and designate as an essential weapon system those items deemed appropriate.

"(B) MAINTENANCE OF LIST.—The President shall maintain a list of such weapon systems and other items of military equipment.

"(2) CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.—

"(A) DESIGNATION.—The President, acting through the Secretary of Defense, shall identify critical components, and critical technology items, including those relating to essential weapon systems, utilizing information from the Defense Industrial Base Information System established pursuant to section 722(a) of this Act and other appropriate sources.

"(B) MAINTENANCE OF LIST.—The President shall cause an unclassified list of critical or emerging technologies to be maintained and published at least annually in the Federal Register.

"(3) RELIANCE ON DOMESTIC SOURCES.—

"(A) IN GENERAL.—To assure adequate domestic sources for critical components and critical technology items to meet national security requirements, including those relating to essential weapon systems, the President is authorized to limit procurement of such items to domestic sources.

"(B) AUTHORITY.—The authority under subparagraph (A) may be exercised pursuant to—

"(i) section 2304(c)(3) of title 10, United States Code;

"(ii) section 303(c)(3) of the Federal Property and Administrative Services Act of 1949; or

"(iii) any other provision of law (including section 201 of the Defense Production Act Amendments of 1990).

"(4) CRITICAL INDUSTRIES FOR NATIONAL SECURITY.—The President shall cause—

"(A) a list to be maintained containing any industry (or industry sector) identified or designated as a critical industry for national security; and

"(B) an unclassified version of such list to be published at least annually in the Federal Register.

"(c) USE OF TITLE III AUTHORITIES TO DEVELOP DOMESTIC CAPACITY.—Pursuant to authorities provided by title III of this Act or any other provision of law, the President may provide appropriate incentives to develop, maintain, modernize, or expand the productive capacities of domestic sources for critical components, critical technology items, or industrial resources within an industry essential for national security.

"(d) ASSISTANCE FOR MODERNIZATION.—

"(1) MODERNIZATION OF EQUIPMENT.—Funds authorized under title III may be used to guarantee the purchase or lease of advanced manufacturing equipment, and any related service with respect to such equipment, for purposes of this Act.

"(2) SMALL BUSINESSES.—In providing any assistance pursuant to title III of this Act, the President shall accord a strong preference for projects to be undertaken by business concerns which are small business concerns, in accordance with section 3 of the Small Business Act, who perform as contractors or subcontractors in a critical industry for national security.

"(e) STOCKPILING OF CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.—The President, acting through the Secretary of Defense, is authorized to stockpile appropriate supplies of critical components and critical technology items to meet the needs of the Department of Defense and the production needs of firms furnishing essential weapon systems to the Department during peacetime and various stages of graduated mobilization, whenever it is determined that necessary quantities of such items cannot be obtained from domestic sources.

"(f) REPORT.—

"(1) IN GENERAL.—The President shall transmit to the Congress by January 31 of each odd-numbered year a report on actions taken to preserve and revitalize the domestic defense industrial base, as described in paragraph (2).

"(2) CONTENT.—The report required by paragraph (1) shall contain, in addition to such matters as the President deems appropriate—

"(A) a detailed description of the specific actions taken, or to be taken, to implement the requirements of—

"(i) paragraphs (1), (2), and (3) of subsection (b);

"(ii) subsection (c); and

"(iii) subsection (e); and

"(B) an assessment of the capability of the domestic defense industrial base to meet the requirements of various stages of a graduated mobilization for a period of 6 months.

"(g) COORDINATION WITH MEMORANDA OF UNDERSTANDING.—

"(1) QUALIFICATION FOR PERMITTED EXCLUSION.—Actions taken pursuant to the authority of subsection (b)(3) shall qualify for any exclusion permitted by an existing memorandum of understanding (including memoranda relating to a specific project or the general conduct of procurement activities between the signatories) for the purposes of maintaining defense mobilization capabilities.

"(2) PRESIDENTIAL AUTHORITY.—The President is authorized, at his discretion, to seek to modify any existing or future memorandum of understanding to give effect to any action taken pursuant to the authority of subsection (b)(3).".

SEC. 112. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

Section 104 of the Defense Production Act of 1950 (50 U.S.C. App. 2074) is amended to read as follows:

"SEC. 104. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

"(a) WAGE OR PRICE CONTROLS.—No provision of this Act shall be interpreted as providing for the imposition of wage or price controls without the prior authorization of such action by a joint resolution of Congress.

"(b) CHEMICAL OR BIOLOGICAL WEAPONS.—No provision of this Act shall be exercised or interpreted to require action or compliance by any private person to assist in any way in the production of or other involvement in chemical or biological warfare capabilities except—

"(1) in time of war, or

"(2) in time of national emergency (A) as declared by joint resolution of Congress, or (B) upon the written authorization of the President, which power to authorize may not be delegated.".

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

SEC. 121. EXPANDING THE REACH OF EXISTING AUTHORITIES UNDER TITLE III.

(a) GUARANTEE AUTHORITY.—Section 301 of the Defense Production Act of 1950 (50 U.S.C. App. 2091) is amended—

(1) in subsection (a)(1), by striking "to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense" and inserting "to expedite or expand production and deliveries or services under Government contracts for the procurement of industrial resources or critical technology items essential for the national defense";

(2) by amending subsection (a)(3)(A) to read as follows:

"(A) the guaranteed contract or operation is for industrial resources or a critical technology item which is essential to the national defense;";

(3) in subsection (a)(3)(B), by striking "the capability for the needed material or service" and inserting "the needed industrial resources or critical technology item";

(4) in subsection (e)(1)(A), by striking "Except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in subparagraph (D)";

(5) in subsection (e)(1)(C), by striking "$25,000,000" and inserting "$50,000,000"; and

(6) by adding at the end of subsection (e)(1) the following new subparagraph:

"(D) The requirements of subparagraphs (A), (B), and (C) may be waived during periods of national emergency declared by Congress or the President.".

(b) LOANS TO PRIVATE BUSINESS ENTERPRISES.—Section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended—

(1) in subsection (a), by striking "for the procurement of materials or the performance of services for the national defense" and inserting "for the procurement of industrial resources or a critical technology item for the national defense";

(2) in subsection (c)(1), by striking "No such loans may be made under this section, except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in paragraph (4), no loans may be made under this section";

(3) in subsection (c)(3), by striking "$25,000,000" and inserting "$50,000,000"; and

(4) in subsection (c), by adding at the end the following new paragraph:

"(4) The requirements of paragraphs (1), (2), and (3) of this subsection may be waived during periods of national emergency declared by Congress or the President.".

(c) PURCHASES AND PURCHASE COMMITMENTS.—

(1) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended to read as follows:

"(a)(1) To assist in carrying out the objectives of this Act, the President may make provision—

"(A) for purchases of or commitments to purchase an industrial resource or a critical technology item, for Government use or resale; and

"(B) for the encouragement of exploration, development, and mining of critical and strategic materials, and other materials.

"(2) Purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced except insofar as such domestically produced supply may be purchased for resale for industrial use or stockpiling.

"(3) No commodity purchased under this subsection shall be sold at less than—

"(A) the established ceiling price for such commodity, except that minerals, metals, and materials shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower, or

"(B) if no ceiling price has been established, the higher of—

"(i) the current domestic market price for such commodity; or

"(ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation as provided in section 407 of the Agricultural Act of 1949.

"(4) No purchase or commitment to purchase any imported agricultural commodity shall specify a delivery date which is more than one year after the expiration of this section.

"(5) Except as provided in paragraph (7), the President may not execute a contract under this subsection unless the President determines that—

"(A) the industrial resource or critical technology item is essential to the national defense;

"(B) without Presidential action under authority of this section, United States industry cannot reasonably be expected to provide the capability for the needed industrial resource or critical technology item in a timely manner;

"(C) purchases, purchase commitments, or other action pursuant to this section are the most cost-effective, expedient, and practical alternative method for meeting the need; and

"(D) the United States national defense demand for the industrial resource or critical technology item is equal to, or greater than the output of domestic industrial capability which the President reasonably determines to be available for national defense, including the output to be established through the purchase, purchase commitment, or other action.

"(6) Except as provided in paragraph (7), the President shall take no action under this section unless the industrial resource shortfall which such action is intended to correct has been identified in the Budget of the United States or amendments thereto, submitted to the Congress and accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of the preceding sentence. Any such action may be taken only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to the preceding sentence. If the taking of any action or actions under this section to correct an industrial resource shortfall would cause the aggregate outstanding amount of all such actions for such industrial resource shortfall to exceed $50,000,000, any such action or actions may be taken only if specifically authorized by law.

"(7) The requirements of paragraphs (1) through (6) may be waived during periods of national emergency declared by Congress or the President.".

(2) Section 303(b) of such Act is amended by striking "September 30, 1995" and inserting "a date that is not more than 10 years from the date such purchase, purchase commitment, or sale was initially made".

SEC. 122. DEFENSE PRODUCTION ACT FUND.

Section 304 of the Defense Production Act of 1950 (50 U.S.C. App. 2094) is amended to read as follows:

"SEC. 304. DEFENSE PRODUCTION ACT FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known as the Defense Production Act Fund (hereafter in this section referred to as 'the Fund').

"(b) MONEYS IN FUND.—The following moneys shall be credited to the Fund:

"(1) All moneys appropriated after October 19, 1990, for the Fund, as authorized by section 711(c).

"(2) All moneys received after October 19, 1990, on transactions entered into pursuant to section 303.

"(c) USE OF FUND.—The Fund shall be available to carry out the provisions and purposes of this title, subject to the limitations set forth in this Act and in appropriations Acts.

"(d) DURATION OF FUND.—Moneys in the Fund shall remain available until expended.

"(e) FUND BALANCE.—The Fund balance at the close of each fiscal year shall not exceed $250,000,000, excluding any moneys appropriated to the Fund during that fiscal year or obligated funds. If at the close of any fiscal year the Fund balance exceeds such amount, the amount in excess of $250,000,000 shall be paid into the general fund of the Treasury.

"(f) FUND MANAGER.—The Secretary of the Treasury shall designate a Fund manager. The duties of the Fund manager shall include—

"(1) determining the liability of the Fund in accordance with subsection (g);

"(2) ensuring the visibility and accountability of transactions engaged in through the Fund to the Secretaries of Defense, Treasury, and Commerce, and to the Congress; and

"(3) reporting to Congress each year regarding fund activities during the previous fiscal year.

"(g) LIABILITIES AGAINST FUND.—

"(1) IN GENERAL.—When any agreement entered into pursuant to this title after December 31, 1990, imposes contingent liabilities upon the United States, such liability shall be considered an obligation against the Fund. The total amount of such obligations shall be determined for each fiscal year in accordance with paragraph (2).

"(2) DETERMINATION OF LIABILITY.—For purposes of paragraph (1), the total amount of obligations against the Fund is the amount which is equal to—

"(A) the aggregate outlays required by purchase or purchase commitment contracts or financing agreements; minus

"(B) the sum of—

"(i) the anticipated aggregate receipts from resale of materials purchased with moneys from the Fund; and

"(ii) the anticipated receipts from the direct sale of materials by the producer to customers.

"(3) TREATMENT OF ANTICIPATED RECEIPTS AND REDUCTIONS.—Anticipated receipts and anticipated reductions in purchase commitments shall be included under paragraph (2) only if a written plan for sale of materials has been developed, specifying probable customers, amount, time of the sales, and sales price.".

SEC. 123. OFFSET POLICY.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by adding a new subsection (a) as follows:

"(a) OFFSET POLICY.—

"(1) IN GENERAL.—Recognizing that certain offsets for military exports are economically inefficient and market distorting, and mindful of the need to minimize the adverse effects of offsets in military exports while ensuring that the ability of United States firms to compete for military export sales is not undermined, it shall be the policy of the United States Government that—

"(A) no agency of the United States Government shall encourage, enter directly into, or commit United States firms to any offset arrangement in connection with the sale of defense goods or services to foreign governments;

"(B) United States Government funds shall not be used to finance offsets in security assistance transactions except in accordance with policies and procedures that were in existence as of October 20, 1990;

"(C) nothing in this section shall prevent agencies of the United States Government from fulfilling obligations incurred through international agreements entered into before October 20, 1990; and

"(D) the decision whether to engage in offsets, and the responsibility for negotiating and implementing offset arrangements, resides with the companies involved.

"(2) PRESIDENTIAL APPROVAL OF EXCEPTIONS.—The President may approve an exception to the policy stated by paragraph (1) after receiving the recommendation of the National Security Council.

"(3) CONSULTATION.—The President shall designate the Secretary of Defense, in coordination with the Secretary of State, to lead an interagency team to consult with foreign nations on limiting the adverse effects of offsets in defense procurement. The President shall transmit an annual report on the results of these consultations to the Congress as part of the report required under subsection (b).".

SEC. 124. ANNUAL REPORT ON IMPACT OF OFFSETS.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) (as amended by section 123 of this Act) is amended—

(1) in subsection (b) (as so redesignated by section 123(1) of this part)—

(A) by striking "(b) REPORT REQUIRED.—Not later" and inserting:

"(b) ANNUAL REPORT ON IMPACT OF OFFSETS.—

"(1) REPORT REQUIRED.—Not later";

(B) by striking the second sentence; and

(C) by adding at the end the following new paragraph:

"(2) DUTIES OF THE SECRETARY OF COMMERCE.—The Secretary of Commerce shall—

"(A) prepare the report required by paragraph (1);

"(B) consult with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative in connection with the preparation of such report; and

"(C) function as the President's Executive Agent for carrying out the requirements of this section.";

(2) by amending subsection (c) (as so redesignated by section 123(1) of this part) to read as follows:

"(c) INTERAGENCY STUDIES AND RELATED DATA.—

"(1) PURPOSE OF REPORT.—Each report required under subsection (b) shall identify the cumulative effects (indirect as well as direct) of offset agreements on—

"(A) the full range of domestic defense productive capability (with special attention to the firms serving as lower-tier subcontractors or suppliers); and

"(B) the domestic defense technology base as a consequence of the technology transfers associated with such offset agreements.

"(2) USE OF DATA.—Data developed or compiled by any agency while conducting any interagency study or other independent study or analysis shall be made available to the Secretary of Commerce to facilitate the Secretary in executing the Secretary's responsibilities with respect to trade offset and countertrade policy development."; and

(3) by adding at the end the following new subsections:

"(d) NOTICE OF OFFSET AGREEMENTS.—

"(1) IN GENERAL.—If a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset agreement exceeding $5,000,000 in value, such firm shall furnish to the official designated in the regulations promulgated pursuant to paragraph (2) information concerning such sale.

"(2) REGULATIONS.—The information to be furnished shall be prescribed in regulations promulgated by the Secretary of Commerce. Such regulations shall provide protection from public disclosure for such information, unless public disclosure is subsequently specifically authorized by the firm furnishing the information. Nothing in this paragraph authorizes the withholding of such information from the Congress.

"(e) CONTENTS OF REPORT.—

"(1) IN GENERAL.—Each report under subsection (b) shall include—

"(A) a net assessment of the elements of the industrial base and technology base covered by the report;

"(B) recommendations for appropriate remedial action under the authorities provided by this Act, or other law or regulations;

"(C) a summary of the findings and recommendations of any interagency studies conducted during the reporting period under subsection (c);

"(D) a summary of offset arrangements concluded during the reporting period for which information has been furnished pursuant to subsection (d); and

"(E) a summary and analysis of any bilateral and multilateral negotiations relating to use of offsets completed during the reporting period.

"(2) ALTERNATIVE FINDINGS OR RECOMMENDATIONS.—Each report shall include any alternative findings or recommendations offered by any departmental Secretary, agency head, or the United States Trade Representative to the Secretary of Commerce.

"(f) UTILIZATION OF ANNUAL REPORT IN NEGOTIATIONS.—The findings and recommendations of the reports required by subsection (b), and any interagency reports and analyses shall be considered by representatives of the United States during bilateral and multilateral negotiations to minimize the adverse effects of offsets.".

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

SEC. 131. SMALL BUSINESS.

Section 701 of the Defense Production Act of 1950 (50 U.S.C. App. 2151) is amended to read as follows:

"SEC. 701. SMALL BUSINESS.

"(a) PARTICIPATION.—Small business concerns shall be given the maximum practicable opportunity to participate as contractors, and subcontractors at various tiers, in all programs to maintain and strengthen the Nation's industrial base and technology base undertaken pursuant to this Act.

"(b) ADMINISTRATION OF ACT.—In administering the programs, implementing regulations, policies, and procedures under this Act, requests, applications, or appeals from small business concerns shall, to the maximum extent practicable, be expeditiously handled.

"(c) ADVISORY COMMITTEE PARTICIPATION.—Representatives of small business concerns shall be afforded the maximum opportunity to participate in such advisory committees as may be established pursuant to the provisions of this Act.

"(d) INFORMATION.—Information about the Act and activities under the Act shall be made available to small business concerns.

"(e) ALLOCATIONS UNDER SECTION 101.—Whenever the President makes a determination to exercise any authority to allocate any material pursuant to section 101 of this Act, small business concerns shall be accorded, so far as practicable, a fair share of such material, in proportion to the share received by such business concerns under normal conditions, giving such special consideration as may be possible to new small business concerns or individual firms facing undue hardship.".

SEC. 132. DEFINITIONS.

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended to read as follows:

"SEC. 702. DEFINITIONS.

As used in this Act—

"(1) CRITICAL COMPONENT.—The term 'critical component' includes such components, subsystems, systems, and related special tooling and test equipment essential to the production, repair, maintenance, or operation of weapon systems or other items of military equipment as are identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States.

"(2) CRITICAL INDUSTRY FOR NATIONAL SECURITY.—The term 'critical industry for national security' means any industry (or industry sector) identified pursuant to section 2503(6) of title 10, United States Code, and such other industries or industry sectors as may be designated by the President as essential to provide industrial resources required for the execution of the national security strategy of the United States.

"(3) CRITICAL TECHNOLOGY.—The term 'critical technology' includes any technology that is included in 1 or more of the plans submitted pursuant to section 2508 of title 10, United States Code (unless subsequently deleted), or such other emerging or dual use technology as may be designated by the President.

"(4) CRITICAL TECHNOLOGY ITEM.—The term 'critical technology item' shall mean materials directly employing, derived from, or utilizing a critical technology.

"(5) DEFENSE CONTRACTOR.—The term 'defense contractor' means any person who enters into a contract with the United States to furnish materials, industrial resources, or a critical technology, or to perform services for the national defense.

"(6) DOMESTIC DEFENSE INDUSTRIAL BASE.—The term 'domestic defense industrial base' means domestic sources which are providing, or which would be reasonably expected to provide, materials or services to meet national defense requirements during war or national emergency.

"(7) DOMESTIC SOURCE.—The term 'domestic source' means a business entity—

"(A) that performs in the United States or Canada substantially all of the research and development, engineering, manufacturing, and production activities required of such firm under a contract with the United States relating to a critical component or a critical technology item, and

"(B) that procures from entities described in subparagraph (A) substantially all of the components and assemblies required under a contract with the United States relating to a critical component or critical technology item.

"(8) ESSENTIAL WEAPON SYSTEM.—The term 'essential weapon system' shall mean a major weapon system and other items of military equipment identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States.

"(9) FACILITIES.—The term 'facilities' includes all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use of any such building, structure, or other improvement.

"(10) FOREIGN SOURCE.—The term 'foreign source' means a business entity other than a 'domestic source'.

"(11) INDUSTRIAL RESOURCES.—The term 'industrial resources' means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) needed to establish or maintain an efficient and modern national defense industrial capacity.

"(12) MATERIALS.—The term 'materials' includes—

"(A) any raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, and items of supply; and

"(B) any technical information or services ancillary to the use of any such materials, commodities, articles, components, products, or items.

"(13) NATIONAL DEFENSE.—The term 'national defense' means programs for military and energy production or construction, military assistance to any foreign nation, stockpiling, space, and any directly related activity.

"(14) PERSON.—The term 'person' includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof.

"(15) SERVICES.—The term 'services' includes any effort that is needed or incidental to—

"(A) the development, production, processing, distribution, delivery, or use of an industrial resource or a critical technology item, or

"(B) the construction of facilities.".

SEC. 133. DELEGATION OF AUTHORITY; APPOINTMENT OF PERSONNEL.

Section 703 of the Defense Production Act of 1950 (50 U.S.C. App. 2153) is amended to read as follows:

"SEC. 703. DELEGATION AND CIVILIAN PERSONNEL.

"(a) DELEGATION OF AUTHORITY.—Except as otherwise specifically provided, the President may—

"(1) delegate any power or authority of the President under this Act to any civilian officer of the Government appointed by and with the advice and consent of the Senate;

"(2) except with regard to title I, authorize redelegation by that officer to an officer or employee of that officer who—

"(A) if a member of the armed forces, is a general or flag officer; or

"(B) if a civilian, is serving in a position in the grade GS–16 or above (or in a comparable or higher position under any other schedule for civilian officers or employees);

"(3) delegate only to an individual described in paragraph (1) the authority to establish policies and procedures for exercising authority under title I; and

"(4) establish such new agencies as may be necessary to manage Federal emergency preparedness programs.

"(b) CIVILIAN PERSONNEL.—Any officer or agency head may appoint civilian personnel without regard to section 5331(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may fix the rate of basic pay for such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule, as the President deems appropriate to carry out the provisions of this Act.".

SEC. 134. REGULATIONS AND ORDERS.

Section 704 of the Defense Production Act of 1950 (50 U.S.C. App. 2154) is amended to read as follows:

"SEC. 704. REGULATIONS AND ORDERS.

"Subject to section 709, the President may prescribe such regulations and issue such orders as the President may determine to be appropriate to carry out the provisions of this Act.".

SEC. 135. TECHNICAL AMENDMENTS RESTORING ANTITRUST IMMUNITY FOR EMERGENCY ACTIONS INITIATED BY THE PRESIDENT.

Section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158) is amended—

(1) in subsection (a), by striking "and subsection (j) of section 708A";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) DEFINITIONS.—For purposes of this Act—

"(1) ANTITRUST LAWS.—The term 'antitrust laws' has the meaning given to such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

"(2) PLAN OF ACTION.—The term 'plan of action' means any of 1 or more documented methods adopted by participants in an existing voluntary agreement to implement that agreement.";

(3) in subsection (c)(1)—

(A) by striking "Except as otherwise provided in section 708A(o), upon" and inserting "Upon"; and

(B) by inserting "and plans of action" after "voluntary agreements";

(4) in subsection (c)(2), by striking the last sentence;

(5) in the 2d sentence of subsection (d)(1)—

(A) by inserting "and except as provided in subsection (n)" after "specified in this section"; and

(B) by striking ", and the meetings of such committees shall be open to the public";

(6) in subsection (d)(2), by striking out "section 552(b)(1) and (b)(3)" and inserting "paragraphs (1), (3), and (4) of section 552(b)";

(7) in subsection (e)(1), by inserting "and plans of action" after "voluntary agreements";

(8) in subsection (e)(3)(D), by striking "subsection (b)(1) or (b)(3) of section 552" and inserting "section 552b(c)";

(9) in subsection (e)(3)(F)—

(A) by striking "General and to" and inserting "General, the"; and

(B) by inserting ", and the Congress" before the semicolon;

(10) in subsection (e)(3)(G), by striking "subsections (b)(1) and (b)(3) of section 552" and inserting "paragraphs (1), (3), and (4) of section 552(b)";

(11) in subsections (f) and (g)—

(A) by inserting "or plan of action" after "voluntary agreement" each place such term appears; and

(B) by inserting "or plan" after "the agreement" each place such term appears;

(12) in subsection (f)(1)(A) (as amended by paragraph (11) of this subsection) by inserting "and submits a copy of such agreement or plan to the Congress" before the semicolon;

(13) in subsection (f)(1)(B) (as amended by paragraph (11) of this subsection) by inserting "and publishes such finding in the Federal Register" before the period.

(14) in subsection (f)(2) (as amended by paragraph (11) of this subsection) by inserting "and publish such certification or finding in the Federal Register" before ", in which case";

(15) in subsection (h)—

(A) by inserting "and plans of action" after "voluntary agreements";

(B) by inserting "or plan of action" after "voluntary agreement" each place such term appears;

(C) by striking "and at the end of paragraph (9);

(D) by striking the period at the end of paragraph (10) and inserting "; and"; and

(E) by adding at the end the following new paragraph:

"(11) that the individual designated by the President in subsection (c)(2) to administer the voluntary agreement or plan of action shall provide prior written notification of the time, place, and nature of any meeting to carry out a voluntary agreement or plan of action to the Attorney General, the Chairman of the Federal Trade Commission, and the Congress.";

(16) in subsection (h)(3), by striking "subsections (b)(1) and (b)(3) of section 552" and inserting "paragraph (1), (3), or (4) of section 552(b)"; and

(17) in paragraphs (7) and (8) of subsection (h), by striking "subsection (b)(1) or (b)(3) of section 552" and inserting "section 552b(c)";

(18) by striking subsection (j) and inserting the following new subsection:

"(j) DEFENSES.—

"(1) IN GENERAL.—Subject to paragraph (4), there shall be available as a defense for any person to any civil or criminal action brought under the antitrust laws (or any similar law of any State) with respect to any action taken to develop or carry out any voluntary agreement or plan of action under this section that—

"(A) such action was taken—

"(i) in the course of developing a voluntary agreement initiated by the President or a plan of action adopted under any such agreement; or

"(ii) to carry out a voluntary agreement initiated by the President and approved in accordance with this section or a plan of action adopted under any such agreement, and

"(B) such person—

"(i) complied with the requirements of this section and any regulation prescribed under this section; and

"(ii) acted in accordance with the terms of the voluntary agreement or plan of action.

"(2) SCOPE OF DEFENSE.—Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense established in paragraph (1) shall be available only if and to the extent that the person asserting the defense demonstrates that the action was specified in, or was within the scope of, an approved voluntary agreement initiated by the President and approved in accordance with this section or a plan of action adopted under any such agreement and approved in accordance with this section. The defense established in paragraph (1) shall not be available unless the President or the President's designee has authorized and actively supervised the voluntary agreement or plan of action.

"(3) BURDEN OF PERSUASION.—Any person raising the defense established in paragraph (1) shall have the burden of proof to establish the elements of the defense.

"(4) EXCEPTION FOR ACTIONS TAKEN TO VIOLATE THE ANTITRUST LAWS.—The defense established in paragraph (1) shall not be available if the person against whom the defense is asserted shows that the action was taken for the purpose of violating the antitrust laws.";

(19) in subsection (k), by inserting "and plans of action" after "voluntary agreements" each place such term appears;

(20) in subsection (l), by inserting "or plan of action" after "voluntary agreement";

(21) by adding at the end the following new subsections:

"(n) EXEMPTION FROM ADVISORY COMMITTEE ACT PROVISIONS.—Notwithstanding any other provision of law, any activity conducted under a voluntary agreement or plan of action approved pursuant to this section, when conducted in compliance with the requirements of this section, any regulation prescribed under this subsection, and the provisions of the voluntary agreement or plan of action, shall be exempt from the Federal Advisory Committee Act and any other Federal law and any Federal regulation relating to advisory committees.

"(o) PREEMPTION OF CONTRACT LAW IN EMERGENCIES.—In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section. Such defense shall not release the party asserting it from any obligation under applicable law to mitigate damages to the greatest extent possible.".

SEC. 136. INFORMATION ON THE DEFENSE INDUSTRIAL BASE.

The Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) is amended by adding at the end the following new section:

"SEC. 722. DEFENSE INDUSTRIAL BASE INFORMATION SYSTEM.

"(a) ESTABLISHMENT REQUIRED.—

"(1) IN GENERAL.—The President, acting through the Secretary of Defense and the heads of such other Federal agencies as the President may determine to be appropriate, shall provide for the establishment of an information system on the domestic defense industrial base which—

"(A) meets the requirements of this section; and

"(B) includes a systematic continuous procedure to collect and analyze information necessary to evaluate—

"(i) the adequacy of domestic industrial capacity and capability in critical components, technologies, and technology items essential to the national security of the United States; and

"(ii) dependence on foreign sources for industrial parts, components, and technologies essential to defense production.

"(2) INCORPORATION OF DINET.—The defense information network as established and maintained by the Secretary of Defense on the date of the enactment of the Defense Production Act Amendments of 1990 shall be incorporated into the system established pursuant to paragraph (1).

"(3) USE OF INFORMATION.—Information collected and analyzed under the procedure established pursuant to paragraph (1) shall constitute a basis for making any determination to exercise any authority under this Act and a procedure for using such information shall be integrated into the decisionmaking process with regard to the exercise of any such authority.

"(b) SOURCES OF INFORMATION.—

"(1) FOREIGN DEPENDENCE.—

"(A) SCOPE OF INFORMATION REVIEW.—The procedure established to meet the requirement of subsection (a)(1)(B)(ii) shall address defense production with respect to the operations of prime contractors and at least the first 2 tiers of subcontractors.

"(B) USE OF EXISTING DATA COLLECTION AND REVIEW CAPABILITIES.—To the extent feasible and appropriate, the President shall build upon existing methods of data collection and analysis and shall integrate information available from intelligence agencies with respect to industrial and technological conditions in foreign countries.

"(C) INITIAL EMPHASIS ON PRIORITY LISTS.—In establishing the procedure referred to in subparagraph (A), the Secretary may place initial emphasis on the production of parts and components relating to priority lists such as the Commanders' in Chief Critical Items List and the technologies identified as critical in the annual defense critical technologies plan submitted pursuant to section 2508 of title 10, United States Code.

"(2) PRODUCTION BASE ANALYSIS.—

"(A) TOP-TO-BOTTOM REVIEW.—Effective on or after October 1, 1991, the analysis of the production base for any major procurement project which is included in the information system maintained pursuant to subsection (a) shall, in addition to any information and analyses the President may require—

"(i) include a review of all levels of acquisition and production, beginning with any raw material, special alloy, or composite material involved in the production and ending with the completed product;

"(ii) identify each contractor and subcontractor at each level of acquisition and production with respect to such project which represents a potential for delaying or preventing the production and acquisition, including the identity of each contractor or subcontractor whose contract qualifies as a foreign source or sole source contract and any supplier which is a foreign or sole source for any item required in the production; and

"(iii) include information to permit appropriate management of accelerated or surge production.

"(B) INITIAL REQUIREMENT FOR STUDY OF PRODUCTION BASES FOR NOT MORE THAN 6 MAJOR WEAPON SYSTEMS.—In establishing the information system under subsection (a), the President, acting through the Secretary of Defense, shall require an analysis of the production base for not more than 2 weapons of each military department which are major systems (as defined in section 2305(5) of title 10, United States Code).

"(3) CONSULTATION REGARDING THE CENSUS OF MANUFACTURERS.—

"(A) IN GENERAL.—The Secretary of Commerce, acting through the Bureau of the Census, shall consult with the Secretary of Defense and the Director of the Federal Emergency Management Agency with a view to improving the application of information derived from the Census of Manufacturers to the purposes of this section.

"(B) ISSUES TO BE ADDRESSED.—Such consultations shall address improvements in the level of detail, timeliness, and availability of input and output analyses derived from the Census of Manufacturers necessary to facilitate the purposes of this section.

"(c) STRATEGIC PLAN FOR DEVELOPING COMPREHENSIVE SYSTEM.—

"(1) PLAN REQUIRED.—Not later than December 31, 1992, the President shall provide for the establishment of and report to Congress on a strategic plan for developing a cost-effective, comprehensive information system capable of identifying on a timely, ongoing basis vulnerability in critical components, technologies, and technology items.

"(2) ASSESSMENT OF CERTAIN PROCEDURES.—In establishing plan under paragraph (1), the President shall assess the performance and cost-effectiveness of procedures implemented under subsection (b) and shall seek to build upon such procedures as appropriate.

"(d) CAPABILITIES OF SYSTEM.—

"(1) IN GENERAL.—In connection with the establishment of the information system under subsection (a), the President shall direct the Secretary of Defense, the Secretary of Commerce, and the heads of such other Federal agencies as the President may determine to be appropriate to—

"(A) consult with each other and provide such information, assistance, and cooperation as may be necessary to establish and maintain the information system in a manner which allows the coordinated and efficient entry of information on the domestic defense industrial base into, and the withdrawal, subject to the protection of proprietary data, of information on the domestic defense industrial base from the system on an on-line interactive basis by the Department of Defense;

"(B) assure access to the information on the system, as appropriate, by all participating Federal agencies, including each military department;

"(C) coordinate standards, definitions, and specifications for information on defense production which is collected by the Department of Defense and the military departments so that such information can be used by any Federal agency or department which the President determines to be appropriate; and

"(D) assure that the information in the system is updated, as appropriate, with the active assistance of the private sector.

"(2) TASK FORCE ON MILITARY-CIVILIAN PARTICIPATION.—Upon the establishment of the information system under subsection (a), the President shall convene a task force consisting of the Secretary of Defense, the Secretary of Commerce, the Secretary of each military department, and the heads of such other Federal agencies and departments as the President may determine to be appropriate to establish guidelines and procedures to ensure that all Federal agencies and departments which acquire information with respect to the domestic defense industrial base are fully participating in the system, unless the President determines that all appropriate Federal agencies and departments, including each military department, are voluntarily providing information which is necessary for the system to carry out the purposes of this Act and chapter 148 of title 10, United States Code.

"(e) REPORT ON SUBCONTRACTOR AND SUPPLIER BASE.—

"(1) REPORT REQUIRED.—At the times required under paragraph (4), the President shall issue a report which includes—

"(A) a list of critical components, technologies, and technology items for which there is found to be inadequate domestic industrial capacity or capability; and

"(B) an assessment of those subsectors of the economy of the United States which—

"(i) support production of any component, technology, or technology item listed pursuant to paragraph (1); or

"(ii) have been identified as being critical to the development and production of components required for the production of weapons, weapon systems, and other military equipment essential to the national defense.

"(2) MATTERS TO BE CONSIDERED.—The assessment made under paragraph (1)(B) shall consider—

"(A) the capacity of domestic sources, especially commercial firms, to fulfill peacetime requirements and graduated mobilization requirements for various items of supply and services;

"(B) any trend relating to the capabilities of domestic sources to meet such peacetime and mobilization requirements;

"(C) the extent to which the production or acquisition of various items of military material is dependent on foreign sources; and

"(D) any reason for the decline of the capabilities of selected sectors of the United States economy necessary to meet peacetime and mobilization requirements, including stability of defense requirements, acquisition policies, vertical integration of various segments of the industrial base, superiority of foreign technology and production efficiencies, foreign government support of nondomestic sources, and offset arrangements.

"(3) POLICY RECOMMENDATIONS.—The report may provide specific policy recommendations to correct deficiencies identified in the assessment, which would help to strengthen domestic sources.

"(4) TIME FOR ISSUANCE.—The report required by paragraph (1) shall be issued not later than July 1 of each odd-numbered year which begins after 1991, based upon data from the prior fiscal year and such prior fiscal years as may be appropriate.

"(5) RELEASE OF UNCLASSIFIED REPORT.—The report required by this subsection may be classified. An unclassified version of the report shall be available to the public.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for purposes of this section not more than $10,000,000, to remain available until expended, of which not more than $3,000,000 shall be available for the purposes of subsection (b)(2).".

SEC. 137. PUBLIC PARTICIPATION IN RULEMAKING.

(a) IN GENERAL.—Section 709 of the Defense Production Act of 1950 (50 U.S.C. 2159) is amended to read as follows:

"SEC. 709. PUBLIC PARTICIPATION IN RULEMAKING.

"(a) EXEMPTION FROM THE ADMINISTRATIVE PROCEDURE ACT.—Any regulation prescribed

or order issued under this Act shall not be subject to sections 551 through 559 of title 5, United States Code.

"(b) OPPORTUNITY FOR NOTICE AND COMMENT.—

"(1) IN GENERAL.—Except as provided in subsection (c), any regulation prescribed or order issued under this Act shall be published in the Federal Register and opportunity for public comment shall be provided for not less than 30 days, consistent with the requirements of section 553(b) of title 5, United States Code.

"(2) WAIVER FOR TEMPORARY PROVISIONS.—The requirements of paragraph (1) may be waived, if—

"(A) the officer authorized to prescribe the regulation or issue the order finds that urgent and compelling circumstances make compliance with such requirements impracticable;

"(B) the regulation is prescribed or order is issued on a temporary basis; and

"(C) the publication of such temporary regulation or order is accompanied by the finding made under clause (A) (and a brief statement of the reasons for such finding) and an opportunity for public comment is provided for not less than 30 days of public comment before any regulation or order becomes final.

"(3) All comments received during the public comment period specified pursuant to paragraph (1) or (2) shall be considered and the publication of the final regulation or order shall contain written responses to such comments.

"(c) PUBLIC COMMENT ON PROCUREMENT REGULATIONS.—Any procurement policy, regulation, procedure, or form (including any amendment or modification of any such policy, regulation, procedure, or form) issued under this Act shall be subject to section 22 of the Office of Federal Procurement Policy Act.".

(b) SCOPE OF APPLICATION.—Section 709 of the Defense Production Act of 1950 (50 U.S.C. App. 2159), as amended by subsection (a) of this section, shall not apply to any regulation prescribed or order issued in proposed or final form on or before the date of enactment of this Act.

SEC. 138. WAIVERS OF CERTAIN EMPLOYMENT RESTRICTIONS.

(a) IN GENERAL.—Section 208 of title 18, United States Code, is amended by adding at the end the following:

"(e)(1) The President may grant a waiver of a restriction imposed by this section to a special Government employee if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the special Government employee are critically needed for the benefit of the Federal Government. Not more than 50 special Government employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph, of which 25 may be granted only for special Government employees of the Department of Energy for use in discharging the responsibilities of the Department with respect to ensuring adequate energy supplies during the current crisis in the Middle East. A waiver under this paragraph shall not extend to the negotiation or execution of a Government contract with a private employer of an appointee or with any person—

"(A) in which the appointee has a financial interest within the meaning of this section; or

"(B) with which the appointee has an official relationship.

"(2) Waivers under paragraph (1) may be granted only to special Government employees of the executive branch, other than such employees in the Executive Office of the President.

"(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify—

"(A) the special Government employee covered by the waiver by name and by position, and

"(B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

"(4) The President may not delegate the authority provided by this subsection.

"(5)(A) The designated agency ethics official (as defined in section 109 of the Ethics in Government Act of 1978) of the agency which employs a person granted a waiver under this subsection shall prepare, at the termination of that person's service as a special Government employee (with respect to which the waiver was granted), a report stating whether the person has engaged in activities otherwise prohibited by this section, and if so, what those activities were. Before the report is filed under subparagraph (B), the person with respect to whom the report was prepared shall certify that the contents of the report are complete and accurate, to the person's best knowledge and belief.

"(B) A report under subparagraph (A) shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the date of the termination of that person's service as a special Government employee, but in no event later than November 30, 1991.

"(C) If the report required to be filed under subparagraph (B) is not filed, the person who is the subject of the report shall be ineligible for any Federal Government employment until such report is filed.

"(D) If an agency fails to prepare and file a report under this subsection by the date required by subparagraph (B), no employee of that agency may, after such date, be granted a waiver under this subsection until such report is prepared and filed.

"(6) Any waiver granted under this subsection shall terminate on September 30, 1991.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 710 of the Defense Production Act of 1950 (50 U.S.C. App. 2160) is amended—

(1) by striking paragraph (4) of subsection (b);

(2) by striking the last sentence of subsection (c);

(3) in subsection (d), by striking out "needed; and he is" and inserting "needed."; and

(4) by striking the last sentence of subsection (e).

PART E—TECHNICAL AMENDMENTS

SEC. 141. PRIORITIES IN CONTRACTS AND ORDERS.

Section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071) is amended—

(1) in subsection (a)(2) by striking "materials and facilities" and inserting "materials, services, and facilities";

(2) in subsection (c)(1) by striking "supplies of materials and equipment" and inserting "materials, equipment, and services";

(3) by striking paragraphs (2) and (3) and inserting the following new paragraph:

"(2) The authority granted by this subsection may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials, service, and facilities in the marketplace, unless the President finds that—

"(A) such materials, services, and facilities are scarce, critical, and essential—

"(i) to maintain or expand exploration, production, refining, transportation,

"(ii) to conserve energy supplies; or

"(iii) to construct or maintain energy facilities; and

"(B) maintenance or expansion of exploration, production, refining, transportation, or conservation of energy supplies or the construction and maintenance of energy facilities cannot reasonably be accomplished without exercising the authority specified in paragraph (1) of this subsection."; and

(4) by redesignating paragraph (4) as paragraph (3).

SEC. 142. TECHNICAL CORRECTION.

Section 301(e)(2)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(2)(B)) is amended by striking "and to the Committees on Banking and Currency of the respective Houses" and inserting "and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives".

SEC. 143. INVESTIGATIONS; RECORDS; REPORTS; SUBPOENAS.

Section 705 of the Defense Production Act of 1950 (50 U.S.C. App. 2155) is amended—

(1) in subsection (a), by striking "subpena" and inserting "subpoena";

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively;

(3) in subsection (c) (as redesignated by paragraph (2)), by striking "$1,000" and inserting "$10,000"; and

(4) in subsection (d) (as redesignated by paragraph (2)), by striking all after the first sentence.

SEC. 144. EMPLOYMENT OF PERSONNEL.

(a) NOTICE OF APPOINTMENT AND FINANCIAL DISCLOSURE FOR EMPLOYEES SERVING WITHOUT COMPENSATION.—Section 710(b)(6) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)(6)) is amended to read as follows:

"(6) NOTICE AND FINANCIAL DISCLOSURE REQUIREMENTS.—

"(A) PUBLIC NOTICE OF APPOINTMENT.—The head of any department or agency who appoints any individual under this subsection shall publish a notice of such appointment in the Federal Register, including the name of the appointee, the employing department or agency, the title of the appointee's position, and the name of the appointee's private employer.

"(B) FINANCIAL DISCLOSURE.—Any individual appointed under this subsection who is not required to file a financial disclosure report pursuant to section 101 of the Ethics in Government Act of 1978, shall file a confidential financial disclosure report pursuant to section 107 of such Act with the appointing department or agency.".

(b) TECHNICAL AMENDMENTS.—Section 710(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)) is amended—

(1) in paragraph (7)—

(A) by striking "Chairman of the United States Civil Service Commission" and inserting "Director of the Office of Personnel Management"; and

(B) by striking "and the Joint Committee on Defense Production"; and

(2) in paragraph (8), by striking "transportation and not to exceed $15 per diem in lieu of subsistence while away from their homes and regular places of business pursuant to such appointment" and inserting "reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions for which they were

appointed in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code".

SEC. 145. TECHNICAL CORRECTION.

Section 711(a)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended by striking "Bureau of the Budget" and inserting "Office of Management and Budget".

PART F—REPEALERS AND CONFORMING AMENDMENTS

SEC. 151. SYNTHETIC FUEL ACTION.

Section 307 of the Defense Production Act of 1950 (50 U.S.C. App. 2097) is amended—

(1) in subsection (b), by striking the 2d sentence; and

(2) by striking subsection (c) and all that follows through the end of the section.

SEC. 152. VOLUNTARY AGREEMENTS.

Section 708A of the Defense Production Act of 1950 (50 U.S.C. App. 2158a) is repealed.

SEC. 153. REPEAL OF INTEREST PAYMENT PROVISIONS.

Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended—

(1) by striking subsection (b),

(2) by striking "(a)(1) Except as provided in paragraph (2) and paragraph (4)" and inserting "(a) Except as provided in subsection (c)",

(3) by striking in subsection (a) in the parenthetical "and for the payment of interest under subsection (b) of this section", and

(4) by striking paragraph (2) and redesignating paragraph (3) as subsection (b), and

(5) by striking subparagraph (B) of paragraph (4) and redesignating paragraph (4)(A) as subsection (c).

SEC. 154. JOINT COMMITTEE ON DEFENSE PRODUCTION.

Section 712 of the Defense Production Act of 1950 (50 U.S.C. App. 2162) is repealed.

SEC. 155. PERSONS DISQUALIFIED FOR EMPLOYMENT.

Section 716 of the Defense Production Act of 1950 (50 U.S.C. App. 2165) is repealed.

SEC. 156. FEASIBILITY STUDY ON UNIFORM COST ACCOUNTING STANDARDS; REPORT SUBMITTED.

Section 718 of the Defense Production Act of 1950 (50 U.S.C. App. 2167) is repealed.

SEC. 157. NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES.

Section 720 of the Defense Production Act of 1950 (50 U.S.C. App. 2169) is repealed.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

SEC. 161. AUTHORIZATION OF APPROPRIATIONS.

Section 711(c) of the Defense Production Act of 1950 (as amended by section 143 of this Act) is amended to read as follows:

"(c) There are authorized to be appropriated for each of fiscal years 1991, 1992, and 1993 not to exceed $130,000,000 to carry out the provisions of title III of this Act.".

SEC. 162. EXTENSION OF PROGRAM.

The 1st sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "October 20, 1990" and inserting "September 30, 1993".

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

PART A—ENCOURAGING IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

SEC. 201. PROCUREMENT OF CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.

(a) POLICY REQUIRED.—The President, acting through the Administrator for Federal Procurement Policy, shall issue a procurement policy providing for the solicitation and award of contracts for the procurement of critical components or critical technology items in accordance with the requirements of subsection (b).

(b) PERFORMANCE BY DOMESTIC SOURCES.—Except as provided in subsection (c), any solicitation for the procurement of a critical component or a critical technology item shall—

(1) contain a specification that only domestic sources are eligible for award; or

(2) contain provisions that—

(A) specify the minimum percentage of the total estimated value of the contract that is to be performed by 1 or more domestic sources;

(B) provide for the attainment of such requirement by the firm selected as prime contractor or through subcontractors pursuant to a subcontracting plan submitted with the prime contractor's offer;

(C) specify that offers shall be evaluated for award on a basis reflecting the extent that each offer meets or exceeds the specified percentage, such evaluation factor being accorded significant weight (not more than 10 percent of the total value of all evaluation factors to be considered in making the award decision).

(c) WAIVER.—

(1) IN GENERAL.—The requirements of paragraphs (1) and (2) of subsection (b) may be waived in accordance with regulation specifying circumstances under which the contracting officer may make a determination that such restrictions are likely to result in a significant adverse impact on the national interests of the United States.

(2) PROCEDURE.—The determination of the contracting officer shall be—

(A) supported by a specific written finding which justifies such determination; and

(B) approved by the senior procurement executive of the department or agency (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act) or a designee of such officer.

(3) PUBLIC AVAILABILITY.—Copies of waiver determination approved pursuant to paragraph (1) (including the supporting written justifications and approvals) shall be made available upon request to—

(A) the public, consistent with the provisions of section 552 of title 5, United States Code, or

(B) any member, or duly constituted committee, of the Congress.

(d) ACQUISITION REGULATIONS REQUIRED.—Before the end of the 270-day period beginning on the date of the enactment of this Act, the single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act, shall be modified to provide for the solicitation, award, and administration of contracts for the procurement of critical components or critical technology items in accordance with provisions of the policy required by subparagraph (A).

(e) DEFINITIONS.—For the purpose of this section, the terms "critical component", "critical technology item", and "domestic source" have the meanings given to such terms in section 702 of the Defense Production Act of 1950.

SEC. 202. RECOGNITION OF MODERNIZED PRODUCTION SYSTEMS AND EQUIPMENT IN CONTRACT AWARD AND ADMINISTRATION.

(a) IN GENERAL.—The single Government-wide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), shall be amended to specify the circumstances under which an acquisition plan for any major system acquisition, or any other acquisition program designated by the Secretary or agency head responsible for such acquisition, shall provide for contract solicitation provisions which encourage competing offerors to acquire for utilization in the performance of the contract modern industrial facilities and production systems (including hardware and software), and other modern production equipment, that increase the productivity of the offerors and reduce the costs of production.

(b) AUTHORIZED SOLICITATION PROVISIONS.—Contract solicitation provisions referred to in subsection (a) may include any of the following provisions:

(1) An evaluation advantage in making the contract award determination.

(2) A provision for a domestic contractor to share in any demonstrated cost savings that are attributable to increased productivity resulting from the following contractor actions not required by the contract—

(A) the acquisition and utilization of modern industrial facilities and production systems (including hardware and software), and other modern production equipment, for the performance of the contract; or

(B) the utilization of other manufacturing technology improvements in the performance of the contract.

(c) DOMESTIC CONTRACTOR DEFINED.—For purposes of this section and section 203, the term "domestic contractor" has the meaning given to the "domestic source" in section 702(7) of the Defense Production Act of 1950.

SEC. 203. SUSTAINING INVESTMENT.

It is the sense of the Congress that, in order to encourage investment to maintain our Nation's technological leadership, to preserve the strength of our industrial base, and to encourage contractors to invest in advanced manufacturing technology, advanced production equipment, and advanced manufacturing processes, the Secretary of Defense as part of his implementation of changes to defense acquisition policies pursuant to the Defense Management Review shall consider—

(1) full allowability of independent research and development bid and proposal costs;

(2) appropriate regulatory changes to increase the progress payment rates payable under contracts; and

(3) an increase of not more than 10 percent in the amount which would otherwise be reimbursable to a domestic contractor as the Government's share of costs incurred for the acquisition of production special tooling, production special test equipment, and production special systems (including hardware and software) for use in the performance of the contract.

Part B—Miscellaneous

SEC. 211. DISCOURAGING UNFAIR TRADE PRACTICES.

(a) SUSPENSION OR DEBARMENT AUTHORIZED.—Subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) shall be amended to specify the circumstances under which a contractor, who has engaged in an unfair trade practice, as defined in subsection (b), may be found to presently lack such business integrity or business honesty that seriously and directly affects the responsibility of the contractor to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

(b) DEFINITIONS.—For purposes of this section, the term "unfair trade practice" means the commission of any of the following acts by a contractor:

(1) An unfair trade practice, as determined by the International Trade Commission, for a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(2) A violation, as determined by the Secretary of Commerce, of any agreement of the group known as the "Coordinating Committee" for purposes of the Export Administration Act of 1979 or any similar bilateral or multilateral export control agreement.

(3) A knowingly false statement regarding a material element of a certification concerning the foreign content of an item of supply, as determined by the Secretary of the department or the head of the agency to which such certificate was furnished.

TITLE III—AMENDMENT TO RELATED LAWS

SEC. 301. ENERGY SECURITY.

(a) CONGRESSIONAL INTEREST MANIFEST IN OTHER LAWS.—The Congress hereby finds that congressional interest in energy security and the availability of energy for defense mobilization, industrial preparedness, and other purposes of the Defense Production Act of 1950 has also been expressed in various statutes enacted since the date of the enactment of such Act, including the provisions of Geothermal Energy Research, Development, and Demonstration Act of 1974, the Biomass Energy and Alcohol Fuels Act of 1980, and the Synthetic Fuels Corporation Act of 1985 which relate to geothermal energy, alcohol, and synthetic fuel projects.

(b) REPORTS REQUIRED.—To assist the Congress in discharging congressional responsibility for energy security and the availability of energy for defense mobilization, industrial preparedness, and other purposes of the Defense Production Act of 1950, the President shall prepare and transmit to the Congress, no less frequently than the end of each odd-numbered year, the projected capacity and potential prospects for the use of alternative and renewable sources of energy for such purposes.

(c) GEOTHERMAL ENERGY PROGRAM.—Section 203 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1143) (relating to period of guaranties and interest assistance) is amended by striking "1990" and inserting "1993".

TITLE IV—FAIR TRADE IN FINANCIAL SERVICES

SEC. 401. SHORT TITLE.

This title may be cited as the "Fair Trade in Financial Services Act of 1990".

SEC. 402. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS AND BANK HOLDING COMPANIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following:

"NATIONAL TREATMENT

"SEC. 15. (a) PURPOSE.—This section is intended to encourage foreign countries to accord national treatment to United States banks and bank holding companies that operate or seek to operate in those countries, and thereby end discrimination against United States banks and bank holding companies.

"(b) REPORTS REQUIRED.—

"(1) CONTENTS OF REPORT.—The Secretary of the Treasury shall, not later than December 1, 1992, and biennially thereafter, submit to the Congress a report—

"(A) identifying any foreign country—

"(i) that does not accord national treatment to United States banks and bank holding companies—

"(I) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988; or

"(II) on the basis of more recent information that the Secretary deems appropriate indicating a failure to accord national treatment; and

"(ii) with respect to which no determination under subsection (d)(1) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of any negotiations conducted pursuant to subsection (c)(1) with respect to that country.

"(2) SUBMISSION OF REPORT.—

"(A) IN GENERAL.—The report required by paragraph (1) may be submitted as part of a report submitted under section 3602 of the Omnibus Trade and Competition Act of 1988.

"(B) MOST RECENT REPORT DEFINED.—If the report required by paragraph (1) is submitted as part of a report under such section 3602, that report under section 3602 shall be the 'most recent report' for purposes of paragraph (1)(A)(i)(I).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country—

"(A) in which, according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, there is a significant failure to accord national treatment to United States banks and bank holding companies; and

"(B) with respect to which no determination under subsection (d)(1) is in effect,

to ensure that such country accords national treatment to United States banks and holding companies.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) SECRETARY'S DETERMINATION.—The Secretary of the Treasury may, at any time, publish in the Federal Register a determination that a foreign country does not accord national treatment to United States banks or bank holding companies.

"(2) ACTION BY AGENCY.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, any Federal banking agency—

"(A) may include that determination and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and other reports under subsection (b)(1) among the factors the agency considers in evaluating any application or notice filed by a person of that foreign country; and

"(B) may, based upon that determination and in consultation with the Secretary, deny the application or disapprove the notice.

"(3) REVIEW.—The Secretary of the Treasury may, at any time, and shall, annually, review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) PREVENTING EXISTING ENTITIES FROM BEING USED TO EVADE THIS SECTION.—

"(1) IN GENERAL.—If a determination under subsection (d)(1) is in effect with respect to a foreign country, no bank, foreign bank described in section 8(a), branch, agency, commercial lending company, or other affiliated entity that is a person of that country shall, without prior approval pursuant to paragraph (3) or (4), directly or indirectly, in the United States—

"(A) commence any line of business in which it was not engaged as of the date on which that determination was published in the Federal Register; or

"(B) conduct business from any location at which it did not conduct business as of that date.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to transactions under section 2(h)(2) of the Bank Holding Company Act of 1956.

"(3) STATE-SUPERVISED ENTITIES.—

"(A) This paragraph shall apply if—

"(i) the entity in question is an uninsured State bank or branch, a State agency, or a commercial lending company;

"(ii) the State requires the entity to obtain the prior approval of the State bank supervisor before engaging in the activity described in subparagraph (A) or (B) of paragraph (1); and

"(iii) no other provision of Federal law requires the entity to obtain the prior approval of a Federal banking agency before engaging in that activity.

"(B) The State bank supervisor shall consult about the application with the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act). If the State bank supervisor approves the application, the supervisor shall notify the appropriate Federal banking agency and provide the agency with a copy of the record of the application. During the 45-day period beginning on the date on which the appropriate Federal banking agency receives the record, the agency, after consultation with the State bank supervisor—

"(i) may include the determination under subsection (d)(1) and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and other reports under subsection (b)(1) of this section among the factors the agency considers in evaluating the application; and

"(ii) may issue an order disapproving the activity in question based upon that determination and in consultation with the Secretary of the Treasury.

The period for disapproval under clause (ii) may, in the agency's discretion, be extended for not more than 45 days.

"(4) FEDERAL APPROVAL.—If the transaction is not described in paragraph (3)(A), the entity in question shall obtain the prior approval of the appropriate Federal banking agency.

"(5) INFORMING STATE SUPERVISORS.—The Secretary of the Treasury shall inform State bank supervisors of any determination under subsection (d)(1).

"(6) EFFECT ON OTHER LAW.—Nothing in this subsection shall be construed to relieve the entity in question from any otherwise applicable requirement of Federal law.

"(f) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States banks and bank holding companies if it offers them the same competitive opportunities (including effective market access) as are available to its domestic banks and bank holding companies.

"(g) PERSON OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is a citizen of that country, or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(h) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Federal banking agencies shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Federal banking agencies, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a bank, foreign bank, branch, agency, commercial lending company, or other affiliated entity that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States banks and bank holding companies; and

"(ii) whether that country would permit United States banks and bank holding companies already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's banks and bank holding companies; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purpose of this section.".

SEC. 403. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR SECURITIES BROKERS AND DEALERS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"NATIONAL TREATMENT

"SEC. 36. (a) PURPOSE.—This section is intended to encourage foreign countries to accord national treatment to United States brokers and dealers that operate or seek to operate in those countries, and thereby end discrimination against United States brokers and dealers.

"(b) REPORTS REQUIRED.—

"(1) CONTENTS OF REPORT.—The Secretary of the Treasury shall, not later than December 1, 1992, and biennially thereafter, submit to the Congress a report—

"(A) identifying any foreign country—

"(i) that does not accord national treatment to United States brokers and dealers—

"(I) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988; or

"(II) on the basis of more recent information that the Secretary deems appropriate indicating a failure to accord national treatment; and

"(ii) with respect to which no determination under subsection (d)(1) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of any negotiations conducted pursuant to subsection (c)(1) with respect to that country.

"(2) SUBMISSION OF REPORT.—

"(A) IN GENERAL.—The report required by paragraph (1) may be submitted as part of a report submitted under section 3602 of the Omnibus Trade and Competition Act of 1988.

"(B) MOST RECENT REPORT DEFINED.—If the report required by paragraph (1) is submitted as part of a report under such section 3602, that report under section 3602 shall be the 'most recent report' for purposes of paragraph (1)(A)(i)(I).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country—

"(A) in which, according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, there is a significant failure to accord national treatment to United States brokers or dealers; and

"(B) with respect to which no determination under subsection (d)(1) is in effect,

to ensure that such country accords national treatment to United States brokers and dealers.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) SECRETARY'S DETERMINATION.—The Secretary of the Treasury may, at any time, publish in the Federal Register a determination that a foreign country does not accord national treatment to United States brokers or dealers.

"(2) ACTIONS BY COMMISSION.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, the Commission—

"(A) may include that determination and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and paragraph (1) of this subsection among the factors the Commission considers (i) in evaluating any application filed by a person of that foreign country, or (ii) in determining whether to prohibit an acquisition for which a notice is required under paragraph (3) by a person of that foreign country; and

"(B) may, based upon that determination and in consultation with the Secretary, deny the application or prohibit the acquisition.

"(3) NOTICE REQUIRED TO ACQUIRE BROKER OR DEALER.—

"(A) IN GENERAL.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, no person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(i) the Commission has been given notice 60 days in advance of the acquisition, in such form as the Commission shall prescribe by rule and containing such information as the Commission requires by rule or order; and

"(ii) the Commission has not prohibited the acquisition.

"(B) COMMISSION MAY EXTEND 60-DAY PERIOD.—The Commission may, by order, extend the notice period during which an acquisition may be prohibited under subparagraph (A) for an additional 180 days.

"(C) EFFECTIVE DATE.—The requirements of subparagraph (A) shall apply to any acquisition of control that is completed on or after the date on which the determination under paragraph (1) is published, irrespective of when the acquisition was initiated.

"(4) REVIEW.—The Secretary of the Treasury may, at any time, and shall, annually, review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States brokers and dealers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic brokers and dealers.

"(f) PERSONS OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is a citizen of that country; or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(g) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Commission, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to a broker or dealer that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States brokers and dealers; and

"(ii) whether that country would permit United States brokers or dealers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's brokers or dealers; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purpose of this section.".

SEC. 404. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INVESTMENT ADVISERS.

The Investment Advisers Act of 1940 (12 U.S.C. 80b-1 et seq.) is amended by adding at the end the following new section:

"NATIONAL TREATMENT

"SEC. 223. (a) PURPOSE.—This section is intended to encourage foreign countries to accord national treatment to United States investment advisers that operate or seek to operate in those countries, and thereby end discrimination against United States investment advisers.

"(b) REPORTS REQUIRED.—

"(1) CONTENTS OF REPORT.—The Secretary of the Treasury shall, not later than December 1, 1992, and biennially thereafter, submit to the Congress a report—

"(A) identifying any foreign country—

"(i) that does not accord national treatment to United States investment advisers—

"(I) according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988; or

"(II) on the basis of more recent information that the Secretary deems appropriate indicating a failure to accord national treatment; and

"(ii) with respect to which no determination under subsection (d)(1) is in effect;

"(B) explaining why the Secretary has not made, or has rescinded, such a determination with respect to that country; and

"(C) describing the results of any negotiations conducted pursuant to subsection (c)(1) with respect to that country.

"(2) SUBMISSION OF REPORT.—

"(A) IN GENERAL.—The report required by paragraph (1) may be submitted as part of a report submitted under section 3602 of the Omnibus Trade and Competition Act of 1988.

"(B) MOST RECENT REPORT DEFINED.—If the report required by paragraph (1) is submitted as part of a report under such section 3602, that report under section 3602 shall be the 'most recent report' for purposes of paragraph (1)(A)(i)(I).

"(c) NEGOTIATIONS REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall initiate negotiations with any foreign country—

"(A) in which, according to the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988, there is a significant failure to accord national treatment to United States investment advisers; and

"(B) with respect to which no determination under subsection (d)(1) is in effect, to ensure that such country accords national treatment to United States investment advisers.

"(2) NEGOTIATIONS NOT REQUIRED.—Paragraph (1) does not require the Secretary of the Treasury to initiate negotiations with a foreign country if the Secretary—

"(A) determines that such negotiations would be fruitless or would impair national economic interests; and

"(B) gives written notice of that determination to the chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Energy and Commerce of the House of Representatives.

"(d) DISCRETIONARY SANCTIONS.—

"(1) SECRETARY'S DETERMINATION.—The Secretary of the Treasury may, at any time, publish in the Federal Register a determination that a foreign country does not accord national treatment to United States investment advisers.

"(2) ACTIONS BY COMMISSION.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, the Commission—

"(A) may include that determination and the conclusions of the reports under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 and paragraph (1) of this subsection among the factors the Commission considers (i) in evaluating any application filed by a person of that foreign country, or (ii) in determining whether to prohibit an acquisition for which a notice is required under paragraph (3) by a person of that foreign country; and

"(B) may, based upon that determination and in consultation with the Secretary, deny the application or prohibit the acquisition.

"(3) NOTICE REQUIRED TO ACQUIRE INVESTMENT ADVISER.—

"(A) IN GENERAL.—If the Secretary of the Treasury has published in the Federal Register (and has not rescinded) a determination under paragraph (1) with respect to a foreign country, no person of that foreign country, acting directly or indirectly, shall acquire control of any registered investment adviser unless—

"(i) the Commission has been given notice 60 days in advance of the acquisition, in such form as the Commission shall prescribe by rule and containing such information as the Commission requires by rule or order; and

"(ii) the Commission has not prohibited the acquisition.

"(B) COMMISSION MAY EXTEND 60-DAY PERIOD.—The Commission may, by order, extend the notice period during which an acquisition may be prohibited under subparagraph (A) for an additional 180 days.

"(C) EFFECTIVE DATE.—The requirements of subparagraph (A) shall apply to any acquisition of control that is completed on or after the date on which the determination under paragraph (1) is published, irrespective of when the acquisition was initiated.

"(4) REVIEW.—The Secretary of the Treasury may, at any time, and shall, annually, review any determination under paragraph (1) and decide whether that determination should be rescinded.

"(e) NATIONAL TREATMENT DEFINED.—A foreign country accords national treatment to United States investment advisers if it offers them the same competitive opportunities (including effective market access) as are available to its domestic investment advisers.

"(f) PERSONS OF A FOREIGN COUNTRY DEFINED.—A person of a foreign country is a person that—

"(1) is organized under the laws of that country;

"(2) has its principal place of business in that country;

"(3) in the case of an individual—

"(A) is a citizen of that country; or

"(B) is domiciled in that country; or

"(4) is directly or indirectly controlled by a person described in paragraph (1), (2), or (3).

"(g) EXERCISE OF DISCRETION.—In exercising discretion under this section—

"(1) the Secretary of the Treasury and the Commission shall act in a manner consistent with the obligations of the United States under a bilateral or multilateral agreement governing financial services entered into by the President and approved and implemented by the Congress; and

"(2) the Commission, in consultation with the Secretary of the Treasury—

"(A) shall consider, with respect to an investment adviser that is a person of a foreign country and is already operating in the United States—

"(i) the extent to which that foreign country has a record of according national treatment to United States investment advisers; and

"(ii) whether that country would permit United States investment advisers already operating in that country to expand their activities in that country even if that country determined that the United States did not accord national treatment to that country's investment advisers; and

"(B) may further differentiate between entities already operating in the United States and entities that are not already operating in the United States, insofar as such differentiation is consistent with achieving the purpose of this section.".

SEC. 405. FINANCIAL INTERDEPENDENCE STUDY.

Subtitle G of title III of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5341 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 3605. FINANCIAL INTERDEPENDENCE STUDY.

"(a) INVESTIGATION REQUIRED.—The Secretary of the Treasury, in consultation and coordination with the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), and any other appropriate Federal agency or department to be designated by the Secretary of the Treasury, shall conduct an investigation to determine the extent of the interdependence of the financial services sectors of the United States and foreign countries whose financial services institutions provide financial services in the United States, or whose persons have substantial ownership interests in United States financial services institutions, and the economic, strategic, and other consequences of that interdependence for the United States.

"(b) REPORT.—The Secretary of the Treasury shall transmit a report on the results of the investigation under subsection (a) within 2 years after the date of enactment of this section to the President, the Congress, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and any other appropriate Federal agency or department as designated by the Secretary of the Treasury. The report shall—

"(1) describe the activities and estimate the scope of financial services activities conducted by United States financial services institutions in foreign markets (differentiated according to major foreign markets);

"(2) describe the activities and estimate the scope of financial services activities conducted by foreign financial services institutions in the United States (differentiated according to the most significant home countries or groups of home countries);

"(3) estimate the number of jobs created in the United States by financial services activities conducted by foreign financial services institutions and the number of jobs created in foreign countries by financial services activities conducted by United States financial services institutions;

"(4) estimate the additional jobs and revenues (both foreign and domestic) that would be created by the activities of United States financial services institutions in foreign countries if those countries offered such institutions the same competitive opportunities (including effective market access) as are available to those countries' domestic financial services institutions;

"(5) describe the extent to which foreign financial services institutions discriminate against United States persons in procurement, employment, providing credit or other financial services, or otherwise;

"(6) describe the extent to which foreign financial services institutions and other persons from foreign countries purchase or otherwise facilitate the marketing from the United States of government and private debt instruments and private equity instruments;

"(7) describe how the interdependence of the financial services sectors of the United States and foreign countries affects the autonomy and effectiveness of United States monetary policy;

"(8) describe the extent to which United States companies rely on financing by or through foreign financial services institutions, and the consequences of such reliance (including disclosure of proprietary information) for the industrial competitiveness and national security of the United States;

"(9) describe the extent to which foreign financial services institutions, in purchasing high technology products such as computers and telecommunications equipment, favor manufacturers from their home countries over United States manufacturers; and

"(10) contain other appropriate information relating to the results of the investigation under subsection (a).

"(c) DEFINITIONS.—As used in this section, the term 'financial services institution' means—

"(1) a broker, dealer, underwriter, clearing agency, transfer agent, or information processor with respect to securities, including government and municipal securities;

"(2) an investment company, investment manager, investment adviser, indenture trustee, or any depository institution, insurance company, or other organization operating as a fiduciary, trustee, underwriter, or other financial services provider;

"(3) any depository institution or depository institution holding company (as such terms are defined in section 3 of the Federal Deposit Insurance Act); and

"(4) any other entity providing financial services.".

SEC. 406. CONFORMING AMENDMENTS SPECIFYING THAT NATIONAL TREATMENT INCLUDES EFFECTIVE MARKET ACCESS.

(a) QUADRENNIAL REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.—Section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5352) is amended—

(1) in paragraph (3), by striking "and securities companies" and inserting ", securities companies, and investment advisers"; and

(2) by adding at the end the following: "For purposes of this section, a foreign country denies national treatment to United States entities unless it offers them the same competitive opportunities (including effective market access) as are available to its domestic entities.".

(b) NEGOTIATIONS TO PROMOTE FAIR TRADE IN FINANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5353(a)(1)) is amended by inserting "effective" after "banking organizations and securities companies have".

(c) PRIMARY DEALERS IN GOVERNMENT DEBT INSTRUMENTS.—Section 3502(b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5342) is amended—

(1) by striking "does not accord to" and inserting "does not offer";

(2) by inserting "(including effective market access)" after "the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country"; and

(3) by striking "as such country accords to" and inserting "as are available to".

TITLE V—EFFECTIVE DATES

SEC. 501. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on October 20, 1990.

(b) SPECIAL RULES.—(1) No action taken by the President or the President's designee between October 20, 1990, and the date of enactment of this Act shall prejudice the ability of the President or the President's designee to take action under section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170).

(2) Title IV of this Act takes effect on the date of enactment of this Act.

(3) The acquisition policies required by this Act shall be incorporated as part of the Federal Acquisition Regulation within 270 days after enactment. Such policies shall apply to solicitations issued 60 days after such regulations are issued.

(4) No report under section 107(f) of the Defense Production Act of 1950 (as added by section 111 of this Act) shall be required before January 31, 1993.●

By Mr. BUMPERS (for himself, Mr. PRYOR, Mr. KASTEN, Mr. EXON, Mr. DOLE, Mr. KOHL, Mr. HATCH, Mr. HARKIN, Mr. COCHRAN, Mr. REID, Mr. LOTT, Mr. HEFLIN, Mr. HELMS, Mr. BOREN, Mr. WALLOP, Mr. DECONCINI, Mr. GRAMM, Mr. SHELBY, Mr. BURNS, Mr. BRYAN, Mr. MCCAIN, Mr. DIXON, Mr. BOND, Mr. BREAUX, Mr. CRAIG, and Mr. KERREY):

S. 349. A bill to amend the Fair Labor Standards Act of 1938 to clarify the application of such act, and for other purposes; to the Committee on Labor and Human Resources.

FAIR LABOR STANDARDS ACT TECHNICAL AMENDMENTS

Mr. BUMPERS. Mr. President, the bill I am introducing today makes a technical correction to the Fair Labor Standards Act to ensure that the intent of Congress to simplify the small business exemption is restored.

Since its enactment in 1938, the Fair Labor Standards Act has provided an exemption for small businesses from Federal minimum wage coverage. Unfortunately, under current law, that exemption does not exist for all practical purposes.

During consideration of the minimum wage in 1989, the Senate agreed to increase the small business exemption from $362,500 to $500,000. The clear intention was to protect the jobs of those who work in the smallest companies from the backlash of a higher Federal wage. However, this small business exemption has inadvertently been rendered useless because of a subsequent conforming amendment.

How did this happen? The bill to increase the minimum wage in the 100th Congress—June 19, 1988—contained an increase in the small business threshold. Legislation introduced in the 101st Congress—January 25, 1989—also contained the $500,000 small business exemption. Then, during committee consideration on March 8, 1989, 9 months after the committee had agreed to the new $500,000 threshold, a conforming amendment was accepted to delete section 13(a) (2) and (4) of the Fair Labor Standards Act.

Our understanding was that this amendment would ensure that the higher small business threshold applied uniformly to all industries. But the actual result of the amendment is that the new law requires coverage of individual employees in otherwise exempt businesses if these individuals engage in interstate commerce. The new exemption is therefore meaningless and has placed additional burdens on these companies.

Small companies must now determine on a weekly basis which employees engaged in interstate commerce activities. Job descriptions in the smallest companies are likely to be very broad. Employees in these businesses typically engage in many different activities on the job, so the weekly determination of their coverage will be a nightmare for the owner who is also likely to be the manager, the bookkeeper, and the payroll clerk. For example, when I owned a hardware and furniture store in Arkansas, I ordered the appliances, sold them, delivered them, installed them, and hoped I could pay my bills.

Employers have no guidelines on precisely what constitutes interstate commerce, and most can't afford a lawyer to advise them. A wrong guess could result in charges of noncompliance as well as back pay and penalties.

Determining whether an employee delivered mail to the local post office, unloaded a truck which has brought goods across State lines, or accepted a credit card—not just every month, but every week—would be a paperwork nightmare.

We have, without intending to do so, given small businesses an exemption which is meaningless and which has added to their problems. Congress intended to exempt small companies from coverage in an effort to employ more people in that sector.

Now we have, in reality, taken away that exemption without debating the issue thoroughly. The impact of eliminating the language in the Fair Labor Standards Act has had an impact contrary to congressional intent.

My amendment to the Fair Labor Standards Act has been drawn as narrowly as possible. It is not my intention to reopen the act. This amendment does not modify the equal pay, sheltered workshops, or industrial homeworker protections of the act. My intention is only to make sure that the exemption actually applies across the board to the smallest companies and to make sure that employers do not eliminate jobs because of a situation we never envisioned.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 349

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

SECTION . APPLICATION OF FAIR LABOR STANDARDS ACT OF 1938.

(a) MINIMUM WAGE.—

(1) SPECIAL INDUSTRY COMMITTEES.—Section 5(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 205(a)) is amended—

(A) by striking the phrase "engaged in commerce or in the production of goods for commerce, or employed in any enterprise engaged in commerce or in the production of goods for commerce" each time that it appears and inserting in lieu thereof each time the following: "who are: (i) engaged in industrial homework subject to 11(d) and are either (A) engaged in commerce or (B) engaged in the production of goods for commerce; or (ii) employed in an enterprise engaged in commerce or in the production of goods for commerce".

(2) MINIMUM WAGE.—Section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) is amended by striking the phrase "who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce" and inserting in lieu thereof the following: "who in any workweek is: (i) engaged in industrial homework subject to 11(d) and is either (A) engaged in commerce or (B) engaged in the production of goods for commerce; or (ii) employed in an enterprise engaged in commerce or in the production of goods for commerce".

(3) WAGE ORDERS.—Section 8(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 298(a)) is amended by striking out "employers in American Samoa engaged in commerce or in the production of goods for commerce or" and inserting in lieu thereof "employers in American Samoa".

(b) MAXIMUM HOURS.—Paragraphs (1) and (2) of section 7(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(a)) are each amended by striking the phrase "who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce" and inserting in lieu thereof the following: "who in any workweek is: (i) engaged in industrial homework subject to 11(d) and is either (A) engaged in commerce or (B) engaged in the production of goods for commerce; or (ii) employed in an enterprise engaged in commerce or in the production of goods for commerce".

(c) SEX DISCRIMINATION.—Paragraphs (1) and (2) of section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) are each amended by inserting after "employees subject to any provisions of this section" the following: "or employees engaged in commerce or in the production of goods for commerce".

(d) HANDICAPPED WORKERS.—Section 14(c)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)(1)) is amended by inserting after "injury" the following: "and who are engaged in commerce or in the production of goods for commerce, or who are employed in an enterprise engaged in commerce or in the production of goods for commerce".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 3 of the Fair Labor Standards Amendments of 1989.

Mr. PRYOR. Mr. President, I am pleased to speak in support of the bill being offered by my good friend and fellow Arkansan, Senator BUMPERS. His bill will restore a key small business provision to the minimum wage law which was enacted in 1989.

It is appropriate and understandable that Senator BUMPERS address this matter given his role as chairman of the Small Business Committee. As always, the senior Senator from Arkansas is vigilant in assuring that small businesses are given a fair shake.

Mr. President, I view this amendment as merely a technical correction that would restore to small businesses an exemption that was originally intended by Congress but inadvertently denied.

Prior to the recent minimum wage increase, the small business exemption, also known as the enterprise test, had a threshold of $362,500. When Congress adopted the minimum wage increase last year, this exemption was upped to $500,000. However, through an unintended deletion of a section of the Fair Labor Standards Act [FLSA], all businesses that had employees engaged in interstate commerce would be covered in full by the FLSA. This means that these employees would be required to be paid the new minimum wage rates of $3.80 this year and $4.25 by next year. While these rates may not seem high, to a mom and pop enterprise operating on a razor thin profit margin, it could be the final wave that takes them under.

This seemingly innocuous omission in wording has in effect precluded almost all small businesses from qualifying for the exemption Congress obviously intended. If any of my colleagues have any doubt about congressional intent, all they have to do is go back and read the RECORD during the debate. Both proponents and opponents laud the small business exemption.

So congressional intent is very clear yet small business is unable to take advantage of the exemption. Why? Because, the Department of Labor has stated that such mundane tasks as unloading trucks that have crossed State lines or processing credit card charges constitutes interstate commerce. I think most everyone would acknowledge that it would be almost impossible to operate any type of business without engaging in some form of interstate commerce. I do not fault DOL for enforcing the law, that is their job. It is Congress that must go back and make the necessary technical correction so its intent is clear to all.

This brings us to the amendment being offered by my esteemed fellow Arkansan, Senator BUMPERS. His amendment very simply clarifies FLSA language to assure small businesses are able to use the exemption we originally had intended them to use.

I believe many of my colleagues supported a minimum wage increase in large part because it provided for an exemption for small businesses. While I did not predicate my vote on the bill based solely on this provision, I was very supportive of its inclusion.

I applaud Senator BUMPERS' effort to clear up this apparent oversight and hope my colleagues will join in support.

Mr. KASTEN. Mr. President, I rise in support of this important legislation which is critical to America's small businesses. Moreover, I want to commend Senator BUMPERS for his leadership on this issue and indicate that I am looking forward to working with him on the Small Business Committee to promote other legislation that will help the small businesses of this country.

The main purpose of the minimum wage bill signed into law in 1990 was to increase the Federal minimum wage to a level of $4.25 per hour by April 1991. The law also raised the enterprise coverage test for businesses from $350,000 annually—$362,500 in the case of retail and service firms—to $500,000. This change was intended not only to help small businesses avoid increased labor costs associated with a higher minimum wage but also to relieve them of the burden of understanding a myriad of confusing tests to determine applicability of the Fair Labor Standards Act.

Instead of broadening the exemption for small businesses, however, conforming amendments to the bill actually applied the law to small retail and service establishments which had been exempt from minimum wage and overtime pay requirements since 1938. So any employee who in any way is engaged in interstate commerce, is for the first time subject to minimum wage and overtime pay requirements regardless of the size of the business.

The practical effect of this change is to wipe out the threshold increase for small businesses. Unless this bill is passed, small retail and service establishments will now be faced with the administrative burden of determining each week whether any of their employees have actually engaged in interstate commerce, or in other words, engaged in trade, commerce, transportation, communication, and on and on.

Translated into real-life terms, here is an example of the nightmarish scenario that would face these small businesses. A mom and pop grocery store in Cable, WI would have to determine each week whether the stock person unloaded a truck, or the cashier answered a telephone call from out of State, or someone handled a sale paid with a credit card issued by an out-of-State bank. The employer would have to keep records of these transactions, trying to figure out whether to pay an employee overtime for going to the post office after hours to pick up an out-of-State letter.

It is clear from the legislative history surrounding the 1989 minimum

wage amendments that this result was never intended. The committee report clearly stated that the small businesses whose total volume of sales of business done is less than $500,000 would no longer be covered. And much of the floor debate in both the House and the Senate indicated that the so-called conforming amendments were intended to strengthen the small business exemption.

I urge my colleagues to support the passage of this bill to make sure that small businesses do not have to eliminate jobs in order to comply with provisions that Congress never intended to adopt.

By Mr. KOHL (for himself and Mr. GRASSLEY):

S. 350. A bill to amend the Federal Deposit Insurance Act to include foreign deposits and nondeposit liabilities in the assessment base; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL DEPOSIT INSURANCE FAIR ASSESSMENT ACT

• Mr. KOHL. Mr. President, today I rise to introduce the Federal Deposit Insurance Fair Assessment Act. This legislation is a response to a simple inequity in current Federal regulations: right now the FDIC fully insures the dollar deposits in foreign offices of failed U.S. banks—but it does not charge one cent to those banks for the coverage. My bill would require the FDIC to change that policy and assess insurance premiums on foreign deposits.

My bill also would allow the FDIC to assess premiums on nondeposit liabilities—sophisticated financial instruments used mostly by large banks. Like foreign deposits, these are often covered by deposit insurance, but not charged premiums.

Now this may seem like a fairly narrow, theoretical, perhaps even hypothetical problem. It isn't. It is all too real.

The current policy of providing insurance without charging premiums has created an inequity that threatens the competitive position and, in some cases, the existence of small community, neighborhood banks.

The impact of that inequity was clearly demonstrated by the FDIC's recent bailout of two banks—the National Bank of Washington [NBW] here in the District of Columbia and the Freedom National Bank in Harlem. In the case of NBW, the FDIC decided that its $1.1 billion in deposits made it "too-big-to-fail." That means the FDIC determined that, if the bank closed and only explicitly covered deposits were paid back, the stability of the national banking system would be threatened.

So, the FDIC arranged to cover all NBW deposits. That included $37 million in deposits in NBW office in the Bahamas and $215 million in nondeposit liabilities. These two classes of deposits were covered even though NBW never paid a penny in insurance premiums on them.

Three months after the NBW failure, the Freedom National Bank also went down. With only $91 million in deposits, the FDIC did not consider this institution to-big-to-fail, and deposits over $100,000 were only partially reimbursed. Freedom National's failure has been an enormous loss to the community of Harlem and to many of that bank's large depositors—the United Negro College Fund and the National Urban League, to name just two.

Though the loss of Freedom National is tragic, the inequity that the loss highlights is infuriating. Because it was too small and too community oriented to have money in overseas offices or in sophisticated deposit instruments, Freedom National paid insurance premiums on almost 100 percent of its deposit base. Yet Freedom National received insurance coverage on much less than that.

The National Bank of Washington paid no insurance premiums on its deposits in the Bahamas or on its $215 million in nondeposit liabilities. Yet, when NBW went down, those deposits were covered without argument and without exception.

In a State like Wisconsin, where I believe the FDIC would find no bank too-big-to-fail, our banks pay insurance premiums on almost 100 percent of their deposit base. Contrast that with the Nation's largest nine banks. They hold 51 percent of their deposits in overseas offices. In other words, these big banks pay insurance premiums on less than half of their deposit base, yet they, and their clients, can be confident that 100 percent of their deposits are covered. Community banks in Wisconsin pay a proportionately higher price for less insurance coverage.

And Wisconsin is not unique. I would guess that the vast majority of my colleagues in the Senate represent States in which the vast majority of the banks are small community banks—banks not large enough to open offices in the Bahamas or to hire lawyers to devise creative ways to shield deposits from FDIC premium assessments.

I would also guess that most of my colleagues' constituents use these community banks to hold their savings, their mortgages, and their business receipts. These are the banks that keep credit flowing to local enterprises and families.

It is amazing to me that, despite the importance of community banks to the financial life of our towns and constituents, we have allowed a deposit insurance system to develop that puts community banks at a disadvantage vis a vis their large competitors. How can we continue to justify this blatantly unfair policy?

The simple answer is, we can't. And the simple solution is in my bill: the FDIC ought to charge banks for the insurance they receive.

This solution seems even more sensible in light of recent reports on the weakness of the bank insurance fund. According to CBO, the BIF could be insolvent by the end of this year. William Seidman, chairman of the FDIC, has said the fund needs a $25 billion capital infusion.

According to estimates done by the Independent Bankers Association of America, my legislation would bring $1.2 billion into the fund in 1991 alone. By eliminating the current, inequitable system, we would also raise money for the ailing BIF and perhaps even avoid another taxpayer bailout. In short, my bill rights a wrong and raises money. How many pieces of legislation can you say that about?

Mr. President, fixing the unfairness in our current deposit insurance system must be central to any banking law reform we undertake this year. The current inequity built into the system has put community banks at a dangerous disadvantage. By enacting the Federal Deposit Insurance Fair Assessment Act expeditiously, we can go a long way to erase that disadvantage and that danger.

I ask unanimous consent that the text of the Federal Deposit Insurance Fair Assessment Act be printed in the RECORD.

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

S. 350

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 "Federal Deposit Insurance Fair Assessment Act".

SEC. 2. DEFINITION OF DEPOSIT.

Section 3(1)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(1)(5)) is amended—

(1) by inserting ", including non-deposit liabilities," after "such other obligations"; and

(2) by striking "the following" and all that follows through the end of subparagraph (B) and inserting "obligations to a Federal Reserve Bank or a Federal Home Loan Bank shall not be deposits for any of the purposes of this chapter or be included as part of the total deposits or of an insured deposit.".

SEC. 3. FOREIGN DEPOSITS INCLUDED IN ASSESSMENT BASE.

Section 7(b)(5)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(5)(B)) is amended by striking all through "except" and inserting the following:

"(B) any deposits or other obligations which would constitute deposits under section 3(1), and which are received in any office of the depository institution, except". •

• Mr. GRASSLEY. Mr. President, I am pleased to be a cosponsor of the bill introduced by the distinguished Senator from Wisconsin. His leadership on this issue is notable not only in the 102d Congress, but also in the 101st.

Our bill will simply create equity in the banking industry by assessing deposits held in foreign branches of U.S. banks for the insurance protection they are now provided. The bill also allows the FDIC to include nondeposit liabilities in its insurance assessment base.

My commitment to equity in the banking industry is not new. While recent actions by the Federal Deposit Insurance Corporation make this issue especially poignant now, I have long been dismayed with the favorable treatment provided to big banks that is categorically denied to smaller banks. Not only are community banks unable to receive the same benefits, but they ultimately end up paying for the perks enjoyed by big banks.

There are two basic and indisputable reasons why the FDIC should assess deposits in foreign branches of American banks and other liabilities which are not deposit-based.

The first reason is simple fairness. Foreign deposits are currently getting insurance protection without having to pay for it. Depositors in community banks, however, are denied similar protection should their bank fail. The second reason is that assessing foreign deposits will generate much needed revenue for the insurance fund itself. The FDIC projects it will lose $5 billion by the end of this year. FDIC Chairman Bill Seidman further estimates the fund will require an infusion of at least $5 billion in 1991 and as much as $25 billion over the next 5 years.

As I have already stated, the current system is unfair to small banks. By the very nature of the business they do in main street America, the largest share of their liabilities are in domestic deposits, and thus subject to the ever-increasing deposit insurance fee.

Regional banks, on the other hand, are uniquely able to diversify their business into foreign branches and nondeposit liabilities. The FDIC confirms that 51 percent of the deposits of America's nine largest banks are in foreign markets. Mr. President, under the too big to fail policy of the FDIC, this means that big banks are receiving 100 percent protection and paying for only 49 percent of it!

I realize the current economic situation in the real estate industry is taking its toll on many banks in the Northeast section of the country.

But when the Midwest farm economy took a nose dive in the early and middle 1980's, rural banks were allowed to fail in record numbers. Just in my State of Iowa, 39 banks were closed in the period from 1982 to 1988.

While I am very thankful that no Iowa banks have closed in the last 2 years, every depositor with accounts exceeding $100,000 in those 39 banks had to take a loss. Mr. President, we are not talking about rich people here. We are talking about churches, charitable organizations, and retired persons.

I am proud that the rural banks, and their communities, were able to pull themselves out of the economic crisis of the 1980's. But their survival did not happen without lots of pain and misery for lots of people.

I do have sympathy for the banks and depositors now facing economic travesty. But I do not believe that they should receive unlimited assistance from the Federal Deposit Insurance Corporation, assistance that is ultimately financed by the banks which received no assistance a few years earlier.

The current system is unfair and costly to community bankers. And that cost is going up. In 1990 banks were assessed 8.3 cents for every $100 in deposits. This year it is up to 19.5 cents, and next year it is going to go up to 23 cents.

Why is this rate going up? Because more big banks will fail and use up the reserves in the FDIC. These higher bank costs are necessarily passed on to bank customers through lower interest rates on deposits and higher rates on loans.

Less than a week ago, Chairman Seidman said that even with the increase in the assessment rate, the bank insurance fund, now $9 billion, will drop to $4 billion by the end of this year, and to less than $2.5 billion by the end of 1992. And these estimates assume that the recession will end by the middle lof the year.

If the recession continues into next year, the FDIC reserves will be totally depleted by the end of this year and will be $5.8 billion in the hole by the end of 1992. Chairman Seidman estimates that the fund will need an extra $5 billion this year, on top of the insurance premiums it will take in, to handle the anticipated failure.

The Congressional Budget Office conservatively estimates that assessing foreign deposits will bring in $2.16 billion over 5 years to the fund, about 10 percent of what Mr. Seidman estimates the FDIC will need tor that period. Obviously assessing foreign deposits will not provide all of the needed revenue for bank failures, but it will reduce the amount by which community bankers must subsidize them.

The statutory goal for the Bank Insurance Fund is $1.25 in the insurance fund for every $100 of domestic deposits. Right now the fund is at about 70 cents for every $100—nearly half of the goal. If we acknowledge the increased exposure to the insurance fund with the $312 billion in foreign deposits which are insured de facto, the ratio would be even lower.

Mr. President, the bank insurance fund is in trouble, and if we have learned anything from the savings and loan debacle, we have to take action now.

In a nation which prides itself on fairness, we ought not be treating big banks better than smaller banks. This legislation will make things more equitable for the community banks—banks that are the lifeblood of our small towns and cities.●

By Mr. METZENBAUM (for himself, Mr. D'AMATO, Mr. KENNEDY, Mr. LUGAR, Mr. ADAMS, Mr. COATS, Mr. SHELBY, Mr. BURDICK, Mr. HATFIELD, Mr. ROCKEFELLER, Mr. INOUYE, and Mr. AKAKA):

S. 351. A bill to provide participants in private pension plans which were terminated before September 1, 1974, the nonforfeitable pension benefits which were lost by reason of the termination, and for other purposes; to the Committee on Labor and Human Resources.

PENSION RESTORATION ACT

Mr. METZENBAUM. Mr. President, I am introducing today a bill to partially compensate an estimated 46,000 individuals who lost vested pension benefits when their plans terminated with insufficient funds prior to the enactment of the Employee Retirement Income Security Act of 1974. These are the people whose losses led to the passage of ERISA and the establishment of a Federal private pension insurance program. The Pension Restoration Act of 1991 would right the wrong done to these people 17 years ago when they were left out of the protection of ERISA.

Prior to ERISA, the obligation of employers to pay earned pension benefits was limited to the assets in the pension plan. If the employer contributed insufficient assets to pay promised benefits there was no insurance fund to back up the employer's promise if the employer went out of business or terminated the plan. The retirees lost the benefits they had worked a lifetime to earn. A Labor Department study in 1972 found that 13,000 plans did not have sufficient funds to pay vested benefits.

Starting in 1974, ERISA's pension insurance program assured pension plan participants that their basic benefits would be paid by the Pension Benefit Guaranty Corporation should the plan collapse. Forty million people are now protected by the PBGC Program, but that program does not protect the very people whose tragic loss of vested benefits motivated Congress to enact ERISA and create the PBGC.

These people include the 500 retirees at the Studebaker plant in South Bend, IN, who reported to work on December 9, 1963 only to discover that they had lost not only their jobs but their pensions. Most of these people had worked a lifetime for Studebaker counting on their pension benefits. As Odell Newburn, the president of UAW Local No. 5 has testified, "suddenly their world dropped from under them."

Other pension losers were robbed of their hard-earned retirement dollars after years of work for such companies as Tandy Hickock in New York, White House Department Stores in California, American Cynamid Explosive Co. in Pennsylvania, Shoe Company of America in Wisconsin and Sterling Aluminum Produce Company in Missouri.

In 1974, there were 115,000 pre-ERISA pension losers who had lost vested benefits. Today, less than half survive. Most are very old, and poor. Mr. President, I believe that these surviving pre-ERISA pension losers deserve most modest compensation 17 years after they were left out of the law which they caused to be enacted.

Mr. President, 46,000 of the original 115,000 pre-ERISA vested pension losers are alive today to benefit from this legislation which would provide them a modest $75 a year for each year that they worked under a pension plan. A retiree who worked 20 years under a plan would receive $1,500 a year. His surviving widow would receive half that amount. Payments would be made once a year beginning with the effective date of the legislation.

The cost of the program would be less than $50 million in 1990 to compensate an estimated 26,674 retirees and 14,392 widows and widowers. This cost would decrease over time. In 1999, there would be 34,000 beneficiaries at a cost of $41.5 million.

The program would be paid for entirely by the investment returns of the PBGC trust funds. These funds are not included in the Federal budget and thus the bill has no impact on the Federal deficit. No increase in current premium levels would be necessary. The PBGC would administer the program.

Mr. President, the Pension Restoration Act of 1991 is long overdue. Most of the pension losers are now very old, many are desperately poor. Like Hazel Sharp, now nearly 90 years old and in a nursing home, they have stretched all the stretch out of their meager Social Security payments. This bill should be enacted as a matter of fairness and justice. I urge my colleagues to support the Pension Restoration Act of 1991.

I ask by unanimous consent the text of my bill be printed in the RECORD.

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

S. 351

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 "Pension Restoration Act of 1991".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) STATE; UNITED STATES.—The terms "State" and "United States" have the meanings set forth in paragraph (10) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(2) EMPLOYER; PARTICIPANT; BENEFICIARY; NONFORFEITABLE; DEFINED BENEFIT PLAN.—The terms "employer", "participant", "beneficiary", "nonforfeitable", and "defined benefit plan" have the meanings set forth in paragraphs (5), (7), (8), (19), and (35), respectively, of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(3) EARLY TERMINATED PLAN.—The term "early terminated plan" means a defined benefit plan—

(A) which is described in subsection (a) of section 4 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1003) and is not described in subsection (b) of that section, and

(B) the termination date of which (as determined by the Corporation) was before September 1, 1974.

(4) QUALIFIED PARTICIPANT.—The term "qualified participant" means an individual who—

(A) was a participant in an early terminated plan maintained by an employer of such individual, and

(B) as of immediately before the termination of the plan had a nonforfeitable right to benefits under the plan.

(5) QUALIFIED SPOUSE.—The term "qualified spouse" means an individual who is the widow (within the meaning of section 216(c) of the Social Security Act (42 U.S.C. 416(c)) or the widower (within the meaning of section 216(g) of such Act (42 U.S.C. 416(g)) of a qualified participant.

(6) CORPORATION.—The term "Corporation" means the Pension Benefit Guaranty Corporation.

SEC. 3. ENTITLEMENT TO ANNUITY.

(a) ENTITLEMENT OF QUALIFIED PARTICIPANT.—

(1) IN GENERAL.—A qualified participant is entitled, upon approval under this Act of an application therefor, to an annuity computed under section 4(a).

(2) COMMENCEMENT.—The annuity of a qualified participant commences on the day after the later of—

(A) the effective date set forth in section 12, or

(B) the date on which the qualified participant attains 65 years of age.

(3) TERMINATION.—The annuity of a qualified participant and the right thereto terminate at the end of the last calendar month preceding the date of the qualified participant's death.

(b) ENTITLEMENT OF QUALIFIED SPOUSE.—

(1) IN GENERAL.—A qualified spouse is entitled, upon approval under this Act of an application therefor, to an annuity computed under section 4(b).

(2) COMMENCEMENT.—The annuity of a qualified spouse of a qualified participant commences on the latest of—

(A) the effective date set forth in section 12,

(B) the first day of the month in which the qualified participant dies, or

(C) if the qualified participant dies before attaining 65 years of age, the first day of the month in which the qualified participant would have attained such age but for the qualified participant's death.

(3) TERMINATION.—The annuity of a qualified spouse and the right thereto terminate at the end of the last calendar month preceding the date of the qualified spouse's death.

SEC. 4. COMPUTATION OF ANNUITY.

(a) QUALIFIED PARTICIPANT'S ANNUITY.—The annuity computed under this subsection (relating to a qualified participant) in connection with any early terminated plan is equal to the excess (if any) of—

(1) the product derived by multiplying $75 by the number of years of service of the qualified participant under the plan, over

(2) the annual amount which would be necessary to amortize in level amounts over 10 years the sum of—

(A) any lump sums paid to the qualified participant from the plan in connection with the termination, and

(B) the actuarial present value (determined, as of the effective date set forth in section 12, under the assumptions used by the Corporation for purposes of section 4044 of the Employee Retirement Income Security Act of 1974) of pension benefits under the plan (if any) to which the qualified participant retains a nonforfeitable right under the plan.

(b) QUALIFIED SPOUSE'S ANNUITY.—The annuity computed under this subsection (relating to the qualified spouse of a qualified participant) in connection with an early terminated plan is equal to the excess (if any) of—

(1) 50 per centum of the amount determined under paragraph (1) of subsection (a) in connection with such qualified participant, over

(2) the annual amount which would be necessary to amortize in level amounts over 10 years the sum of—

(A) any lump sums paid to the qualified spouse from the plan in connection with the termination, and

(B) the actuarial present value (determined, as of the effective date set forth in section 12, under the assumptions used by the Corporation for purposes of section 4044 of the Employee Retirement Income Security Act of 1974) of pension benefits under the plan (if any) to which the qualified spouse retains a nonforfeitable right under the plan.

SEC. 5. APPLICATIONS.

(a) REQUIREMENTS.—An application for an annuity under this Act in connection with an early terminated plan shall be approved if—

(1) the application includes evidence sufficient to establish that the applicant is a qualified participant or qualified spouse in connection with such plan, or

(2) the evidence included in the application, together with such evidence as the applicant may request the Corporation to consider pursuant to subsection (c), establishes that the applicant is a qualified participant or a qualified spouse in connection with such plan.

(b) APPLICATION FORMS.—The Corporation may by regulation prescribe application forms which may be used by applicants for purposes of subsection (a). Any such forms prescribed by the Corporation shall be made available to the public by the Corporation.

(c) SPECIFIC MATTERS.—In considering applications for annuities under this Act, the Corporation shall consider, on the request of an applicant or the applicant's representative, in addition to any other relevant evidence—

(1) a comparison of employment and payroll records which were maintained under chapter 21 of the Internal Revenue Code of 1986 (relating to Federal Insurance Contributions Act) or under the Social Security Act (42 U.S.C. 301 et seq.) with records maintained by the Internal Revenue Service relating to the qualification status of trusts forming part of a stock bonus, pension, or profit-sharing plan under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to pension, profit sharing, stock bonus plans, etc.), and

(2) records maintained under the Welfare and Pension Plans Disclosure Act of 1958.

(d) PROCEDURES FOR INITIAL DETERMINATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, in making initial determinations regarding applications for annuities under this Act, the Corporation shall follow the procedures prescribed by the Corporation for—

(A) initial determinations of benefit entitlement of participants and beneficiaries under plans to which section 4021 of the Employee Retirement Income Security Act of 1974 applies, and

(B) determinations of the amount of guaranteed benefits of such participants and beneficiaries under title IV of such Act.

(2) NOTICES OF DENIAL.—The Corporation shall send any individual whose application under this Act is denied by the Corporation pursuant to an initial determination a written notice of the denial. Such notice shall include the reason for the denial and shall set forth the procedures required to be followed in order to obtain review under this Act.

SEC. 6. ADMINISTRATIVE APPEALS.

(a) IN GENERAL.—Any individual whose application for an annuity under this Act is denied pursuant to an initial determination by the Corporation is entitled to—

(1) a reasonable time, but not less than 60 days after receipt of the written notice of denial described in section 5(d)(2), to request a review by the Corporation and to furnish affidavits and other documentary evidence in support of the request, and

(2) a written decision and the specific reasons therefor at the earliest practicable date.

(b) PROCEDURES.—Except as otherwise provided in subsection (a), in reviewing initial determinations regarding applications for annuities under this Act, the Corporation shall follow the procedures prescribed by the Corporation for requesting and obtaining administrative review by the Corporation of determinations described in subparagraphs (A) and (B) of section 5(d)(1).

SEC. 7. JUDICIAL REVIEW.

(a) IN GENERAL.—Any individual, after any final decision made under section 6, irrespective of the amount in controversy, may obtain judicial review of the decision by a civil action commenced under this section within 180 days after the mailing to the individual of notice of such decision or within such further time as the Corporation may allow.

(b) VENUE.—Any action commenced under this section shall be brought in the district court of the United States for the judicial district in which the plaintiff resides or in the United States District Court for the District of Columbia.

(c) RECORD.—As part of any answer by the Corporation, the Corporation shall file a certified copy of the transcript of the record, including the evidence upon which the findings and decision complained of are based.

(d) JUDGMENT.—The court shall enter, upon the pleadings and transcript of the record a judgment affirming, modifying, or reversing the decision, with or without remanding the case for a rehearing.

(e) REMANDED CASES.—

(1) AUTHORITY TO REMAND TO THE CORPORATION.—The court shall, on the motion of the Corporation made before the Corporation files its answer, remand the case to the Corporation for further action by the Corporation. The court may, at any time, on good cause shown, order additional evidence to be taken before the Corporation.

(2) RECONSIDERATION ON REMAND.—The Corporation shall, after the case is remanded, and after hearing such additional evidence if so ordered—

(A) modify or affirm the earlier findings of fact or decision, or both, under section 6, and

(B) file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which the Corporation's action in modifying or affirming was based.

(f) FINAL JUDGMENT.—The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions.

SEC. 8. PAYMENT OF ANNUITIES.

(a) FORMS OF PAYMENT.—

(1) YEARLY PAYMENTS.—Each annuity payable under this Act shall be payable as an annual amount.

(2) RETROACTIVE LUMP-SUM PAYMENTS.—Any individual whose claim for an annuity under this Act is approved after the date on which the annuity commences under subsection (a)(2) or (b)(2) of section 3 shall be paid the total amount of the annuity payments for periods before the date on which the claim is approved in the form of a lump-sum payment.

(b) CASES OF INCOMPETENCY.—Payment due an individual mentally incompetent or under other legal disability may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or the claimant's estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who is responsible for the care of the claimant, and the payment bars recovery by any other person.

(c) DIVORCES, ETC.—

(1) ALTERNATIVE PAYEES.—Payments under this Act which would otherwise be made to a person under this Act shall be made (in whole or in part) to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

(2) NOTIFICATION REQUIREMENTS.—Paragraph (1) shall only apply to payments made by the Corporation under this Act after the date of receipt by the Corporation of written notification of such decree, order, or agreement, and such additional information and documentation as the Corporation may prescribe.

(3) COURT.—As used in this subsection, the term "court" means any court of any State.

(d) INALIENABILITY.—Amounts payable under this Act are not assignable, either in law or equity, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal law.

(e) FORGIVENESS.—Recovery of payments under this Act may not be made from an individual in any case in which the Corporation determines that the individual is without fault and recovery would be against equity and good conscience.

SEC. 9. INTERAGENCY COORDINATION AND COOPERATION.

(a) IN GENERAL.—The Corporation may make such arrangements or agreements with other departments, agencies, or establishments of the United States for cooperation or mutual assistance in the performance of their respective functions under this Act as are necessary and appropriate to avoid unnecessary expense and duplication of functions.

(b) USE OF FACILITIES.—The Corporation may use, as appropriate, on a reimbursable or other basis, the facilities or services of any department, agency, or establishment of the United States or of any State or political subdivision thereof, including the services of any of its employees, with the lawful consent of such department, agency, or establishment.

(c) COOPERATION.—

(1) IN GENERAL.—Each department, agency, or establishment of the United States shall cooperate with the Corporation and, to the extent necessary and appropriate, provide such information and facilities as the Corporation may request for its assistance in the performance of the Corporation's functions under this Act.

(2) AVAILABILITY OF RECORDS FROM THE SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall provide the Corporation with such records, determined by the Corporation to be necessary to carry out the purposes of this Act, as the Corporation may request.

(3) AVAILABILITY OF CONFIDENTIAL TAX RETURNS AND RETURN INFORMATION.—Section 6103(l) of the Internal Revenue Code of 1986 (relating to use of returns and return information for purposes other than tax administration) is amended by adding at the end of paragraph (2) the following new sentence: "Returns and return information shall be open to inspection by or disclosure to officers and employees of the Corporation whose official duties require such inspection or disclosure for the purpose of, but only to the extent necessary in, considering such returns and return information pursuant to section 5(c)(1) of the Pension Restoration Act of 1991, except that such inspection or disclosure shall be permitted only upon written request which sets forth the specific reason or reasons why such inspection or disclosure is necessary and which is signed by the head of the bureau or office of the Corporation requesting the inspection or disclosure.".

SEC. 10. REGULATIONS.

The Corporation shall, before the effective date set forth in section 12, prescribe the initial regulations necessary to carry out the provisions of this Act. Regulations under this Act shall be prescribed by the Corporation in consultation, as appropriate, with the Secretary of the Treasury and the Secretary of Health and Human Services.

SEC. 11. PROGRAM FUNDING.

(a) PAYMENT.—The Corporation shall use moneys from the appropriate revolving funds established under section 4005 of the Employee Retirement Income Security Act of 1974 to carry out its functions under this Act.

(b) TRANSFERS FROM TRUST FUNDS.—The Corporation shall transfer to the revolving funds described in subsection (a) from the trust funds consisting of assets of terminated plans and employer liability payments amounts equal to the amounts needed to carry out its functions under this Act.

SEC. 12. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), the provisions of this Act shall take effect 60 days after the date of the enactment of this Act.

(b) SPECIAL RULE.—The provisions of sections 10 and 11 shall take effect on the date of the enactment of this Act.

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legis-

lation that will compensate a small and seemingly forgotten group of older Americans. I am referring to those 46,000 individuals nationwide who, through no fault of their own, had their pensions terminated between the years 1942 and 1974. Unfortunately, these older Americans were not covered under the Employee Retirement Income Security Act of 1974 [ERISA] and thus have not been able to collect any of their vested pension benefits. The bill that Senator METZENBAUM and I are introducing will once and for all correct this inequity.

As we all know, until ERISA, an employee essentially gambled that upon retirement, his or her benefits would be available. However, when a pension fund became insolvent, the worker was the one to lose. Since ERISA was enacted in 1974, workers have had their basic benefits guaranteed by the Pension Benefit Guarantee Corporation. Tragically, the very people that touched off the battle to establish ERISA are not covered by its umbrella. This is wrong.

The bill we are introducing today is virtually the same bill that I introduced in the 97th, 98th, and 99th Congresses. It is about time that we offer some semblance of financial security to the remaining pre-1974 pension losers—most of whom are very old, and with little money. Our bill would compensate each individual $75 a year for each year worked under a pension plan. Thus, a retiree within 10 years would receive $750 a year; 20 years would get $1,500 a year. Any surviving spouse would receive half the amount. All would be made in one lump sum payment per year. Also, the PBGC would administer and pay for the program without an increase in premiums. This is expected to cost less than $50 million and will only decrease over the coming years.

I cannot stress enough the urgency of this legislation. These "pension losers" need not suffer anymore than they already have. For all of these people we must enact this legislation as a measure of fairness to them. I urge my colleagues to join us in supporting this bill.

Mr. KENNEDY. Mr. President, I am pleased to be a sponsor of the Pension Restoration Act, which will require the Pension Benefit Guaranty Corporation [PBGC] to provide modest pension benefits to workers who never received the pension benefits they were promised by their employers because their pension plans were terminated prior to the enactment of the Employee Retirement Income Security Act [ERISA].

If an employer today is unable to meet its pension obligations, PBGC takes over the obligations and pays the benefits. However, because the ERISA provisions creating the PBGC were made retroactive only to July 1, 1974, workers whose plans were terminated prior to that date—and whose plight was what led to the enactment of the statute—were left unprotected. The number of these pre-ERISA "pension losers" is estimated at 46,000 and will continue to dwindle as the years go by.

Under the bill, retirees who were eligible for benefits at the time their plans were terminated would receive $75 a year for every year they worked under their company's plan, to a maximum of $1,500 a year; surviving spouses of eligible workers would receive half that amount. There is no provision for payment of retroactive benefits; these modest benefits will not recoup the significant benefits already lost; the retirees will receive only a small part of what they would be receiving today had their plans not been terminated. The cost of the Pension Restoration Act is estimated at $50 million for the first year and less each year thereafter.

These elderly retirees have been denied this assistance they deserve for too long. I commend Senator METZENBAUM for his continued commitment to America's workers and retirees. I also commend the Pension Losers Committee, the workers' group formed in 1972 to seek this measure of simple justice, for their perseverance. I look forward to the enactment of this legislation and urge my colleagues to support it.

By Mr. GLENN (for himself, Mr. INOUYE, and Mr. ADAMS):

S. 352. A bill to protect the rights of persons to due process of law and equal protection of the laws in guardianship proceedings; to the Committee on the Judiciary.

NATIONAL GUARDIANSHIP RIGHTS ACT

• Mr. GLENN. Mr. President, today, along with my colleagues, Senators INOUYE and ADAMS, I am introducing S. 352, the National Guardianship Rights Act of 1991. An identical bill is being introduced in the House of Representatives by Congressman EDWARD ROYBAL, chairman of the House Select Committee on Aging. The purpose of our legislation is to provide greater protection against abuse for the nearly 500,000 elderly and disabled Americans who are under guardianships.

Guardianship reform legislation was first introduced by the late Honorable Claude Pepper, chairman of the House Select Committee on Aging's Subcommittee on Health and Long-Term Care, which issued a report, "Abuses in Guardianship of the Elderly and Infirm: A National Disgrace." The findings of this report, along with an extensive investigation by the Associated Press, make it clear that action is needed to reform the process by which guardians are appointed and to monitor the activities of guardians of behalf of their wards.

Being under guardianship means that a person's legal rights, possessions, and decisionmaking power have been transferred to another person because a court, usually a local probate court, has determined the person is unable to handle his or her own affairs. Guardianship is an important protection for those who truly need such far-reaching assistance, but growing concern about the problems and abuses with our current guardianship systems highlights the importance of requiring, at the least, Federal minimum standards to be applied in all guardianship proceedings.

It is also important to point out that many States have already taken the lead in reforming their guardianship laws, and many of the recommendations contained in our legislation are taken from the best practices found throughout the country. I am proud that my own State of Ohio has enacted a guardianship law, now in effect, which improves the criteria used to determine incapacity, requires periodic reviews of guardianships, and provides for limited guardianships to meet individual circumstances.

The legislation we are introducing today addresses many of the problems that have been documented with regard to guardianships, including the following:

Lack of notification to an individual that someone is petitioning the court to have a guardian appointed for that individual;

Use of advanced age as a significant criteria for a finding of incapacity and issuance of a guardianship order;

Lack of consideration of medical evidence in determining incapacity;

No requirement that an alleged incapacitated individual be present when a guardianship proceeding takes place;

No standards for becoming a guardian; and

Lack of oversight of the actions taken by guardians.

The National Guardianship Rights Act of 1991 establishes Federal requirements so that all States must provide due process protections in guardianship proceedings, in accordance with the 14th amendment to the U.S. Constitution. This will ensure that a potential ward is aware of the court proceeding, is informed that he or she has the right to be present and to be represented by court-appointed counsel, and has the right to an evaluation by an independent professional guardianship evaluation team to assess functional ability and the need for assistance. The bill also establishes rights regarding the appointment of competent and trained guardians; provides for appeals and reconsiderations of determinations of incapacity; and requires court supervision of guardians and periodic investigations of the well-being of persons under guardianship.

Guardianship is an important issue—one that is tied to our concern about long-term care for the disabled and for our growing elderly population, particularly the very old. Many of these

people may need some assistance because they are in very poor physical or mental health. However, their autonomy and independence should not be taken from them without very good justification and without due process. And when guardians are appointed, there should be an assurance that they are highly qualified and that their actions will be monitored to ensure that they are in the best interests of the person they have been appointed to protect.

The National Guardianship Rights Act of 1991, legislation which sets Federal minimum standards to combat problems and abuses surrounding guardianship proceedings and guardianships, addresses these important issues. I urge consideration and passage of this bill by my colleagues in the 102d Congress.

Mr. President, I ask that the full text of the bill be printed in the RECORD at this point.

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

S. 352

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 "National Guardianship Rights Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) DENIAL OF CONSTITUTIONAL PROTECTIONS.—Thousands of individuals in the United States are being denied, through the imposition of guardianship orders, due process of law and equal protection of the laws as guaranteed under the 14th amendment to the Constitution of the United States.

(2) REMOVAL OF RIGHTS.—Individuals in the United States subject to guardianship orders typically retain fewer rights than are retained by convicted felons, since most guardianship orders remove from the individual basic rights such as the rights to vote, own property, marry, consent to medical treatment, and contract.

(3) SEVERITY OF ACTION AGAINST INDIVIDUAL.—A guardianship order is one of the most severe legal actions that can be taken against an individual in the United States and involves restricting or removing the rights of an individual, often without the individual being present or having the benefit of legal representation.

(4) DIFFICULTY OF DISSOLUTION.—While a guardianship order can be secured with relative ease, the dissolution of a guardianship order is often very difficult, leaving protected persons vulnerable to abuse and with little means of recourse to address their grievances.

(5) LACK OF PROTECTION UNDER STATE LAW.—State laws generally have failed to provide adequate protections against unwarranted and overly restrictive guardianship orders, appointment of unfit guardians, and abusive practices by guardians, as illustrated by the following:

(A) NOTICE OF GUARDIANSHIP PROCEEDING.—Many States routinely allow waiver of notice to the alleged incapacitated individual that someone is petitioning the court to have a guardian appointed for the individual. Moreover, notice to the alleged incompetent individual is often meaningless because the nature of the proceeding and the rights of the individual are not explained to the alleged incompetent individual.

(B) ADVANCED AGE AS BASIS FOR INCAPACITY.—In 18 States, the advanced age of an individual is sufficient cause for a finding of incapacity and issuance of a guardianship order.

(C) MEDICAL EVIDENCE OF INCAPACITY.—Only 10 States require consideration of medical evidence of the incapacity of an individual before the individual may be determined to be legally incapacitated and subject to a guardianship order.

(D) PRESENCE AT PROCEEDING.—Only 16 States require that an alleged incapacitated individual be present when a guardianship proceeding takes place.

(E) STANDARDS FOR GUARDIANS.—No State has minimum standards of experience, education, or intelligence for becoming a guardian.

(F) PROHIBITION ON FELONS AS GUARDIANS.—Only 7 States prohibit convicted felons from being appointed as guardians.

(G) OVERSIGHT OF GUARDIANSHIP ORDERS.—Courts that issue guardianship orders rarely conduct any followup check regarding the orders.

(H) REPORT BY GUARDIANS.—Twenty-two States lack a requirement that the guardian file an annual report regarding the well-being of the protected person.

(I) ACCOUNTING BY GUARDIANS.—Nineteen States lack a requirement that the guardian provide an annual accounting of the assets of the protected person.

(6) NECESSITY OF CONGRESSIONAL ACTION.—Because many States have violated the prohibition of the 14th amendment to the Constitution of the United States against deprivation of the life, liberty, or property of any person without due process of law by allowing the deprivation of personal liberty and lack of control of the property of an individual resulting from a finding of incapacity, it is necessary for the Congress to establish national standards for the protection of the rights of alleged incapacitated individuals.

(b) PURPOSE.—The purpose of this Act is to enforce the guarantee of the 14th amendment to the Constitution of the United States that no State shall deprive any person of life, liberty, or property, without due process of law, as relates to alleged incapacitated individuals, by establishing national standards for the protection of alleged incapacitated individuals and guardianship proceedings involving alleged incapacitated individuals.

SEC. 3. BASIC RIGHTS OF ALLEGED INCAPACITATED INDIVIDUALS.

(a) RIGHT TO NOTICE.—An alleged incapacitated individual and the family of an alleged incapacitated individual shall have the right to be promptly notified that a guardianship petition commencing a guardianship action has been filed and to be fully informed of the potential legal consequences of the filing, as follows:

(1) SERVICE.—

(A) ALLEGED INCAPACITATED INDIVIDUAL.—Notice of a guardianship proceeding shall be personally served on the alleged incapacitated individual not less than 30 working days before the proceeding.

(B) FAMILY OF ALLEGED INCAPACITATED INDIVIDUAL.—Notice of a guardianship proceeding shall be personally served or served by mail, not less than 30 working days before the proceeding, on any spouse, custodian, proposed guardian, adult son or daughter, and parent of the alleged incapacitated individual (if their locations are known or readily determinable).

(2) CONTENTS.—Notice under this subsection shall include the following:

(A) DATE, TIME, AND PLACE OF PROCEEDING.—A statement of the date, time, and place of the guardianship proceeding.

(B) DEFENSE RIGHTS OF ALLEGED INCAPACITATED INDIVIDUAL.—A clear and easily readable statement explaining each of the rights of the alleged incapacitated individual that are established in sections 3 and 4.

(C) TRANSFER OF LEGAL RIGHTS.—A detailed explanation of the potential legal effects on the alleged incapacitated of a guardianship order and a listing and explanation of each of the legal rights of the alleged incapacitated individual that could be restricted or transferred to a guardian by a guardianship order, including, if applicable, the rights to—

(i) marry or divorce;

(ii) vote or hold elected office;

(iii) enter into a contract or make or revoke a will;

(iv) sue and be sued, other than through the guardian;

(v) appoint an agent;

(vi) personally apply for government benefits;

(vii) possess a license to drive;

(viii) own, buy, sell, mortgage, or lease property;

(ix) determine where to reside;

(x) consent to or refuse medical treatment;

(xi) determine who shall provide personal care or assistance;

(xii) travel; and

(xiii) make decisions regarding social environment and other social aspects in the life of the individual.

(3) PROHIBITION OF WAIVER.—An alleged incapacitated individual may not waive the right to notice under this subsection.

(b) RIGHT TO CONVENIENT FORUM.—An alleged incapacitated individual shall have the right to have a guardianship action brought in the county in which the alleged incapacitated individual resides unless the court orders the action to be brought in another specified county. The court may enter an order under this subsection only upon a finding that extreme hardship or prejudice will result to the alleged incapacitated individual unless the action is brought in another specified county, pursuant to a motion by the party alleging incapacity or the alleged incapacitated individual.

(c) RIGHT TO PRESENCE AT PROCEEDING.—

(1) PRESENCE UNLESS INABILITY TO ATTEND.—An alleged incapacitated individual shall have the right to be present at all guardianship proceedings relating to the alleged incapacitated individual unless both of the following occur:

(A) DISABILITY.—The alleged incapacitated individual is unable by disability to attend.

(B) DISABILITY ESTABLISHED.—The inability of the alleged incapacitated individual to attend is established by the independent professional guardianship evaluation team appointed by the court under subsection (e), if the alleged incapacitated individual requested an evaluation team under subsection (e).

(2) LOCATION OF HEARING.—The court may, in the case of an alleged incapacitated individual whose inability to attend a guardianship proceeding has been established under paragraph (1)(B), conduct the guardianship proceeding at the location of the alleged incapacitated individual.

(d) RIGHT TO COUNSEL.—

(1) IN GENERAL.—An alleged incapacitated individual shall have the right to be rep-

resented by counsel in a guardianship proceeding. A guardianship proceeding may not be held without counsel for the alleged incapacitated individual unless the alleged incapacitated individual waives the right to counsel under paragraph (4).

(2) COURT-PROVIDED COUNSEL.—An alleged incapacitated individual shall have the right to have the court provide counsel to represent the alleged incapacitated individual when the alleged incapacitated individual is unable to obtain representation by other means. Counsel shall be provided not less than 20 working days before the guardianship proceeding.

(3) ROLE OF COUNSEL.—Counsel for the alleged incapacitated individual shall act as an advocate for the individual, and shall advise the alleged incapacitated individual in a manner likely to be understood by the individual of all legal options available in a guardianship action and the consequences of such options. Counsel shall zealously advocate the option selected by the alleged incapacitated individual. Counsel shall not act in the role of guardian ad litem of the alleged incapacitated individual.

(4) WAIVER.—The alleged incapacitated individual may waive the right to be represented by counsel only if the alleged incapacitated individual is present at the guardianship proceeding and the waiver is knowing and voluntary.

(e) RIGHT TO INDEPENDENT PROFESSIONAL GUARDIANSHIP EVALUATION TEAM.—

(1) IN GENERAL.—An alleged incapacitated individual shall have the right, upon the request of the alleged incapacitated individual or counsel for the individual (not less than 20 working days before the guardianship proceeding), to have the court appoint an independent professional guardianship evaluation team to examine the alleged incapacitated individual named in the petition and report to the court regarding the alleged incapacitated individual. If requested, the court shall appoint the evaluation team not less than 15 working days before the guardianship proceeding.

(2) PROHIBITION OF INTERESTED INDIVIDUALS.—The court may not appoint to the evaluation team an individual who is related to or involved in a business relationship with any party to the guardianship action.

(3) MEMBERSHIP.—An evaluation team shall consist of the following:

(A) PSYCHIATRIST OR PHYSICIAN.—Not less than 1 licensed psychiatrist or other physician who is skilled in evaluating the particular area of incapacity alleged of the alleged incapacitated individual.

(B) SOCIAL WORKER.—Not less than 1 licensed professional social worker.

(C) OTHER PROFESSIONALS.—Any other professional individuals that the court may consider appropriate, including, but not limited to geriatricians, gerontologists, nurses, community health workers, disability workers, and habilitators.

(4) EXAMINATION.—

(A) IN GENERAL.—If an evaluation team is requested under paragraph (1), each member of the evaluation team shall conduct, not later than 10 working days before the guardianship proceeding and in person, an examination of the alleged incapacitated individual. The counsel for the alleged incapacitated individual, upon request to the court, shall be entitled to notification of and presence at the examination.

(B) LOCATION.—The examination shall take place, whenever possible, at the location or usual environment of the alleged incapacitated individual.

(C) MANNER.—The examination shall be conducted, whenever possible, in a manner designed not to offend the privacy or dignity of the alleged incapacitated individual.

(5) REPORT.—If an evaluation team is requested under paragraph (1), the evaluation team shall submit (not less than 5 working days before the guardianship proceeding) to the court, the alleged incapacitated individual, and the counsel for the alleged incapacitated individual, if any, a written report explaining in detail the results of the examination. The report shall include a statement of capacity and functional limitations and capabilities of the alleged incapacitated individual and the specific behavioral manifestations that form the basis for the determination regarding the capacity.

(6) EFFECT OF FINDING ON GUARDIANSHIP ACTION.—

(A) DISMISSAL.—If the evaluation team determines, based on the evaluation under paragraph (4), that the alleged incapacitated individual is not incapacitated in any area, the court shall dismiss the guardianship action without delay.

(B) REQUIRED AMENDMENT.—If the evaluation team determines that the alleged incapacitated individual is incapacitated in any area other than the areas specified in the guardianship petition, the court shall instruct the petitioner to amend the petition accordingly. If the petition is not so amended, the court shall dismiss the guardianship action.

(7) AVAILABILITY FOR CROSS EXAMINATION.—The evaluation team shall be available at the guardianship proceeding for which the report under paragraph (5) is submitted for cross examination regarding the report if either of the following occurs:

(A) REQUEST BY INCAPACITATED INDIVIDUAL.—The alleged incapacitated individual or the attorney for the alleged incapacitated individual requests of the court that the evaluation team be available.

(B) COURT DETERMINATION.—The court, upon a determination that the availability of the evaluation team for cross examination is necessary to ensure fairness in the guardianship proceeding, calls for the availability of the evaluation team.

SEC. 4. RIGHTS AND PROTECTIONS AT PROCEEDING.

(a) RIGHT TO JURY PROCEEDING.—An alleged incapacitated individual shall have the right, upon demand of the alleged incapacitated individual or counsel for the alleged incapacitated individual, to a jury in a guardianship proceeding.

(b) GENERAL PROCEDURAL RIGHTS.—The alleged incapacitated individual shall have the right in a guardianship proceeding to the following:

(1) PRESENTING EVIDENCE.—To present evidence.

(2) CALLING WITNESSES.—To call witnesses (including expert witnesses) on the behalf of the alleged incapacitated individual.

(3) CROSS-EXAMINATION.—To cross-examine witnesses who appear at the guardianship proceeding, including witnesses called by the court.

(c) STANDARDS IN ISSUANCE OF GUARDIANSHIP ORDER.—

(1) CLEAR AND CONVINCING EVIDENCE.—An alleged incapacitated individual shall have the right not to be placed under a guardianship order, except upon a finding by clear and convincing evidence in a guardianship proceeding that—

(A) the alleged incapacitated individual is incapacitated; and

(B) no less restrictive form of intervention than the intervention ordered in the guardianship order is available to protect the incapacitated individual.

(2) INSUFFICIENT BASIS FOR DETERMINATION OF INCAPACITY.—A finding of incapacitation of an alleged incapacitated individual may not be based on the age of the alleged incapacitated individual.

(3) CONSIDERATION OF FAMILY AND FRIENDS.—In determining the need for a guardianship order, the court shall consider the existence, availability, and capabilities of social services in the community and family and friends of the alleged incapacitated individual who may provide care for the individual.

(d) LIMITED TRANSFER OF RIGHTS BY GUARDIANSHIP ORDER.—

(1) TRANSFER OF RIGHTS.—If an alleged incapacitated individual is found to be incapacitated and a guardianship order is issued, the incapacitated individual shall have the right to have the transfer of the responsibility for the care and protection of the person or the management of the estate of the incapacitated individual limited to the greatest extent possible, as follows:

(A) SCOPE.—Transfer to a guardian of the responsibility for the care and protection of the person or the management of the estate of an incapacitated individual shall be limited to matters within the areas of the incapacities of the incapacitated individual as established in the guardianship proceedings.

(B) DURATION.—Transfer of any authority to a guardian shall not be made for a longer period of time than is necessary to protect the welfare, safety, and interests of the incapacitated individual. In determining the duration for which any authority is transferred to the guardian, the court shall consider the facts of the specific case, including whether the particular incapacity involved is of a temporary or permanent nature. If at any time the purpose for which the guardianship order was issued, as stated in the guardianship order, ceases to exist, the order shall be considered to be dissolved and of no further effect.

(2) RETENTION OF RIGHTS.—An incapacitated individual shall retain the right to manage the affairs of the individual commensurate with the ability of the individual. An incapacitated individual shall retain all rights not specifically transferred by the court in the guardianship order.

SEC. 5. RIGHTS REGARDING APPOINTMENT OF GUARDIANS.

(a) RIGHT TO COMPETENT AND TRAINED GUARDIAN.—

(1) IN GENERAL.—An incapacitated person shall have the right to have a guardian who is found by the court to be of sufficient competence to perform the duties necessary to protect the interests of the incapacitated individual and of suitable character for the disposition of the duties of a guardian.

(2) TRAINING.—An individual appointed by a court to serve as guardian shall receive thorough instructions and training, prior to and during the guardianship, necessary to enable the individual to carry out the responsibilities as guardian. Instructions and training shall relate, to the greatest extent possible, to the following:

(A) FIDUCIARY DUTIES.—The fiduciary duties of the guardian.

(B) AGING PROCESS.—The process of human aging.

(C) SERVICES.—The availability of social and health services in the locality in which the incapacitated individual resides.

(D) LEAST RESTRICTIVE ALTERNATIVE DOCTRINE.—The technique of fulfilling the responsibilities as guardian in a manner that

involves using the least restrictive means possible with regard to the exercise of the rights of the protected person while protecting welfare, safety, and interests of the protected person as specified in a guardianship order.

(E) ACCOUNTING AND REPORTING.—Financial accounting and the responsibilities of reporting to the court.

(b) PROHIBITION ON FELONS.—A person who has been convicted of a felony under State law or the law of the United States may not be appointed to serve as the guardian of an incapacitated individual.

SEC. 6. POSTPROCEEDING RIGHTS AND PROTECTIONS.

(a) APPEALS.—

(1) IN GENERAL.—An incapacitated individual or protected person shall have the right to appeal any determination of incapacitation or guardianship order to a State court of competent jurisdiction.

(2) INDIGENT APPELLANTS.—In any appeal under this subsection, an incapacitated individual who is unable to afford any of the following shall be provided with the following:

(A) TRANSCRIPT.—A transcript of the guardianship proceeding or of any other proceeding that may be required for the appeal to be heard.

(B) COUNSEL.—Counsel appointed by the court.

(b) RIGHT OF AUTOMATIC RECONSIDERATION.—

(1) DETERMINATION OF INCAPACITATION OR GUARDIANSHIP ORDER.—An incapacitated individual or protected person or counsel for such shall have the right at any time after the determination of incapacitation to have a prompt reconsideration by the court of the determination of incapacitation or guardianship order for the purpose of modification or dissolution upon a significant change in the status of the incapacitated individual or protected person relating to any of the areas of incapacity that were a basis for the finding of incapacitation.

(2) SELECTION OF GUARDIAN.—An incapacitated individual or protected person shall have the right at any time after the selection of a guardian to have the court reconsider its selection of the guardian and to have a guardian removed upon a showing that the guardian is not performing the duties of the guardian as required under the guardianship order or State law.

(3) EFFECT ON OTHER RECONSIDERATION RIGHTS.—The rights to reconsideration under this subsection shall not affect any other right to reconsideration provided under any Federal, State, or local law or practice.

(c) COURT SUPERVISION OF GUARDIANS.—

(1) REPORT OF GUARDIAN.—The guardian of an incapacitated individual shall report to the court that issued the guardianship order, unless supervision of the guardianship order has been transferred under subparagraph (B)(ii) or (C)(i) of paragraph (5), not less than annually regarding the financial, mental, physical, and personal status of the incapacitated individual.

(2) INITIAL ACCOUNTING OF ESTATE.—A guardian of the estate of a protected person shall file with the supervising court a full accounting of the income and assets of the protected person not later than 90 days after the issuance of the guardianship order establishing the responsibility of the guardian for the estate.

(3) REVIEW OF REPORTS.—The supervising court shall review the reports submitted by a guardian under paragraph (2) and shall take action sufficient to substantiate the reports and to correct any deficiency found. The court shall consider the removal of any guardian who fails to file reports or fails to correct, within a reasonable time, any deficiency found.

(4) INVESTIGATIONS.—The supervising court shall, not less than annually, conduct investigations of protected persons for whom the court supervises guardianship orders to determine the well-being of the persons and to evaluate compliance of the guardian with the guardianship order.

(5) ABSENCE OF PROTECTED PERSON FROM JURISDICTION OF COURT.—

(A) 30-DAY ABSENCE.—If, at any time, a protected person is or is expected to be absent from the jurisdiction of the supervising court for a period of more than 30 days, the guardian shall file a written absence report with the supervising court that includes the expected duration of the absence from the jurisdiction of the supervising court of the protected person, the address and phone number where the protected person may be contacted during the absence, and the purpose for the absence.

(B) 6-MONTH ABSENCE.—If, at any time, a protected person is or is expected to be absent from the jurisdiction of the supervising court for more than 6 months of any 12-month period, the following shall occur:

(i) ABSENCE REPORT.—The guardian shall file an absence report as described in subparagraph (A) with the supervising court.

(ii) TRANSFER OF SUPERVISION.—The court shall request that another court, in the jurisdiction in which the protected person will reside during the absence, supervise the guardianship order during the absence.

(iii) REPORT TO SUPERVISING AND NEW COURT.—The guardian shall file a report of the status of the protected person and the activities of the guardian and the protected person during the period of the guardianship order with the supervising court and the court in the jurisdiction in which the protected person will reside.

(C) 12-MONTH ABSENCE.—If, at any time, a protected person is or is expected to be absent from the jurisdiction of the supervising court for a period of more than 12 months or guardian proposes to permanently remove the protected person from the jurisdiction, the following shall occur:

(i) TRANSFER OF SUPERVISION.—The guardian shall petition the supervising court to have the supervision of the guardianship order transferred to a court in the jurisdiction in which the protected person will reside.

(ii) REPORT TO NEW COURT.—The guardian shall report to the court provided for in clause (i) under the terms of the guardianship order.

SEC. 7. DEMONSTRATION OF STATE COMPLIANCE.

(a) STATE IMPLEMENTATION PLANS.—

(1) IN GENERAL.—Each State shall demonstrate compliance with this Act by submitting to the Attorney General, not less than once every 2 years, a State implementation plan.

(2) INITIAL STATE IMPLEMENTATION PLAN.—Each State shall submit to the Attorney General, not later than 1 year after the date of the enactment of this Act, a State implementation plan.

(3) REQUIREMENTS OF PLAN.—The Attorney General shall determine by regulation the contents of the State implementation plan, which shall include the following:

(A) CERTIFICATION OF COMPLIANCE.—Certification that the State has taken action sufficient to ensure that the State complies with this Act.

(B) DESCRIPTION OF COMPLIANCE.—A detailed description of the actions of the State taken to comply with each provision of the Act.

(C) STATE GUARDIANSHIP LAWS.—A statement of the State laws regarding guardianship proceedings.

(D) COURT INVESTIGATIONS.—A summary of the results of court investigations within the State under section 6(c)(4), including the number and type of deficiencies reported and the anticipated schedule for reducing the number of deficiencies in the State.

(b) ENFORCEMENT.—

(1) WITHHOLDING OF FEDERAL FUNDING.—

(A) IN GENERAL.—Whenever the Attorney General finds that there has been a failure to comply substantially with any provision of this Act, the Attorney General shall, after notifying the State, withhold any payments or portions of payments to be made to the State under Federal law for administrative costs relating to the provision of services or amounts to be paid to elderly and disabled persons. Until the Attorney General is satisfied that there is no longer any failure to comply with the provisions of this Act, no further such payments or portions of payments may be made.

(B) NONWITHHOLDING OF DIRECT FUNDS.—Payments or portions of payments to States withheld under paragraph (1) may not include amounts to be paid to elderly and disabled persons or amounts for direct services provided to elderly and disabled persons.

(C) EFFECT OF WITHHOLDING.—Withholding of payments or portions of payments for administrative costs relating to the provision of services or amounts to be paid to elderly and disabled persons under paragraph (1) shall not effect the availability and delivery of such services or amounts.

(D) DEFICIENCIES AS FAILURE TO COMPLY.—Failure to reduce the number of deficiencies found under section 6(c)(3) within a reasonable time may be considered a failure to comply substantially with the provisions of this Act.

(E) APPEAL OF FINDING OF NONCOMPLIANCE.—The Attorney General shall establish by regulation a process for a State that has been found under subparagraph (A) to have failed to comply substantially with any provision of this Act to appeal the finding of noncompliance.

(2) FEDERAL COURT ENFORCEMENT.—If the Attorney General or United States Attorney for the appropriate judicial district finds a consistent pattern of noncompliance with the terms of this Act by a State, the Attorney General or United States Attorney may bring suit in an appropriate district court of the United States to require the State to comply with the provisions of this Act.

SEC. 8. GRANTS TO STATES FOR COMPLIANCE.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Attorney General may make grants under this section to States for the purpose of enabling compliance by States with the provisions of this Act. Grants under this section may be used for the following:

(1) PROVIDING COUNSEL AND EVALUATION TEAMS.—To provide counsel and evaluation teams for alleged incapacitated individuals.

(2) TRAINING GUARDIANS.—To provide training for guardians of alleged incapacitated individuals as required by this Act.

(3) TRAINING COUNSEL AND JUDGES.—To provide training for counsel for alleged incapacitated individuals and judges in guardianship proceedings regarding this Act.

(4) MODEL GUARDIANSHIP MATERIALS.—To develop model materials for orientation and training of guardians.

(b) INELIGIBILITY FOR GRANTS.—A State may not receive a grant under this section if the Attorney General finds a consistent pattern of noncompliance with the terms of this Act by the State.

(c) APPLICATION AND SELECTION OF GRANT RECIPIENTS.—

(1) APPLICATION.—To receive a grant under this section, a State shall submit an application to the Attorney General in accordance with the requirements established by the Attorney General.

(2) SELECTION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Attorney General shall establish criteria for the selection of States to receive grants under this section.

(B) PREFERENCE FOR INNOVATIVE PROGRAMS.—In selecting States to receive grants under this section, the Attorney General shall give preference to States that will use the grants for innovative programs designed to maximize the use of State and local resources to comply with the provisions of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 9. DEFINITIONS.

For purposes of this Act:

(1) ALLEGED INCAPACITATED INDIVIDUAL.—The term "alleged incapacitated individual" means an individual who is subject to a guardianship action under State law.

(2) EVALUATION TEAM.—The term "evaluation team" means the independent professional guardianship evaluation team appointed under section 3(e).

(3) GUARDIAN.—The term "guardian" means a person who has been appointed by a court to have responsibility for the care and protection of the person or the management of the estate of the incapacitated individual, as specified in a guardianship order.

(4) GUARDANSHIP ACTION.—The term "guardianship action" means an action to declare an individual incapacitated or to transfer the responsibility for the care and protection of the person or the management of the estate of an incapacitated individual to a guardian. The term does not include an action to transfer the exercise by a separate individual of the responsibility for the care and protection of the person or the management of the estate of a minor.

(5) GUARDIANSHIP ORDER.—The term "guardianship order" means any order by a court in a guardianship action to transfer the responsibility for the care and protection of the person or the management of the estate of an incapacitated individual to a guardian. The term does not include any order by a court in a proceeding related to the exercise by a separate individual of the responsibility for the care and protection of the person or the management of the estate of a minor.

(6) GUARDIANSHIP PETITION.—The term "guardianship petition" means the pleading that is necessary under the applicable State law to commence a guardianship action.

(7) GUARDIANSHIP PROCEEDING.—The term "guardianship proceeding" means any court proceeding in a guardianship action related to the determination of incapacitation of an alleged incapacitated individual or to the entering of a guardianship order. The term does not include a proceeding related to the exercise by a separate individual of the right to manage the person or estate of a minor.

(8) INCAPACITATED.—The term "incapacitated" means an inability of an individual to effectively manage the person or estate of the individual because the individual lacks the mental or physical capacity to do so due to illness, disability, or other incapacitation.

(9) INCAPACITATED INDIVIDUAL.—The term "incapacitated individual" means an alleged incapacitated individual who has been determined in a guardianship proceeding to be incapacitated.

(10) PROTECTED PERSON.—The term "protected person" means an incapacitated individual for whom a guardianship order has been entered.

(11) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other possession of the United States.

(12) SUPERVISING COURT.—The term "supervising court" means a court that is supervising the guardianship order relating to a protected person and to which the guardian reports under section 6(c)(1).

(13) WORKING DAY.—The term "working day" means any day that is not a Saturday, Sunday, or legal public holiday (as defined in section 6103(a) of title 5, United States Code).

SEC. 10. LIMITATION ON FEDERAL COURT JURISDICTION.

This Act may not be construed to grant to any court of the United States (as defined in section 451 of title 28, United States Code) any jurisdiction in any guardianship action that is not provided or allowed under Federal law on the date of the enactment of this Act.

SEC. 11. PERMISSIBILITY OF ADDITIONAL STATE LAW PROTECTIONS.

This Act may not be construed to preclude or supersede any Federal, State, or local law that imposes requirements of additional or more extensive protections for incapacitated or alleged incapacitated individuals that do not conflict with the requirements of this Act.

SEC. 12. TIME OF COMPLIANCE.

Each State shall comply with the provisions of this Act before the expiration of the 1-year period beginning on the date of the enactment of this Act.•

By Mr. JEFFORDS (for himself, Mr. METZENBAUM, Mr. REID, Mr. LIEBERMAN, Mr. D'AMATO, Mr. LEVIN, Mr. MOYNIHAN, Mr. GORE, and Mr. CHAFEE):

S. 353. A bill to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes, and for other purposes; to the Committee on Labor and Human Resources.

WORKERS' FAMILY PROTECTION ACT

• Mr. JEFFORDS. Mr. President, in the 1980's, we passed or reauthorized legislation to clean up our Nation's dump sites, waters, and air. We've focused considerable attention on radon, on asbestos, on lead, and on chemicals in our food such as alar. You would think we'd evaluated every environmental risk there is. Unfortunately, Mr. President, this is not the case.

We spend considerable amounts of money on remediating hazardous waste sites even when there is no known exposure. The EPA issues regulations to protect the public which will cost millions of dollars per health effect prevented. Meanwhile, we are neglecting the exposure of our children and spouses to toxic chemicals right in their own homes.

Right now, as I speak, workers in our Nation's industries are unknowingly bringing home toxic chemicals from their place of employment. Lead, mercury, pharmaceuticals, and even radionuclides have been carried home by workers on their clothing where exposure to their families occurs.

I am not talking about a hypothetical problem, but a real problem. In my home State of Vermont, both lead and mercury have been tracked home. In both Vermont incidents, elevated levels of toxics were found in the children of several of the workers. Similar incidents have occurred in the recent past in North Carolina, South Carolina, and Tennessee among other States. Right now, the Agency for Toxic Substances and Disease Registry is investigating similar incidents in North Carolina and Michigan.

The bill I am introducing today with many of my colleagues is designed to prevent future such incidents from occuring. The first step in this process is to increase awareness of the problem. In the 1970's, workers homes were contaminated with lead from smelters. Regulations to prevent future such incidents were issued as a result.

Science and our understanding of toxicology has come a long way since the 1970's. Last year, the Senate Environment and Public Works Committee held a hearing on the effects of chemicals such as lead or mercury. These compounds and others can cause permanent damage to the nervous system. Worse yet, as we learned in this hearing, many more chemicals than we know about may cause similar health effects. Therefore, it is vitally important that we protect the most sensitive of us, our children, from exposure to these chemicals.

Our country's workers deserve not only personal protection, but also protection of their families. We need to reexamine this problem again in light of our current state-of-the-art. We also need to examine the effects of home contamination on the families. Workers' families have reported feeling raped by the contamination. Their families have been ostracized because their friends are afraid they may catch the contamination. The parents suffer incredible anxiety worrying about whether or not their children have been permanently hurt. It's terrible that not only must our workers worry about whether they will have a job in the future, but also if their job will harm their families.

This bill requires the National Institute for Occupational Safety and Health [NIOSH] to sponsor research into the causes and effects of past incidents of home contamination. The resulting studies will help us determine the extent of the problem. Once we determine the extent of the problem, this bill would require the Occupational Safety and Health Administration to issue regulations to prevent future such incidents. Then, hopefully, our families will be safe.●

Mr. REID. Mr. President, I join my colleague, Senator JEFFORDS, in the introduction of the Workers' Family Protection Act of 1990. The insidious link between hazardous chemicals and substances present in the workplace, resulting in contamination of workers' homes, translates into a real health threat to significant numbers of American workers.

The Subcommittee on Toxic Substances, Environmental Oversight, Research and Development of the Environment and Public Works Committee held hearings on worker exposure to toxic chemicals in the aerospace industry. Workers were not only adversely affected by toxic substances while on the job, but were also transporting hazardous chemicals home on their clothing and their person. This may have humorous overtones when watching Homer Simpson coming home with his back pack glowing. When listening to a woman testify that she cannot remember the ages of her children, or in another instance, a woman who was driving with her windshield completely covered and did not realize it, the humor soon dissipates. The stark realization that there is a serious and imminent health hazard takes over.

And in the recent hearings I chaired in that same subcommittee on Wednesday, October 3, Dr. Peter Spenser, the Director for the Center for Research on Occupational and Environmental Toxicology, testified that prolonged exposure in the workplace constituted a significant threat to the health of the workers involved. Yet, the data compiled by the Office of Technology Assessment [OTA] strongly suggests that the National Institute for Occupational Safety and Health [NIOSH] has conducted few studies on neurotoxic effects of the chemical substances in the workplace. In fact, OTA suggested that, "given the magnitude of the problem of exposure to neurotoxic substances in the workplace, the present level of effort will not ensure an adequate database to support the anticipated needs of the Occupational Safety and Health Administration."

Attempts are being made to address the problem of toxic substances in the home and workplace on a broad front. I have introduced legislation to reduce the threat of lead poisoning. Lead is an extremely troublesome neurotoxic substance. It is ubiquitous in the environment and poses a problem in the workplace. However, the lack of input on the part of NIOSH, as well as other Federal research programs involved in the study of neurotoxic chemicals and their link to neurodegenerative diseases, is inhibiting the overall effort to identify, define, and operationalize effective responses to the alarming problem of neurotoxicity.

This legislation will be an important step toward advancing the research being done on the relationship between toxic substances and the adverse effects they are known to have on Americans in the workplace.

By Mr. KASTEN:

S. 354. A bill to amend the Internal Revenue Code of 1986 to permit mortgage revenue bond financing of mortgages for veterans of Operation Desert Storm; to the Committee on Finance.

S. 355. A bill to amend the Internal Revenue Code of 1986 to permit mortgage revenue bond financing of mortgages for veterans of Operation Desert Storm; to the Committee on Finance.

VETERANS OF OPERATION DESERT STORM HOMEOWNERSHIP LEGISLATION

● Mr. KASTEN. Mr. President, I rise today to introduce legislation that would make sure that the brave men and women called to duty in the Persian Gulf receive the same State housing benefits that their predecessors from World War II, the Korean war and the Vietnam war enjoyed.

My legislation—the Veterans of Operation Desert Storm Homeownership Act of 1991—would amend the Internal Revenue Code of 1986 to permit mortgage revenue bond financing of home mortgage loans for veterans of Operation Desert Storm.

Two weeks ago, we enacted the Desert Storm Tax Relief Act—an important measure which gave our troops in the Persian Gulf some much deserved tax relief.

But it is important that we recognize that this move is only a first step. I think we ought to make sure that our young men and women of Operation Desert Storm also get the benefits they deserve when they eventually come home. In fact, my bill is designed to make it easier for them to own a home when they return.

Current law does not permit certain States to issue bonds to make home loans to veterans discharged after January 1, 1977—following the Vietnam era. This limitation on veterans mortgage bonds was enacted in the Deficit Reduction Act of 1984.

Congress decided to limit tax-exempt bond funding for these veterans mortgages because it was concerned about the rising volume of bonds being used by a number of States—and therefore about the potential tax revenue loss for the U.S. Treasury.

The issuance of these bonds was cut back to amounts based upon previous volume levels and limited to only those veterans who had served on active duty prior to January 1, 1977. The 1984 act also limited the issuing of those bonds to the five States that were currently participating in this tax-exempt bond program: Wisconsin, California, Texas, Alaska, and Oregon.

Specifically, my legislation would include in the definition of qualified veterans all American service men and women serving in the theatre of hostilities as determined by the President since August 2, 1990.

One version of my legislation would amend the Tax Code to permit tax-exempt State bonding for mortgage loans to Operation Desert Storm veterans living in one of the five aforementioned States. These States were the only ones participating in the program prior to June 22, 1984.

Even though not all 50 States participated in tax-exempt bond funding programs prior to 1984, I believe that my colleagues may wish to extend this measure to veterans of their home States. For this reason, I am also introducing a second piece of legislation today which will allow every State to provide this program to veterans of Operation Desert Storm and prior wars should they so desire.

Once again, the brave young men and women of the Armed Services have taken up the challenge of defending America's ideals. To those who have heeded this call, we as a nation owe the same respect as was shown to veterans of past conflicts. My home ownership bill is an important step in this direction.

I ask unanimous consent that the full text of the bills be included in the RECORD at this point.

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

S. 354

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

SECTION 1. MORTGAGE REVENUE BOND FINANCING OF MORTGAGES FOR VETERANS OF OPERATION DESERT STORM.

(a) IN GENERAL.—Subsection (l) of section 143 of the Internal Revenue Code of 1986 (relating to additional requirements for qualified veterans' mortgage bonds) is amended—

(1) by striking all matter preceding paragraph (5) and inserting the following:

"(l) ADDITIONAL REQUIREMENTS FOR QUALIFIED VETERANS' MORTGAGE BONDS.—

"(1) VETERANS TO WHOM FINANCING MAY BE PROVIDED.—An issue meets the requirements of this subsection only if each mortgagor to whom financing is provided under the issue is a qualified veteran.

"(2) QUALIFIED VETERAN.—

"(A) IN GENERAL.—For purposes of this subsection, the term "qualified veteran,' means any veteran—

"(i) who served on active duty—

"(I) at some time before January 1, 1977, or

"(II) in Operation Desert Storm, and

"(ii) who applied for the financing before the date 30 years after the last date on which such veteran left such active duty.

"(B) OPERATION DESERT STORM.—For purposes of this paragraph, the term 'Operation Desert Storm' means Operation Desert Storm, Operation Desert Shield, or any related military operation, beginning on August 2, 1990, and ending on the date of the termination of any such operation as determined by the President.", and

"(2) by redesignating paragraph (5) as paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after August 1, 1990.

S. 355

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

SECTION 1. MORTGAGE REVENUE BOND FINANCING OF MORTGAGES FOR VETERANS OF OPERATION DESERT STORM.

(a) IN GENERAL.—Paragraph (4) of section 143(l) of the Internal Revenue Code of 1986 (relating to additional requirements for qualified veterans' mortgage bonds) is amended to read as follows:

"(4) QUALIFIED VETERAN.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified veteran' means any veteran—

"(i) who served on active duty—

"(I) at some time before January 1, 1977, or

"(II) in Operation Desert Storm, and

"(ii) who applied for the financing before the date 30 years after the last date on which such veteran left such active duty.

"(B) OPERATION DESERT STORM.—For purposes of this paragraph, the term 'Operation Desert Storm' means Operation Desert Storm, Operation Desert Shield, or any related military operation, beginning on August 2, 1990, and ending on the date of the termination of any such operation as determined by the President.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after August 1, 1990.•

By Mr. THURMOND (for himself, Mr. SIMPSON, Mr. LEAHY, Mr. HATCH, Mr. GRASSLEY, Mr. BOND, Mr. COCHRAN, Mr. DECONCINI, and Mr. HEFLIN):

S. 356. A bill to assure fairness in the allocation and award of antitrust damages; to the Committee on the Judiciary.

ANTITRUST CLAIM REDUCTION ACT OF 1991

• Mr. THURMOND. Mr. President, the Antitrust Claim Reduction Act of 1991, which I am introducing today, relates to claim reduction in antitrust cases. It provides for the reduction of a plaintiff's total claim against multiple defendants, by the amount of damages attributable to any defendant who settles and, in a horizontal agreement case, that is, a case involving competitors at the same distribution level, by the amount of damages attributable to any coconspirator who was not sued.

As many of my colleagues are aware, I have been a consistent supporter of this legislation. As I noted in the last Congress when I introduced an identical bill, antitrust claim reduction is designed to more fairly allocate damages in antitrust suits so that antitrust defendants will be more likely to pay their fair share of any damages awarded. It is meant to remedy the abuse of what is commonly known as whipsaw tactics by relieving defendants who do not settle, of the liability for injury attributable to defendants who do settle, and coconspirators who are not sued. This insures equitable allocation of responsibility among joint violators of the antitrust laws.

A simple example will best illustrate the problem. Suppose there is a claim that antitrust violations have occurred in an industry with five companies, each with a 20-percent market share. Suppose also that the estimated damages, if proven, would amount to $20 for each defendant before trebling, or $60 per defendant after trebling. Total liability for all defendants would be $100, or $300 after trebling. If three of the defendants settle for actual damages, the remaining liability for the two defendants is $300 minus the $60 settlement, or $240. If four of the defendants settle, the remaining one defendant is liable for $300 minus the settlement of $80, or $220, 11 times the estimated actual damages.

No matter how convinced of innocence the remaining defendant may be, the litigation exposure is so large that there is no practical alternative but to settle. This is the settlement whipsaw, and there is a general consensus that it is unfair.

There are some who have argued that claim reduction will decrease the deterrent force of the private antitrust remedies system. However, in my view, the opposite is clearly the case. Antitrust claim reduction will help insure that all participants in a conspiracy will be held accountable for at least some damages, and probably damages more closely approximating the proportionate share caused by each conspirator. The current system of incentives that allows some defendants to escape liability entirely, or on the basis of disproportionately low settlements, encourages some defendants to believe that they will not have to pay their fair share. This act makes it more likely that all antitrust violators will be held accountable for damages, while at the same time, it reduces the unfair whipsaw settlement pressure.

Mr. President, I am pleased to be joined in the introduction of this legislation by a number of my colleagues on both sides of the aisle. I urge all my colleagues to strongly support this legislation in the same bipartisan fashion.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD immediately following my remarks.

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

S. 356

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

"SECTION 1. This Act may be cited as the "Antitrust Claim Reduction Act of 1991."

"SEC. 2. The Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting immediately after section 4H the following new section:

"SEC. 41. (a)(1) The court shall reduce the claim under section 4, 4A, or 4C of this Act of any claimant releasing any person from liability or potential liability for such claim by the greatest of: (1) any amount stipulated for this purpose; (2) the consideration paid for the release; or (3) the actual damages fairly allocable to the person being released from liability or potential liability (or treble such actual damages to the extent such claim is for treble damages) and any interest on such actual damages under section 4, 4A, or 4C of this Act.

"(2) In any action under section 4, 4A, or 4C of this Act based on a contract, combination, or conspiracy among competitors, the court shall conclusively presume that any person whose sales or purchases would otherwise be included in a calculation of damages based on overcharges or underpayments has been released from liability or potential liability if it has not been joined as a defendant and if it is established by the defendant that such person is legally and practically available as a party to the action to recover such damages.

"(b) For purposes of subsection (a):

"(1) Where the claim is based upon a price-fixing agreement among competitors and damages are sustained by reason of overcharges or underpayments resulting from such agreement, damages shall be allocated on the basis of each such competitor's proportionate share of the total of all such competitors' overcharges or underpayments.

"(2) With respect to all other claims, damages shall be allocated on the basis of relative responsibility for the origination or perpetuation of the violation for which damages are being awarded and the benefits derived therefrom, unless the court determines that a more equitable result would be achieved by allocating damages by the method used in paragraph (b)(1).

"(c) Nothing in this section shall affect the joint and several liability of any person for any claim under the antitrust laws, and nothing in this section shall affect whether or not an action may be maintained as a class action under rule 23(b) of the Federal Rules of Civil Procedure.".

EFFECTIVE DATE

SEC. 3. The provisions of this Act shall apply to all actions commenced under section 4, 4A, or 4C of the Clayton Act after the date of enactment of this Act.•

By Mr. REID (for himself and Mr. BRYAN):

S. 357. A bill to convey fee title to Pershing County Water Conservation District, certain Federal lands known as the Battle Mountain Community Pastures, in recognition that the land was initially acquired by the district and subsequently transferred to the United States for the Humboldt River Project; to the Committee on Energy and Natural Resources.

BATTLE MOUNTAIN PASTURE RESTORATION ACT OF 1991

• Mr. REID. Mr. President, in 1934 the U.S. Bureau of Reclamation started work on what we now know as the Rye Patch Dam Project on the Humboldt River.

In the process of developing this important water resource project, several ranches were purchased from private lands to obtain the land and water-rights needed for the construction of irrigation works and acquisition of water. In addition to the purchase and acquisition of water-rights, the acreage of two ranches were purchased—about 30,000 acres.

The Pershing County Water Conservation District of Nevada was consequently formed prior to the approval and authorization of the project, to manage the project and be responsible for the repayment obligation according to reclamation law.

Therefore, the title for the abovementioned lands, water-rights and Rye Patch Dam are now held in the name of the United States. It has always been understood by all interested parties that title would continue in the name of the United States until repayment for the project was completed.

In the past there has been little particular concern by the Water Conservation District about acquiring title to the lands in question because they were always told by the Bureau of Reclamation that they could obtain ownership (title), to the lands once the obligations for repayment were made.

Mr. President, the Pershing County Water Conservation District completed the water transfers required by the State of Nevada, with the Nevada State Engineers Office in 1956. They completed the repayment to the United States Government in 1978. The title to the lands and water-rights both still remain in the name of the United States.

Because the conveying of title to the Pershing County Water Conservation District for the lands referred to in this proposed legislation required special consideration, I am proposing today to introduce legislation that will convey title of the lands referred to as the Battle Mountain Pastures, paid for by the citizens of the Water Conservation District, to the district to be used as community pasture lands. This will ensure a vital economic stability for the ranchers and livestock operations in the Lovelock Valley, who are depending on this land for summer grazing and allow them to have a livestock operation which would otherwise be impossible.

Thank you, Mr. President, and I ask unanimous consent that the complete 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. 357

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 known as the "Battle Mountain Pasture Restoration Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS. The Congress finds that—

(1) the Rye Patch Dam (formerly known as the Humboldt Project) is a land reclamation and irrigation dam project in Pershing County, Nevada, created pursuant to the Act of June 17, 1902 (32 Stat. 388) and the National Industrial Recovery Act (48 Stat. 195);

(2) the Pershing County Water Conservation District, a quasi-political subdivision of the State of Nevada, entered into contracts in 1934 to purchase all of the lands comprising the Battle Mountain Community Pasture, consisting of approximately 29,884 acres of land, and water rights appurtenant thereto in Lander County, Nevada, consisting of a consolidation of two ranches known as the Filipini Ranch and the Aldous Ranch;

(3) the Pershing County Water Conservation District transferred all of the water rights appurtenant to the Filipini and Aldous Ranches to the Humboldt Project to provide water to make the construction of Rye Patch Dam feasible;

(4) the legislation authorizing the construction of the Humboldt Project provided that title to the Filipini Ranch and Aldous Ranch was to lie within the United States until further Act of Congress;

(5) the Pershing County Water Conservation District assigned its purchase contracts of the Filipini Ranch and the Aldous Ranch comprising the community pasture to the United States in 1934, and in 1936 conveyed the water rights to the United States as required under the terms of the Humboldt Project to make the construction of the Rye Patch Dam feasible;

(6) a repayment contract was entered into with the Department of the Interior, Bureau of Reclamation, on October 1, 1934, to provide the funds necessary for the construction of Rye Patch Dam and Reservoir and to ensure the repayment to the United States of all costs of construction and operation of the Humboldt Project;

(7) the Pershing County Water Conservation District water users have completely repaid the United States all of the costs of the Humboldt Project, including the cost of the purchase of the Aldous and Filipini Ranches, known as the Battle Mountain Community pasture;

(8) the Pershing County Water Conservation District has paid real estate taxes on the Battle Mountain Community Pasture for many years;

(9) the Battle Mountain Community Pasture continues to be required by the Pershing County Water Conservation District to ensure that the waters of the Humboldt River pass through the pasture, and are not diverted or diminished, in accordance with the terms of the transfer of the water rights as provided by the State of Nevada; and

(10) the Pershing County Water Conservation District has an immediate and continuing need for the Battle Mountain Community Pasture.

(b) PURPOSE.—The purpose of this Act is to convey to the Pershing County Water Conservation District fee title to the Battle Mountain Community Pasture in recognition that it was initially acquired by the Pershing County Water Conservation District, and subsequently transferred to the United States for the Humboldt Project, until further Act of Congress and the full repayment of the construction and acquisition costs of the Humboldt Project to the United States.

SEC. 3. CONVEYANCE.

The Secretary of the Interior shall convey to the Pershing County Water Conservation District, subject to all existing rights and interests of third parties upon, in, and over the property, and upon payment of administrative costs not exceeding $20,000 that are incurred in making the transfer, all right, title, and interest of the United States in and to the land described in section 4.

SEC. 4. DESCRIPTION.

The land referred to in section 3 of this Act is described as follows: Portions of those parcels of land described in the warranty deed between Charles S. Aldoux, et ux., and the United States dated January 17, 1935, and in the warranty deed between Filipini Ranching Company and the United States dated January 26, 1935, said lands being in the County of Lander, State of Nevada, and described as follows:

MOUNT DIABLO MERIDIAN

Township 32 North, Range 44 East

Section 1.

Township 32 North, Range 45 East

Sections 3 to 6 inclusive, sections 10 to 14, inclusive, and sections 22 to 24, inclusive; all of section 7, excepting therefrom portions of lots 3 and 4, and southwest quarter more fully described by metes and bounds as follows:

Beginning at the intersection of the centerline of the westbound land of Interstate Route 80, Project I—080–3(12)229, and the west boundary of section 7, at highway engineer's station "Bw" 241 plus 36.69 P.O.C., said point of beginning further described as bearing south 0 degrees 02 minutes 18 seconds west, a distance of 1,571.26 feet from the west quarter corner of section 7; thence north 0 degrees 02 minutes 18 seconds east, along west boundary of section 7, a distance of 379.00 feet to a point; thence south 34 degrees 02 minutes 55 seconds east, a distance of 754.84 feet to a point; thence from a tangent which bears the last described course, curving to the left with a radius of 1,500 feet, through an angle of 34 degrees 06 minutes 42 seconds, an arc distance of 893.04 feet to a point; thence south 68 degrees 09 minutes 37 seconds east, a distance of 731.06 feet to an intersection with the south boundary of section 7; thence south 89 degrees 58 minutes 33 seconds west, along said south boundary, a distance of 1,787.00 feet to the southwest corner of section 7; thence north 0 degrees 02 minutes 18 seconds east, along the west boundary of section 7, a distance of 1,071.65 feet to the point of beginning, said parcel contains an area of 20.91 acres, more or less.

Also excepting therefrom the southeast quarter of section 7. Also excepting therefrom, a strip of land having a uniform width of 30 feet, where measurable at right angles lying within 15 feet on each side of the following described centerline:

Beginning at a point in the south boundary of the northeast quarter of section 7, west, 660.0 feet distant from the east quarter corner of section 7; thence north, 513.0 feet to a point on the south bank of the Reese River, that is south 17 degrees 15 minutes west, 2,223.2 feet distant from the northeast corner of section 7, the sideline boundaries of said strip of land are to be lengthened or shortened as the case may be, so as to begin in the south boundary of the northeast quarter of section 7, and terminate on the south bank of the Reese River, said parcel contains an area of 0.35 acre, more or less.

Section 8, west half;

Section 9, northeast quarter;

Section 15, all that portion lying south of the old channel of the Humboldt River, and containing 340 acres, more or less;

Section 17, southeast quarter, except that portion thereof conveyed to C.W. Burge (deed

recorded in Book 52 of Deeds, page 476, records of said Lander County) described as follows:

Beginning at a corner point numbered 1, on the east boundary of section 17, north, 1,015 feet distant from the southeast corner of section 17. Thence north (on section line), 1,625 feet to east quarter corner, section 17. Thence, same course, 1,525 feet to northeast corner numbered 2. Thence south 43 degrees 56 minutes west, 2,019 feet to west angle corner (along wagon road). Thence south 39 degrees 33 minutes east, 2,200 feet to corner numbered 1, place of beginning, containing 50.65 acres.

Section 18, northeast quarter northeast quarter, excepting therefrom, a strip of land having a uniform width of 30 feet, where measurable at right angles lying within 15 feet on each side of the following described centerline:

Beginning at a point in the east boundary of section 18, south, 1,127.9 feet distant from the northeast corner of section 18; thence entering section 18, north 30 degrees 20 minutes west, 1,306.8 feet to a point in the north boundary of section 18, west, 660.0 feet distant from northeast corner of section 18, the sideline boundaries of said strip of land are to be lengthened or shortened, as the case may be, so as to begin in the east boundary, and terminate in the north boundary of section 18, said parcel contains an area of 0.90 acre, more or less.

Section 26, north half north half, and south half northeast quarter.

Township 32 North, Range 46 East

Sections 7 to 11, inclusive, sections 15 to 18, inclusive, and section 20;

Section 1, south half;

Section 2, south half;

Section 3, south 21/40 of south half, containing 168 acres;

Section 4, south 21/40 of south half, containing 168 acres; also in section 4 all that portion of that tract of land containing 39.5 acres deeded on December 13, 1989, by J.H. Crum, and others to James Faris (deed recorded at page 151, in Book 49 of Deeds, records of said Lander County), which is not included in that certain parcel or tract of land deeded May 22, 1903, by James Faris and Annie Faris, to Southern Pacific Company (deed recorded at page 770, in Book 49 of Deeds, records of said Lander County); section 5, south 33/40 of south half, containing 264 acres; section 6, south half south half, north half southeast quarter, and north half southwest quarter (undivided one-half interest);

Section 12, north half;

Section 14, northwest quarter;

Section 19, north half;

Section 21, north half;

Section 22, north half northwest quarter, northwest quarter southwest quarter, and southwest quarter northwest quarter.

Township 32 North, Range 47 East

Section 6, north half south half.

Township 33 North, Range 44 East

Section 12, southeast quarter northeast quarter.

Township 33 North, Range 45 East

Sections 5 to 8, inclusive, sections 17 to 21, inclusive, and sections 28 to 33, inclusive;

Section 9, southwest quarter;

Section 27, southwest quarter;

Section 34, north half northeast quarter, and south half;

Section 35, southwest quarter.

Township 34 North, Range 44 East

Section 36, southwest quarter southeast quarter, and southwest quarter southwest quarter.•

By Mr. INOUYE:

S. 358. A bill to establish a temporary program under which parenteral diacetylmorphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer, and for other purposes; to the Committee on Labor and Human Resources.

COMPASSIONATE PAIN RELIEF ACT

• Mr. INOUYE. Mr. President, today I am introducing legislation which is directed to relieving the suffering of a small but significant number of our citizens; patients who are terminally ill with cancer and whose pain has not been effectively mitigated with currently available medications.

For many years, the thought of cancer and its accompanying pain have sent chills of fear through all of us; likewise, the thought of heroin and its addictive qualities produces similar fears. In my judgment, we are in a position now where we can make a logical and thoughtful decision to legalize the therapeutic use of heroin for the terminally ill cancer patient suffering intractable pain while at the same time safeguarding against the diversion of the drug into illicit channels.

The legislation I am introducing today is supported by thousands of Americans and is identical to that which was sponsored by 13 of my colleagues during the 99th Congress. Furthermore, I am pleased to report that to a great extent, it reflects the evolution and thinking of our Nation's health care system as evidenced by the editorial in the January 14, 1982, issue of the prestigious New England Journal of Medicine, which urged more flexibility in the use of addictive drugs in the treatment of pain. This thinking is also present in an official statement made by the American Psychiatric Association which endorses the "principle that the effectiveness of relief of pain in terminal cancer patients should take priority over a concern about 'addiction' of the terminal cancer patient and should take priority over a concern about medication diversion to addicts." A later article in the New England Journal of Medicine of August 23, 1984, by Dr. Allen Mondzac, reviewed the unique characteristics of heroin and its valuable clinical role where it is available.

The need for this legislation is dramatic. Although over the past two decades a great deal of progress has been made in treating cancer, each year an estimated 800,000 Americans are diagnosed as having cancer, and over 400,000 die from the disease. Most of these individuals will have received competent and compassionate medical care, and many will receive adequate relief of pain. Unfortunately, the reality is also that a certain number of cancer patients do not obtain relief of pain from the current available analgesic medication—even the strongest narcotics. An NIH panel that convened in May 1986, heard testimony that 50 to 60 percent of patients with cancer pain lived the last part of their lives with unrelieved severe pain. As a minimal figure, it has elsewhere been estimated that about 20 percent of terminal cancer patients suffer significant pain.

Of this 20 percent, it has been estimated that 10 percent do not obtain relief with presently prescribed medications. In human terms, these percentages mean that as many as 8,000 Americans may die in agony this year because of the intractable pain associated with terminal cancer. I have been assured by my medical colleagues that in many cases this pain can be alleviated with the therapeutic use of heroin, making the last weeks, months, or days of these patients more bearable. These dying patients are not now given the option of dying with dignity because of our Nation's continued and overriding fear of the term heroin. In my judgment, this fear alone has prevented us, the lawmakers of our Nation, from making clear and rational decisions regarding the limited use of this long-proven and already available substance.

Heroin has been proven effective with a number of patients in relieving pain. Research completed at Georgetown University's Vincent T. Lombardi Cancer Research Center has found heroin to be an effective analgesic for the control of cancer-related pain. In particular, it has been reported to be more potent than morphine in relieving cancer pain. Less than half of the dose of heroin produces the same pain relief as a dose of morphine. In the terminal phase of cancer, many patients cannot take medication by mouth, and may require injections. As the disease progresses, individuals may require higher doses at more frequent intervals, to provide relief. This is when it would be desirable to have the option of using heroin in treating pain, since heroin is more potent and more soluble than morphine salts, and an effective dose can be administered in considerably smaller volumes. Thus, doctors have informed me that it is less painful to have such an injection—an important consideration in the emaciated patient with little tissue mass remaining.

Further, the onset of action of the heroin is also more rapid than morphine because of its solubility, giving relief of pain and a sense of well-being sooner. It is most unfortunate that the use of heroin for these patients has not been allowed up to this date. This legislation will enable physicians to treat the dying cancer patient who suffers from intractable pain with a proven, effective medication.

The time has now come to address the issue of why the heroin should not be readily available as a therapeutic medication for our Nation's physicians in very specific situations when we have dying cancer patients who are suf-

fering extreme pain. William Buckley has described our irrational maintenance of the prohibition against such uses of heroin in very real terms.

As he pointed out:

The irony is that anybody in a major city can acquire the knowledge necessary to buy heroin from a dirty little drug pimp, but licensed doctors may not administer the identical drug to men and women—and children—literally dying from excruciating pain.

Our colleagues on the House Subcommittee on Health and the Environment held hearings on a similar bill on September 4, 1980. At that time, a number of practicing physicians and others asked that the Federal controls on heroin be eased to permit the prescription of heroin for patients for whom more conventional pain killers were inadequate. It was further pointed out that in Great Britain, heroin has been used for years for these patients and that it has been shown to be particularly effective for those 10 percent of terminal cancer patients who require injected medication. British physicians consider heroin to be an indispensable potent narcotic analgesic in the treatment of advanced cancer. Use of heroin in specific situations is also permitted in Belgium, New Zealand, China, and many other civilized nations.

Since this information was made public in the House hearings the editorial writers of our country have taken up the issue, as reflected in supportive statements by, among a number of others, the New York Times, the Washington Post, the Washington Times, the Los Angeles Times, the San Francisco Chronicle, the San Francisco Examiner, the Honolulu Star-Bulletin, the Honolulu Advertiser, the Chicago Sun-Times, the Cleveland Plain Dealer, the Rocky Mountain News, and the Richmond Times-Dispatch. Both National Review and the New Republic have backed the proposal. The American Nurses' Association has come out strongly endorsing this merciful action. Within the past year, as a result of widespread support among physicians and the general public, heroin has become available in Canada for terminal cancer patients.

The bill I am introducing today will give a very high priority to relief from intractable pain for terminal cancer patients. It authorizes the Secretary of the Department of Health and Human Services to establish demonstration programs which will permit the use of heroin by terminally ill cancer patients only, when suffering from pain which is not effectively treated with currently available analgesic medications.

My bill has more than adequate safeguards to prevent the drug from being introduced to the general public. For example, a diagnosis must be made by the attending physician that his or her patient is ill with cancer and is suffering from pain which is not being effectively treated with other available analgesic medications. This diagnosis must be reviewed and approved by a medical review board of the hospital which will dispense the heroin. The heroin used in the program will be from that supply now confiscated under current laws. The Secretary of Health and Human Services is further authorized to establish additional regulations for the safe use and storage of heroin, to prevent its diversion into illicit channels. This program will be in force for a 5-year period and periodic reporting is required of the Secretary on the activities under the bill.

I strongly believe that the proposal will provide substantial benefits to those who are in intractable pain from terminal cancer and I am hopeful that my colleagues on the Senate Labor and Human Resources Committee will give this measure their prompt and most serious consideration.

Mr. President, I request unanimous consent that the text of this bill and attached relevant articles be printed in the RECORD.

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

S. 358

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 "Compassionate Pain Relief Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) cancer is a progressive, degenerative, and often painful disease that afflicts one out of every four persons in the United States and is the second leading cause of death;

(2) in the progression of terminal cancer, a significant number of patients experience levels of intense and intractable pain that cannot be effectively treated by presently available medication;

(3) the effect of such pain often leads to a severe deterioration in the quality of life of the patient and heartbreak for the family of the patient;

(4) the therapeutic use of parenteral diacetylmorphine is not permitted in the United States but extensive clinical research has demonstrated that the drug is a potent, highly soluble painkilling drug when properly formulated and administered under the supervision of a physician;

(5) it is in the public interest to make parenteral diacetylmorphine available to patients through controlled channels as a drug for the relief of intractable pain due to terminal cancer,

(6) diacetylmorphine is successfully used in Great Britain and other countries for relief of pain due to cancer;

(7) the availability of parenteral diacetylmorphine for the limited purposes of controlling intractable pain due to terminal cancer will not adversely affect the abuse of illicit drugs or increase the incidence of pharmacy thefts;

(8) the availability of parenteral diacetylmorphine will enhance the ability of physicians to effectively treat and control intractable pain due to terminal cancer; and

(9) it is appropriate for the Federal Government to establish a temporary program to permit the use of pharmaceutical dosage forms of parenteral diacetylmorphine for the control of intractable pain due to terminal cancer.

SEC. 3. PARENTERAL DIACETYLMORPHINE PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

"PART M—COMPASSIONATE PAIN RELIEF

"SEC. 399f. PARENTERAL DIACETYLMORPHINE.

"(a) REGULATIONS.—

"(1) IN GENERAL.—Not later than three months after the date of the enactment of this part, the Secretary shall issue regulations establishing a program (referred to in this section as the 'program') under which parenteral diacetylmorphine may be dispensed from pharmacies for the relief of intractable pain due to terminal cancer.

"(2) TERMINAL CANCER.—For purposes of this section, an individual shall be considerd to have terminal cancer if there is histologic evidence of a malignancy in the individual and the cancer of the individual is generally recognized as a cancer with a high and predictable mortality.

"(b) MANUFACTURING.—Regulations established under this section shall provide that manufacturers of parenteral diacetylmorphine for dispensing under the program shall use adequate methods of, and adequate facilities and controls for, the manufacturing, processing, and packaging of such drug to preserve the identity, strength, quality, and purity of the drug.

"(c) AVAILABILITY TO PHARMACIES.—

"(1) REQUIREMENTS.—Regulations established under this section shall require that parenteral diacetylmorphine be made available only to pharmacies that—

"(A) are hospital pharmacies or such other pharmacies as the regulations specify;

"(B) are registered under section 302 of the Controlled Substances Act (21 U.S.C. 822);

"(C) meet such qualifications as the regulations specify; and

"(D) submit an application in accordance with paragraph (2).

"(2) APPLICATION.—An application for parenteral diacetylmorphine shall—

"(A) be in such form and submitted in such manner as the Secretary may prescribe; and

"(B) contain assurances satisfactory to the Secretary that—

"(i) the applicant will comply with such special requirements as the Secretary may prescribe respecting the storage and dispensing of parenteral diacetylmorphine; and

"(ii) parenteral diacetylmorphine provided under the application will be dispensed through the applicant upon the written prescription of a physician registered under section 302 of the Controlled Substances Act (21 U.S.C. 822) to dispense controlled substances in scheduled II of such Act (21 U.S.C. 812(2)).

"(3) INTENT OF CONGRESS.—It is the intent of Congress that—

"(A) the Secretary shall primarily utilize hospital pharmacies for the dispensing of parenteral diacetylmorphine under the program; and

"(B) the Secretary may distribute parenteral diacetylmorphine through pharmacies other than hospital pharmacies in cases in which humanitarian concerns necessitate the provision of parenteral diacetylmorphine, a significant need is shown for such provision, and adequate protection is available against the diversion of parenteral diacetylmorphine.

"(d) ILLICT DIVERSION.—Regulations established by the Secretary under this section shall be designed to protect against the diversion into illicit channels of parenteral diacetylmorphine distributed under the program.

"(e) PRESCRIPTION BY PHYSICIANS.—Regulations established under this section shall—

"(1) require that parenteral diacetylmorphine be dispensed only to an individual in accordance with the written prescription of a physician;

"(2) provide that a physician registered under section 302 of the Controlled Substances Act (21 U.S.C. 822) may prescribe parenteral diacetylmorphine for individuals for the relief of intractable pain due to terminal cancer;

"(3) provide that any such prescription shall be in writing; and

"(4) specify such other criteria for the prescription as the Secretary may determine to be appropriate.

"(f) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and titles II and III of the Comprehensive Drug Abuse Prevention Control Act of 1970 (21 U.S.C. 801 et seq. and 951 et seq.) shall not apply with respect to—

"(1) the importing of opium;

"(2) the manufacture of parenteral diacetylmorphine; and

"(3) the distribution and dispensing of parenteral diacetylmorphine,

in accordance with the program.

"(g) REPORTS.—

"(1) BY THE SECRETARY.—

"(A) IMPLEMENTATION AND ACTIVITIES.—

"(i) IMPLEMENTATION.—Not later than 2 months after the date of the enactment of this part and every third month thereafter until the program is established under subsection (a), the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report containing information on the activities undertaken to implement the program.

"(ii) ACTIVITIES.—Not later than 1 year after the date the program is established under subsection (a) and annually thereafter until the program is terminated under subsection (h), the Secretary shall prepare and submit to the committees described in clause (i) a report containing information on the activities under the program during the period for which the report is submitted.

"(B) PAIN MANAGEMENT.—Not later than 6 months after the date of the enactment of this part, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that—

"(i) describes the extent of research activities on the management of pain that have received funds through the National Institutes of Health;

"(ii) describes the ways in which the Federal Government supports the training of health personnel in pain management; and

"(iii) contains recommendations for expanding and improving the training of health personnel in pain management.

"(2) BY THE COMPTROLLER GENERAL.—Not later than 56 months after the date on which the program is established under subsection (a), the Comptroller General of the United States shall prepare and submit to the committees referred to in paragraph (1)(A)(i) a report containing information on the activities conducted under the program during such 56-month period.

"(h) TERMINATION AND MODIFICATION.—

"(1) IN GENERAL.—The Secretary may at any time later than 6 months after the date on which the program is established under subsection (a), modify the regulations required by subsection (a) or terminate the program if in the judgment of the Secretary the program is no longer needed or if modifications or termination are needed to prevent substantial diversion of the diacetylmorphine.

"(2) FINAL TERMINATION.—The program shall terminate 60 months after the date the program is established under subsection (a).".●

By Mr. BOREN (for himself, Mr. DANFORTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. PRYOR, Mr. GRASSLEY, Mr. SANFORD, Mr. KERRY, Mr. LIEBERMAN, and Mr. COCHRAN):

S. 359. A bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference; to the Committee on Finance.

CHARITABLE GIFTS OF APPRECIATION ACT

● Mr. BOREN. Mr. President, since the passage of the so-called Tax Reform Act of 1986, charitable gifts of appreciated property have fallen dramatically. The 1986 act effectively penalized charitable giving by including the appreciated portion of these gifts as a tax preference item in the alternative minimum tax [AMT]. We must not allow this Nation's great institutions of learning, art, and science to languish because our Tax Code punishes the generosity of benevolent Americans. Today, I am introducing legislation along with my colleagues, Senators DANFORTH, MOYNIHAN, CHAFEE, and others which will remove charitable gifts of appreciated property from the AMT. This bill promises a better future for the universities, hospitals, museums, religious organizations, and conservation groups of this country.

THE PROBLEM AND THE NEED

By 1986 provision limited a taxpayer's deduction for a charitable contribution of appreciated property to the basis in the property. Since then, according to the Council for Aid to Education, gifts for capital projects have remained virtually flat, increasing only 0.96 percent in constant dollars. These gifts, by contrast, were growing at an average annual rate of 14.4 percent between 1982 and 1986. Analysis of property giving suggests that the recent decline in donations of appreciated property is not a temporary aberration, but a real and permanent downward trend. The decline cannot be explained by a predictable increase in giving as a response to the 1986 changes or as a decrease due to the stock market problems of recent years.

Mr. President, gifts of appreciated property have traditionally been the centerpieces of capital campaigns and are often the key to repairing and renovating existing buildings as well as the expansion of new research facilities and libraries. However, a recent National Science Foundation survey reveals that for every dollar spent to maintain research facilities in 1990, $4.25 in essential repairs will be put off. For every dollar allocated for construction of new science facilities, $3.11 will be deferred. Current deferred construction is estimated to be $8 billion, an increase of 38 percent since 1988.

Perhaps the crisis caused by the 1986 provision can best be demonstrated by the testimony of leaders of institutions which depend on charitable contributions. In his statement before the House Ways and Means Committee last spring, Joe B. Wyett, chancellor of Vanderbilt University, pointed out that gifts to higher education dropped 7.2 percent in real dollars during the 1987–88 academic year, the first decrease since 1975. Giving for the previous two years, however, had been growing at annual rates well over 10 percent. Chancellor Wyett stated:

> The conclusion seems inescapable: the inclusion of the appreciated portion of the gifts of appreciated property as an item of tax preference in the alternative minimum tax has had a significant negative impact on the flow of gifts of appreciated property to colleges and universities.

CHARITABLE GIVING IS NOT TAX AVOIDANCE

Congress included the charitable contribution of appreciated property as a tax preference item in the AMT among other 1986 changes designed to prevent high-income taxpayers from avoiding income taxes altogether. Theoretically, wealthy individuals could zero-out, pay no taxes, by making a large contribution under the pre-1986 law. However, a 1985 Treasury Department study found that itemized deductions like charitable giving were not significant causes of tax avoidance. Then, as now, deductions for property gifts cannot exceed 30 percent of adjusted gross income.

Some critics of this bill have pointed to past abuses of such deductions where the property was overvalued in order to increase the amount of the deduction. However, overvaluation of gifts was addressed by Congress in 1984 when a series of strict new rules designed to result in accurate appraisal of property gifts were enacted. These new requirements provide for penalties to both the donor and the appraiser in cases of fraudulent overvaluation.

SOME PROGRESS HAS BEEN MADE

Mr. President, some progress has been made on this front. Last year's Omnibus Budget Reconciliation Act removes gifts of tangible property, such as works of art and manuscripts, from the AMT. However, this provision is effective for 1991 only. The legislation we are introducing today will permanently remove all gifts of appreciated property from the AMT. Making the change

permanent will allow charitable institutions to make long range fundraising plans instead of an uncertain start and stop approach.

THE BENEFIT OUTWEIGHS THE COST

Mr. President, Americans have a long history of private philanthropy. If not discouraged by Government policy, Americans will continue to give to institutions which serve the public good and the less fortunate. Unfortunately, the 1986 provision does punish such activity. The Government cannot and perhaps should not attempt to address the needs I've outlined through direct spending. We are simply trying to remove the Tax Code as an obstruction. The legislation I am introducing today would result in a relatively small investment on the part of the Government in the form of lost revenue that will spur hundreds of millions in private contributions to charitable organizations.

Mr. President, in September 1990 the Joint Tax Committee conducted a revenue estimate for legislation proposed by Congressman BILL FRENZEL. The committee estimated that this legislation would result in $15 million in lost revenue the first year and $289 million over 5 years. Clearly, the amount of charitable contributions that will be allowed to proceed under the change will dwarf the cost to the Government. Mr. President, I ask unanimous consent that a copy of the Joint Tax Committee's letter to Congressman FRENZEL be printed at this point in the RECORD.

Mr. President, I hope my colleagues will give this bill their most serious consideration and will join us as cosponsors. This change to the Tax Code is supported by schools, hospitals, museums, religious organizations and other charitable organizations across the Nation. I ask unanimous consent that a copy of the bill, statements by my colleagues, Senators DANFORTH and MOYNIHAN, and copies of letters of support from the Salvation Army and the Council for American Private Education be inserted in the RECORD.

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

S. 359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 57 of the Internal Revenue Code of 1986 (relating to items of tax preference) is amended by striking paragraph (6) and by redesignating paragraph (7) as paragraph (6).

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

JOINT COMMITTEE ON TAXATION,
Washington, DC, September 13, 1990.

Hon. BILL FRENZEL,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. FRENZEL: This is in response to your request dated June 25, 1990, for a revenue estimate of a proposal to repeal section 57(a)(6) of the Internal Revenue Code, which creates a minimum tax preference for charitable contributions of appreciated property for both individual and corporate taxpayers. We assume your proposal would be effective for tax years beginning after December 31, 1990.

The following table provides the estimated change in Federal fiscal year budget receipts that would result from your proposal:

[In millions of dollars]

Item	Fiscal years—					
	1991	1992	1993	1994	1995	1991–95
Repeal sec. 57(a)(6)	−15	−65	−67	−70	−72	−289

I hope this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

RONALD A. PEARLMAN.

COUNCIL FOR AMERICAN
PRIVATE EDUCATION,
Washington, DC, January 28, 1991.

Hon. DAVID L. BOREN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOREN: On behalf of the Council for American Private Education, I want to express support for your legislative efforts to remove gifts of appreciated property from the Alternative Minimum Tax. As you fully recognize, the 1986 Tax Reform Act's change in treatment of such charitable gifts has had a damaging effect.

CAPE is a non-profit, Washington-based coalition of 14 national organizations serving private elementary and secondary schools. There are currently 28 state CAPE affiliates which extend the coalition throughout the country. A list of these groups is enclosed. The CAPE member organizations represent about 70 percent of the 5.3 million children enrolled and 384,000 teachers in private schools.

CAPE applauds the step Congress took through your and Senator Moynihan's efforts to partially restore this important tax benefit for artwork and manuscripts. However, only with the restoration of the previous benefit with appropriate accountability, will charitable organizations and educational institutions be able to have fully functioning development offices. Through gifts of real estate, investments, and tangible personal property, donors can provide important support to fundraising efforts of our schools.

Through your personal efforts and leadership with the Oklahoma Foundation for Excellence, you understand the importance of encouraging private support for education. Your foundation's efforts to assist local public school districts to set up endowments to support the unmet needs of students and teachers are an important and admirable endeavor. In the same sense, the private secondary school community is in need of the tools which will help them build fundraising campaigns to finance capital improvements, financial aid, special projects, and general operations. Your legislation will help restore an important tool.

The charitable contribution deduction has been recognized since 1917 as an appropriate mechanism to encourage and compensate private giving for the public good. CAPE schools, religious and nonreligious, receive little or no public monies. We depend on voluntary gifts without which school budgets cannot be balanced nor can programs be sustained or improved. Tax incentives are one of the most powerful motivations for giving, without which our schools will be forced to reduce services or close.

Again, thank you for your leadership with this legislation. The Council for American Private Education stands ready to assist in any way with the effort.

Sincerely,

JOYCE G. MCCRAY,
Executive Director.

THE COUNCIL FOR AMERICAN PRIVATE EDUCATION MEMBER ASSOCIATIONS

American Montessori Society.
Association of Military Colleges and Schools of the US.
Christians Schools International.
Evangelical Lutheran Church in America.
Friends Council on Education.
Hattie M. Strong Foundation.
Lutheran Church—Missouri Synod.
National Association of Episcopal Schools.
National Association of Independent Schools.
National Association of Private Schools for Exceptional Children.
National Catholic Educational Association.
National Society for Hebrew Day Schools.
Seventh-Day Adventist Board of Education.
Solomon Schechter Day School Association.
United States Catholic Conference.

STATE CAPE AFFILIATES

Arizona, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, and Minnesota.

Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Oregon, Puerto Rico, Rhode Island, Tennessee, Texas, Virginia, Washington, Wisconsin.

THE SALVATION ARMY,
Verona, NJ, October 12, 1990.

Hon. DAVID BOREN,
U.S. Senator, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BOREN: I am writing to express the strong support of The Salvation Army for your efforts to end the taxation of gifts of appreciated property in the alternative minimum tax.

Since enactment of this provision in 1986, appreciated property giving to The Salvation Army has been seriously affected. An unfortunate truth about this provision is that it seems to hit gifts by those of more modest means as well as property gifts from the wealthy. Donors to The Salvation Army, who are often donating their only appreciated asset, tend to be in this first category.

Fortunately cash gifts to The Salvation Army annual giving campaign continue to increase. However, these funds are sufficient only to support current programs. For new programs or facility construction The Salvation Army must look elsewhere. In the past some of this support came in the form of gifts of appreciated property.

Once again, we greatly appreciate your efforts to restore this important source of funding for the nation's charities.

Sincerely,

KENNETH HOOD,
Colonel, National Chief Secretary.

• Mr. DANFORTH. Mr. President, today I am introducing legislation, along with my colleagues, to remove charitable gifts of appreciated property from the alternative minimum tax [AMT]. The appreciated portion of these gifts was included as a tax pref-

erence item in the AMT by the Tax Reform Act of 1986. As a direct consequence, charitable gifts of appreciated property have precipitously fallen since 1986. This bill will eliminate the disincentive to donate appreciated property that resulted from the 1986 Tax Act. More importantly, it will enable colleges, universities, and other charitable organizations to engage in effective fundraising campaigns.

Before the 1986 Tax Act, a gift of appreciated property was fully deductable. However, the deduction for charitable gifts may not exceed 30 percent of adjusted gross income so taxpayers cannot use property giving to avoid taxes altogether. In addition, overvaluation of gifts was addressed by Congress in 1984, with a series of strict new rules designed to result in careful and accurate valuation of donated property. These new rules apply to certain gifts over $5,000 while other gifts remain subject to general substantiation requirements. The new requirements include appraisal and overvaluation penalties for the donor and the appraiser.

As my colleagues will recall, in 1989, the Finance Committee approved removal of all gifts of appreciated property from the AMT for calendar year 1990. However, this amendment was removed on the Senate floor, along with all other provisions which lost revenue. Last year, Congress passed legislation that removed gifts of tangible personal property, such as art objects and manuscripts, from the AMT for the calendar year 1991 only. This bill will remove all gifts of appreciated property from the AMT.

Many sectors of society, including educational institutions, are critically dependent upon philanthropic gifts for support. Appreciated property gifts are often the centerpiece of capital campaigns, and the key to repairing and renovating existing buildings, as well as expanding libraries and funding financial aid. Therefore, any drop in these donations would create significant hardship.

Unfortunately, we are now facing this difficulty. A recent analysis based on data collected by the Council for Aid to Education estimates that increases in gifts for capital purposes, that are often in the form of appreciated property, have fallen off to a mere 0.96 percent in 1985–89 in terms of 1982 constant dollars. This is in sharp contrast with the average increase from 1982–86 of 14.4 percent.

Yet, there is so much need for this funding. In the National Science Foundation's recent survey "Scientific and Engineering Research Facilities at Universities and Colleges; 1990," it was reported that for every $1 spent to maintain research facilities in 1990–91, an additional $4.25 worth of work will be deferred. The amount of deferred repair and renovation work is estimated to reach $4 billion by the end of 1991. In addition, for every $1 planned for construction of needed new science facilities, $3.11 will be deferred. Current deferred construction is estimated to be $8 billion, an increase of 38 percent since 1988.

Colleges and universities also use donations of appreciated property to help pay for financial aid programs for students from low and moderate income families. A number of private institutions now provide higher amounts of financial aid to their students than does the Federal Government. For example, at one large private university in the East, student aid from the Federal Government amounted to $6.4 million in 1980 while the university provided $16.5 million in assistance. Ten years later, in 1990, the university's aid amounted to more than $36 million while the Federal portion was $7.2 million. This university and others are able to provide this level of assistance in large part because of gifts of appreciated property which are used to fund scholarship programs.

Let me assure my colleagues that gifts of appreciated property are not solely the concern of private institutions. Public colleges and universities also need this type of gift. With State governments facing unprecedented revenue shortfalls, and with limited resources at the local government level, public colleges, and universities have found that they, too, are compelled to look to gifts from private donors to fund capital campaigns and scholarship programs and otherwise bolster their academic and cultural programs.

Not only has the loss of this tax incentive affected large universities, it has also impacted hundreds of smaller schools across the country. For instance, one family was considering a donation of artwork to the Forsyth Elementary School in St. Louis. They are unwilling to do so under the current tax law, however, because they will, in essence, be penalized. In addition to reducing this family's net worth, the donation may subject the taxpayer to a greater tax liability. As a result, the school, and its students, will lose out on this seed gift of approximately $10,000 as part of their capital campaign for a new library.

Higher education was not the sole beneficiary of gifts of appreciated property. This type of gift was also made to a number of cultural organizations, museums, libraries, conservation groups, and social service agencies such as the Salvation Army, Catholic Charities, and the Council of Jewish Federations. For example, the St. Louis Art Museum averaged $6.2 million per year in contributions from 1980 to 1985. In 1987, donations declined to $674 thousand and in 1988, the museum reported that contributions were merely $349 thousand. These huge losses in contributions are potentially threatening to the existence of many museums since on average, 80 percent of museum collections are donations of appreciated assets.

These large declines in such donations are clearly a result of the 1986 Tax Reform Act. While tax considerations are not the sole determinative issue for an individual who may contribute appreciated property, they surely are influential. Statistics from the Internal Revenue Service indicate that among upper-income taxpayers, there has been a decline in both average contribution per return and total giving.

This result is consistent with the American Council on Education's report before the Ways and Means Committee on March 5, 1990, "The conclusion seems inescapable: the inclusion of the appreciated portion of gifts of property as an item of tax preference in the alternative minimum tax has had a significant negative impact on the flow of gifts of appreciated property to colleges and universities."

In sum, the existence of gifts of appreciated property as a tax preference item on the AMT is a serious threat to the growth and continuation of the various nonprofit sectors. The removal of this impediment to giving will be a step toward reversing the alarming downtrend in donations.●

● Mr. MOYNIHAN. Mr. President, I rise today to join my distinguished colleagues, Senator BOREN and Senator DANFORTH, in introducing legislation to fully restore the tax deduction for charitable donations of property to nonprofit institutions. The bill provides for a deduction equal to the fair market value of property given to museums, colleges and universities, hospitals, religious institutions, conservation groups and other nonprofit organizations.

The tax law provided for a full fair market value deduction for gifts of property until the Tax Reform Act of 1986. That legislation, however, modified the alternative minimum tax so that a taxpayer subject to the minimum tax no longer gets a deduction for the amount by which the property has appreciated while he or she held it. Under the 1986 act change, the tax deduction is, in effect, limited to the original cost of the property when it was acquired by the donor.

I believed at the time that this change in the tax treatment of gifts of appreciated property was unwarranted and would undermine our many cultural and educational institutions that are so dependent on private philanthropy. During the consideration and passage of the 1986 Tax Reform Act, I fought the proposal vigorously. It was not included in the Senate version of the legislation. The House bill did contain it, however. As a member of the House-Senate conference on the legislation, I can report that this issue was

very contentious and among the last resolved. Nonetheless, in the end the House prevailed, and the deduction for gifts of appreciated property was substantially curtailed. The appreciated portion of a property gift was denied as a deduction for purposes of the minimum tax, with the result that the tax incentive to make such gifts was substantially reduced, or entirely eliminated, in many cases.

The adverse impact on giving to institutions in the fields of higher education, research, medicine, conservation, and social welfare since then has been substantial. Gifts of property are often the large gifts that get buildings built and other capital projects undertaken, and they are critical to museum collections. According to the Association of American Universities, some educational institutions receive as much as 50 percent of their donations from 1 percent of their donors. Data collected from over 1,000 institutions of higher education by the Council on Aid to Education indicates that gifts for capital purposes, which are frequently in the form of appreciated property, declined by nearly 17 percent from 1987 to 1988. The impact on museums has been more dramatic. From 1985 to 1988, gifts of objects to museums dropped by 49 percent, according to a survey conducted by the American Association of Museums of a sampling of 274 of its member institutions. The drop from 1986 was a stunning 61 percent, though that figure may be inflated somewhat by a very high volume of giving in 1986, attributable to donors' anticipation of the change in tax treatment of appreciated property. Several important paintings that had been hanging on museum walls for years—on loan, expected ultimately to be gifts—were taken back by their owners and sold to private, usually foreign, collectors.

I hope that the experience with the appreciated property restrictions will persuade Congress to reconsider the matter this year. We have made substantial progress already. Last fall, during the Senate Finance Committee's consideration of the budget deficit reduction legislation, Senator BOREN proposed as an amendment the bill being introduced today, which would remove the minimum tax restrictions on appreciated property deductions for all types of property—tangible property such as art and manuscripts, intangible property such as stock, and real property. When that proposal failed to win a majority, I offered a compromise: extend the relief only to donations of art, manuscripts and other tangible property that relates to the function of the receiving institution, since the problems being experienced by museums were especially acute. The compromise provision passed the Finance Committee, and was included in the Senate version of the bill. In the conference with the House, the provision was pared back from permanent relief to a 1-year exemption from the minimum tax during 1991, so that Congress could further consider the issue of extending relief to all types of property gifts this year.

The limited relief for 1991 has started to have an impact. I have already heard of gifts prompted by the change, including a gift to the Metropolitan Museum of Art of one of the most important collections of Benin bronzes in the world.

When Congress turns to the issue, I think there are three considerations that bear on the question.

First, the well documented deleterious impact that the restriction on deductions for appreciated property gifts is having. Once a painting goes from museum wall to auction block it is lost for public enjoyment, probably forever. Moreover, the capital needs of higher education, particularly for scientific research, are acute and critical. The National Science Foundation estimates that in 1990, for every $1 spent on maintenance of university research facilities, an additional $4.25 was deferred. As for new construction during the same period, the Foundation reports that for every $1 spent, another $3.11 in needed new construction was deferred. And I hope my colleagues will notice that public universities, as much as private ones, are finding that gifts of appreciated property are an essential component in meeting their capital needs.

Second, I do not believe that there was ever much of a case for making the 1986 Tax Reform Act change in the first place. The alternative minimum tax, of which the restriction on appreciated property gifts was a part, was substantially revamped in the 1986 act in response to the disturbing trend, documented each year by the Treasury Department, of wealthy individuals "zeroing out" of the Federal income tax—that is to say, paying nothing, or virtually nothing, in income taxes despite substantial economic income. Congressman PICKLE asked the Treasury to study the matter, and in 1985 the Department issued a report which posited a number of causes, but on one point Treasury was clear: itemized deductions, including charitable deductions, did not play a significant role in permitting high income taxpayers to escape significant tax liability.

It is not hard to see why. Since 1917, the Tax Code has imposed a limit on the size of a charitable deduction—a percentage of income—that can be taken in 1 year, regardless of the amount given away. For gifts of property, the rule for years has been that the deduction cannot exceed 30 percent of adjusted gross income—disregarding any loss carrybacks. Thus, a gift of appreciated property, no matter what its value, can offset the tax on no more than 30 percent of the year's income. No one is proposing to change this longstanding rule. It has never been possible to substantially eliminate tax liability by making gifts of appreciated property, and further restrictions under the minimum tax were not necessary in 1986 and are not necessary now.

Concerns were also expressed that deductions for gifts of appreciated property—at least for property other than stocks and securities that is not publicly traded—present opportunities for valuation abuses. But Congress addressed the problem of overvaluation of gifts in 1984, enacting strict new rules for valuation—and penalties for overvaluation—which apply to all gifts over $5,000. These rules had scarcely been given a chance to operate when the minimum tax restrictions on appreciated property gifts were passed in 1986.

Finally, although gifts of appreciated property do not allow one to escape paying a significant amount of tax, nor are they likely to result in abuses, I think in addressing this issue we should acknowledge that we are bestowing a tax incentive when we permit a deduction for the appreciated value of a gift of appreciated property. The question is whether it is good public policy to do so. I believe it is.

The United States is unique among the major democracies in the world in the extent to which many of its great educational, cultural and research institutions are private undertakings, separate and independent of Government. Of the 50 largest research universities, well over one-third are private institutions. Almost all major museums outside of Washington, DC are private institutions—and even Washington's own National Gallery of Art cannot use Federal funding for acquisitions. In the field of medical research, the Memorial Sloan Kettering Cancer Center stands as only one example of the contributions of the private, independent sector. What we have in this country is something unique and precious. A part of our culture. The Tax Code is not the source of this, but today it has a vital role to play in sustaining it. We should take care not to lose it.●

By Mr. ROTH:

S.J. Res. 60. Joint resolution proposing an amendment to the Constitution of the United States relative to campaign expenditures; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO CAMPAIGN EXPENDITURES

● Mr. ROTH. Mr. President, today I am introducing a proposal to amend the Constitution to overturn impediments to campaign finance reform placed across our path by the Supreme Court decision in Buckley versus Valeo. This is now the third consecutive Congress in which I am introducing my proposal.

I find some irony in the fact that we in Congress debate campaign reform without end, yet proponents of reform oppose constitutional amendments because they take too long to put in place. If proponents of reform would also become proponents of a constitutional amendment, this change would allow Congress to act expeditiously.

I have given the subject of campaign financing reform considerable thought over the years. I recognize that there are countless proposals for reform. The substantial majority of these proposals share a common theme: they would impose restraints on some aspects of political money. In my opinion, any attempt to place a restraint here or there only creates pressure for political money to flow elsewhere. I state this as an objective evaluation. I do not intend to suggest despair or to counsel against reform.

The second irony is the more effective the restraints that reformers may enact, the more necessary will become my constitutional amendment. What I am describing is the waterbed effect of campaign finance reform. As restrictions are placed on today's circumventions of yesterday's reforms, the greater the pressure for political money to flow through those channels forced open by the Supreme Court. Those channels include the right to make independent expenditures and the right of a wealthy candidate to spend as much of his own money on his own campaign as he wishes.

I am well aware that the statutory reforms have attempted to close those channels. But the solutions either allow countervailing private funds to flow more freely—another irony—or call on taxpayer financing to offset the constitutionally protected flow of political money. Neither of these remedies is very comforting. The former is a rejection of the principles that are espoused and the latter embraces the very provision that killed reform in the last two Congresses.

Moreover, the independent expenditure solution, whatever its form, is ineffective whenever such expenditures occur in the critical final days of a campaign. Perhaps even more significant is the fact that the solutions presuppose a certain tidiness that does not always exist in real life. The party making the independent expenditure may, in fact, be truly independent. The political advertisement paid for by the independent party may reflect a third viewpoint supporting neither of the two opposing candidates in full or in part. Or it may support one candidate more than the other but hardly merit the infliction of the suggested remedies. Or it may support one candidate in some areas while condemning him in others.

The purpose and the effect of the independent expenditure may not necessarily coincide. They don't always coincide for the candidates' expenditures, so why should they for independent expenditures? If the independent expenditure is intended to help A but backfires and helps B, which candidate deserves help?

I could go on. But if the members of this body will reflect on this problem, they will understand that there is no acceptable statutory solution to the problem of independent expenditures.

Solutions for the so-called millionarie's loophole are also less then satisfactory. The best of them is, in concept, nothing more than an exemption from reform, just another irony for any reformer to advocate. If reform achieves restriction on contributions and expenditures and then along comes a millionaire who exercises his constitutional right to spend millions of dollars of his own on his own campaign, what can be done? To say that opposing candidates are, in such cases, absolved from campaign finance restrictions is an admission that there is no answer. All that such solutions do is to state that reform does not apply to this area.

This is my point. Complete reform is possible only through a constitutional amendment. Only a constitutional amendment can limit independent expenditures and close the millionaire's loophole.

Mr. President, for the past three Congresses, Senator HOLLINGS and I have introduced proposals to amend the Constitution to achieve the goal of complete reform. However, our proposals, while similar in purpose, have differed in form. While the language differences were once significant, they are now relatively minor.

S.J. Res. 35, the Hollings proposal, refers to elections for "Federal office" while my proposal refers to the "Office of President, Vice President, Senator, Representative, or any other office within its jurisdiction." I prefer my language because it more clearly embraces the Office of Mayor of the District of Columbia, which most people view as a local office. But the Hollings proposal gives local office jurisdiction to the States. What State would set the rules for the District of Columbia? My view is that whether the office is Federal or local, it is, by virtue of article I, section 8, clause 17, within the jurisdiction of the Federal Government. My language is the more appropriate form of reference to the District of Columbia.

Moreover, the reference to local office in the Hollings proposal would mark the first time, if it were ratified, that the Constitution made reference to local office or local government. The Constitution divides powers between the Federal Government and the State governments but leaves to the States how to treat local governments within their jurisdiction. I see no reason to deviate from that tradition here.

Finally, the Hollings proposal focuses on expenditures "by, in support of, or in opposition to" candidates. My proposal treats with expenditures "with respect to" candidates. In view of my earlier discussion of truly independent expenditures, I find the Hollings language too narrow. I do not believe that it is intended to exclude independent expenditures from Congressional limitations, but it could have that effect.

Independent expenditures can not be by a candidate. That is by definition. Beyond that, I can easily imagine independent expenditures that are not in support of or in opposition to a candidate. Does the proposal look to the purpose of the independent expenditure or to its effect?

I am not sure what the Hollings proposal means on this score but I believe that the fine-tuning intended is best left for Congress to decide when, after ratification, it must legislate reasonable limitations. My proposal would allow for such flexibility.

In stating these differences with Senate Joint Resolution 35, I do not intend to obscure our fundamental agreement that the impediments of Buckley versus Valeo must be set aside. I did cosponsor Senator HOLLINGS' proposal in the last Congress, as he did mine. I would hope and expect the same to occur in this Congress. I look forward to working with all of the Senators who support constitutional reform.

In conclusion, it is my hope that those interested in campaign finance reform will overcome the ill-founded notion that one must choose between constitutional and statutory reform proposals. Many aspects of the program can be adequately addressed by statute. I have cosponsored comprehensive legislation that attacks campaign finance reform on many fronts, including PACS, bundling contributions, and soft money. I plan to introduce legislation, similar to what I introduced last year, that would provide free television broadcast time to candidates, thereby sharply reducing campaign costs.

However, for the reasons stated, there are areas, such independent expenditures and the millionaire's loophole, that cannot be effectively addressed by statute. Consequently, complete reform can only be achieved through a constitutional amendment.●

By Mr. FORD:

S.J. Res 61. Joint resolution to designate June 1, 1992, as "Kentucky Bicentennial Day"; to the Committee on the Judiciary.

KENTUCKY BICENTENNIAL DAY

Mr. FORD. Mr. President, it gives me great pleasure to introduce a joint resolution designating June 1, 1992, as Kentucky Bicentennial Day—honoring the day in which Kentucky became the 15th State in the Union nearly 200 years ago. I introduce this resolution 1 day after the 200th anniversary of the

passage of the act declaring Kentucky's statehood, February 5, 1991. I am pleased to be joined in this effort by my friend and House counterpart, Congressman WILLAM NATCHER who will be introducing a similar measure in the House tomorrow. And I also recognize the outstanding work of the Kentucky Bicentennial Commission, and the people themselves, who have given tirelessly to prepare community events around the State.

Mr. President, as a former governor of Kentucky, I have always found special enjoyment in exploring and celebrating in our State's history. When frontiersmen such as Daniel Boone and George Rogers Clark led expeditions through the Cumberland Gap in the late 1700's they discovered a world of unmatched beauty and potential. The land attracted the interest of explorers and settlers alike, and many chose to stay and call it home. But that was far from easy. The territory we now know as Kentucky was cherished by Virginians as well. However, the population of Kentucky was increasing at a rapid rate and became neglected. The daughter of Virginia was growing up and began a struggle for statehood.

The early Kentuckians were stubborn and headstrong; fighting for liberty. The majority of the delegates from western Virginia, soon to become Kentucky, opposed the Federal Constitution at the Virginia Convention in 1787. This original Constitution did not guarantee the individual liberties sought by patriots in the struggle for independence. Nevertheless, this objection was historically significant because it contributed to the adoption of our constitutional liberties, the Bill of Rights, in 1791. The protest led to statehood for Kentucky and promoted a free new spirit to meet future conflict.

Kentucky was first to take a stand for its citizens rights. The Kentucky Legislature responded to the people's demand with "The Kentucky Resolutions." Authored by Thomas Jefferson, these resolutions reaffirmed a system of checks and balances established in the Constitution for the protection of individual liberties, and called for the repeal of the Alien and Sedition Acts. Such dedication to freedom and independence characterizes the passionate nature of Kentuckians as they began to mold the State.

In the years that followed, our pioneer farmers made the fields of Kentucky bloom, turning the State into one where agriculture has become the economic mainstay. Today, we are proud to be the Nation's second-ranked tobacco producing State and the Nation's largest producer of both burley tobacco and bourbon whiskey. In addition to our vast agricultural resources, our State finds herself as one of the Nation's largest producers of coal. I can't think of a more appropriate time to recognize such an important energy source.

In Kentucky, we like to think there is room for all, either in agricultural pursuits, mining, the horse industry or other business. Our State is even home to a few famous political figures. Ironically, Kentucky was the birthplace of the Union President Abraham Lincoln, and the Confederate President, Jefferson Davis. The two great men were born in log cabins within 1 year and 100 miles of each other. We are also proud to call Kentuckians such prominent contributors to our Nation's history as Henry Clay—the "Great Compromiser" and three-time Presidential candidate, President Zachary Taylor, and four Vice Presidents, Richard M. Johnson, John Cabell Breckinridge, Adlai Stevenson, and Alben Barkley.

In short, Kentucky's rich history of outstanding accomplishments and constant hospitality is attributable to the past contributions of such prominent individuals and to the continued dedication of hard-working families in every corner of our great State. Mr. President, to me the essence of Kentucky is best summed up in the words of the great Kentucky author, Jesse Stuart, who once said, "If our nation can be called a body, then Kentucky can be called its heart."

Mr. President, as the Kentucky Bicentennial celebration begins to spread its enthusiasm across the State, I would like to take this opportunity to encourage all Americans to visit Kentucky. There is energy and excitement that cannot be matched. From the smallest town to the largest cities, the people of Kentucky are pausing to look back to the accomplishments of the past as they prepare for the bright and promising future.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

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

S.J. RES. 61

Whereas on June 1, 1792, President Washington signed a proclamation admitting Kentucky as the Fifteenth State of the Union, separating Kentucky from the Commonwealth of Virginia;

Whereas for two centuries, the people of Kentucky have made substantial contributions to the economic and social well-being of the United States of America;

Whereas the State of Kentucky has become a national leader in agriculture, natural resource industries, and manufacturing;

Whereas beautiful mountains, lakes, trees, and farms of the State of Kentucky are appreciated and preserved, and the quality of life is unsurpassed;

Whereas the history of Kentucky is associated with the history of westward expansion as Daniel Boone and others opened the frontier by clearing the Wilderness Road through the Appalachian Mountains;

Whereas Kentucky is the birthplace of both Union President Abraham Lincoln and Confederate President Jefferson Davis, thus symbolizing the State's dualistic role in the Civil War;

Whereas Kentucky is the Nation's largest producer of coal and burley tobacco;

Whereas Kentucky is the home of Dr. Ephraim McDowell, the first physician to perform internal surgery west of the Allegheny Mountains, and whose statue now graces the United States Capitol;

Whereas Kentucky is home to the thoroughbred horse industry and the world's most celebrated horse race, the Kentucky Derby, held in Louisville;

Whereas bluegrass music originated in Kentucky, the "Bluegrass State", and continues to be a favorite pastime of many Kentuckians;

Whereas Kentucky is the home of "The Great Compromiser", Henry Clay, United States Senator, Speaker of the House of Representatives, and Secretary of State, as well as the home of the twelfth United States President, Zachary Taylor, and four United States Vice Presidents, Richard M. Johnson, John Cabell Breckinridge, Adlai Stevenson, and Alben W. Barkley;

Whereas Kentucky is home to the 101st Airborne Division at Fort Campbell and the Army Armor Center and School at Fort Knox, where the world's largest gold depository is maintained; and

Whereas Kentucky, which represents the ideal in outdoor recreation and maintains one of the Nation's most outstanding State park systems, is home to the only park of its kind, the Kentucky Horse Park in Lexington: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 1, 1992, is designated as "Kentucky Bicentennial Day", and the President is authorized and requested to issue a proclamation calling upon the people of Kentucky and the United States to observe such day with appropriate ceremonies and activities.

By Mr. BRADLEY (for himself, Mr. ADAMS, Mr. BENTSEN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRAHAM, Mr. HATCH, Mr. HATFIELD, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. PELL, Mr. REID, Mr. SANFORD, Mr. SARBANES, Mr. SHELBY, Mr. WARNER, Mr. WELLSTONE, and Mr. SPECTER); to the Committee on the Judiciary.

S.J. Res. 64. Joint resolution to authorize the President to proclaim the last Friday of April as "National Arbor Day."

NATIONAL ARBOR DAY

• Mr. BRADLEY. Mr. President, many times in the past, Congress has legislated and the President has proclaimed the last Friday in April as National Arbor Day. For the past 4 years, the

Senate has passed legislation commemorating National Arbor Day, with more than 51 Senators cosponsoring the legislation. Today, I am introducing legislation which will once again recognize this important day. I'm pleased to announce that 44 of my colleagues have joined me today in sponsoring this legislation.

Mr. President, trees are one of our Nation's most important and beautiful natural resources. They not only provide the raw materials for some of our basic industries, they cleanse our environment and add natural gas grace and beauty to our lives. The establishment of a National Arbor Day acts as a modest reminder to all our citizens to appreciate and protect this vitally important natural resource.

We cannot take our trees and forests for granted. Scientists have observed declines, serious damage, and death of a number of species of trees in large areas of Europe and the United States. Damage to forests has ranged from decline in growth of several species of pine in southern New Jersey to widespread damage to the ponderosa pine in southern California. A number of other coniferous species have experienced growth decline in an 11-State region extending from Maine to Alabama. Last Congress, we passed a Clean Air Act to help reverse these sad trends.

Because we are concerned about our forests and trees, we annually designate National Arbor Day to take special note of the importance of trees in our lives. I urge the Senate again to pass this important resolution. I ask unanimous consent to have the joint resolution printed in the RECORD.

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

S.J. RES. 64

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the last Friday of April as "National Arbor Day" and calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.●

By Mr. D'AMATO (for himself, Mr. WARNER, Mr. DOLE, Mr. GLENN, Mr. DECONCINI, Mr. THURMOND, Mr. COCHRAN, Mr. BRADLEY, Mr. CRANSTON, Mr. KASTEN, Mr. SARBANES, Mr. INOUYE, Mr. PELL, Mr. SPECTER, Mr. HATCH, Mrs. KASSEBAUM, Mr. HEFLIN, Mr. FOWLER, Mr. PRESSLER, Mr. BOND, Mr. CHAFEE, Mr. DIXON, Mr. SHELBY, Mr. DODD, Mr. JEFFORDS, Mr. BRYAN, Mr. KERRY, Mr. AKAKA, Mr. MOYNIHAN, and Mr. PACKWOOD):

S.J. Res. 65. Joint resolution designating the week beginning May 12, 1991, as "Emergency Medical Services Week"; to the Committee on the Judiciary.

EMERGENCY MEDICAL SERVICES WEEK

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation designating the week of May 12 through 18, 1991, as "Emergency Medical Services Week."

This legislation recognizes those dedicated men and women who have given their time and talents to providing emergency medical services [EMS]. The American College of Emergency Physicians will be sponsoring events across the country during the week of May 12, and they need our full support to give members of every community the opportunity to update their knowledge of emergency medical procedures.

Advancements in the specialty of emergency medicine have contributed to a dramatic reduction in the number of accidental deaths due to injury. Statistics from the National Center of Health Statistics indicated that since 1968, the number of persons per 100,000 who have died from automobile accidents has decreased from 27.5 to 19.8; from accidental falls, 9.4 to 4.8; from fires and burns, 3.7 to 1.9; and from drowning, 3.0 to 1.5.

Improvements in the quality and effectiveness of EMS are especially vital to the elderly. Older Americans are more susceptible than any other group to death due to injury. Moreover, they are less likely than others to recover completely from their injuries. It is critical, therefore, that senior citizens become familiar with the steps to take in an emergency medical situation.

EMS is equally important to the welfare of our children. Accidents are the leading cause of death among children under 14 years of age. When appropriate treatment is administered within the first hour of injury, mortality, morbidity, and residual disability can be greatly reduced. Timely and effective treatment, therefore, is a must.

Of course, prompt treatment depends on adequate manpower—and many concerned citizens have responded to this need. In fact, in some areas of the country, between 50 and 80 percent of all prehospital care is provided by trained volunteer personnel.

Providers of emergency medical services include emergency physicians, nurses, emergency medical technicians, paramedics, educators, administrators, and lay people who have learned CPR and other medical stabilization procedures. These men and women, dedicated to the health and welfare of millions of Americans every day, deserve our recognition.

The dedication of May 12–18, 1991, as Emergency Medical Services Week will help provide our EMS providers with this well-deserved recognition, while creating an important opportunity for greater public education about accident prevention and medical emergency management.

I urge my colleagues to consider the importance of this resolution to the health and well-being of all Americans, and to join me in supporting its prompt passage.●

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. BENTSEN, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Louisiana [Mr. BREAUX], the Senator from Delaware [Mr. BIDEN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 4, a bill to amend titles IV, V, and XIX of the Social Security Act to establish innovative child welfare and family support services in order to strengthen families and avoid placement in foster care, to promote the development of comprehensive substance abuse programs for pregnant women and caretaker relatives with children, to provide improved delivery of health care services to low-income children, and for other purposes.

S. 8

At the request of Mr. DOLE, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 8, a bill to extend the time for performing certain acts under the internal revenue laws for individuals performing services as part of the Desert Shield operation.

S. 9

At the request of Mr. DOLE, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 9, a bill to amend the foreign aid policy of the United States toward countries in transition from communism to democracy.

S. 12

At the request of Mr. DANFORTH, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 12, a bill to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes.

S. 24

At the request of Mr. MOYNIHAN, the names of the Senator from Delaware [Mr. ROTH] and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of S. 24, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion from gross income of educational assistance provided to employees.

S. 39

At the request of Mr. ROTH, the names of the Senator from Colorado [Mr. WIRTH] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 39, a bill to amend the National Wildlife Refuge Administration Act.

S. 55

At the request of Mr. METZENBAUM, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

S. 100

At the request of Mr. SANFORD, the names of the Senator from Tennessee [Mr. SASSER] and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 100, a bill to set forth United States policy toward Central America and to assist the economic recovery and development of that region.

S. 140

At the request of Mr. WIRTH, the names of the Senator from Louisiana [Mr. BREAUX], the Senator from Montana [Mr. BURNS], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 143

At the request of Mr. MCCONNELL, the names of the Senator from Indiana [Mr. LUGAR], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 143, a bill to amend the Federal Election Campaign Act of 1971 to reduce special interest influence on elections, to increase competition in politics, to reduce campaign costs, and for other purposes.

S. 160

At the request of Mr. MCCAIN, the names of the Senator from Maine [Mr. COHEN], the Senator from Ohio [Mr. GLENN] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 160, a bill to extend the period of unemployment compensation for individuals involuntarily separated from the Armed Forces.

S. 167

At the request of Mr. RIEGLE, the names of the Senator from Louisiana [Mr. BREAUX], the Senator from Oregon, [Mr. HATFIELD], the Senator from Illinois [Mr. SIMON], the Senator from Alabama [Mr. HEFLIN], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 167, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds.

S. 173

At the request of Mr. HOLLINGS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 173, a bill to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

S. 175

At the request of Mr. LEVIN, his name was withdrawn as a cosponsor of S. 175, a bill to amend the Resource Conservation and Recovery Act to improve procedures for the implementation of State compacts providing for the establishment and operation of regional disposal facilities for municipal and industrial solid waste, and for other purposes.

S. 193

At the request of Mr. MCCAIN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 193, a bill to provide for the restoration of certain Medicare catastrophic benefits, plus addition of colon cancer screening benefit.

S. 199

At the request of Mr. GLENN, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 199, a bill to amend the Internal Revenue Code of 1986 to exclude from income the compensation received for active service as a member of the Armed Forces of the United States in a dangerous foreign area.

S. 204

At the request of Mr. GLENN, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 204, a bill to amend title 10, United States Code, to provide for certain recalled retired members of the Armed Forces to serve in the highest grade previously held while on active duty.

S. 205

At the request of Mr. GLENN, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 205, a bill to amend title 5, United States Code, to equalize the treatment of members of the Armed Forces of the United States and former employees of the Federal Government for purposes of eligibility for payment of unemployment compensation for Federal service.

S. 215

At the request of Mr. JOHNSTON, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 215, a bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil or refined petroleum products.

S. 221

At the request of Mr. GLENN, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 221, a bill to require the Secretary of Defense to authorize members of the Armed Forces serving outside the United States under arduous conditions pursuant to an assignment or duty detail as a part of Operation Desert Shield to participate in a savings program for members of the Armed Forces assigned for permanent duty outside the United States.

S. 242

At the request of Mr. GLENN, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Georgia [Mr. FOWLER], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 242, a bill to amend the Ethics in Government Act of 1978 to modify the rule prohibiting the receipt of honoraria by certain Government employees and for other purposes.

S. 246

At the request of Mr. LOTT, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from New York [Mr. JOHNSTON], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 246, a bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of members of the National Guard or reserve units of the Armed Forces will be allowable in computing adjusted gross income.

S. 250

At the request of Mr. FORD, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Massachusetts [Mr. KERRY], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 255

At the request of Mr. BINGAMAN, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Michigan [Mr. LEVIN], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 255, a bill to require Congress to purchase recycled paper and paper products to the greatest extent practicable.

S. 264

At the request of Mr. CONRAD, his name was added as a cosponsor of S. 264, a bill to authorize a grant to the National Writing Project.

At the request of Mr. COCHRAN, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Arizona [Mr. MCCAIN], the Senator from Indiana [Mr. LUGAR], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Mississippi [Mr. LOTT], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 264, supra.

S. 265

At the request of Mr. THURMOND, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 265, a bill to establish constitutional procedures for the imposition of the death penalty for terrorist murders and for other purposes.

S. 266

At the request of Mr. BIDEN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 266, a bill to prevent and

punish domestic and international terrorist acts, and for other purposes.

S. 270

At the request of Mr. CONRAD, his name was added as a cosponsor of S. 270, a bill to require regular reports to the Congress on the amount of expenditures made to carry out Operation Desert Shield and Operation Desert Storm and on the amount of contributions made to the United States by foreign countries to support Operation Desert Shield and Operation Desert Storm.

S. 281

At the request of Mr. KENNEDY, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 281, a bill to provide school-based education and support services and comprehensive family support services to families of members of the Armed Forces of the United States who are serving on active duty, to provide continued coverage under group health plans for the families of members of the Armed Forces serving on active duty during the Persian Gulf conflict, and for other purposes.

S. 284

At the request of Mr. BRADLEY, the names of the Senator from Nebraska [Mr. EXON], the Senator from Delaware [Mr. ROTH], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 294

At the request of Mr. BUMPERS, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 294, a bill to amend the Federal Election Campaign Act to exclude from the definition of "independent expenditures" those expenditures that are not truly independent of the legislative process.

S. 307

At the request of Mr. RIEGLE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 307, a bill to amend the Internal Revenue Code of 1986 to permit individuals to receive tax-free distributions from an individual retirement account or annuity to purchase their first home, and for other purposes.

S. 308

At the request of Mr. MITCHELL, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 308, a bill to amend the Internal Revenue Code of 1986 to permanently extend the low-income housing credit.

S. 311

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 311, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 313

At the request of Mr. SPECTER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 313, a bill to carry out obligations of the United States under the U.N. Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from a person who engages in torture or extra judicial killing.

S. 316

At the request of Mr. BROWN, his name was added as a cosponsor of S. 316, a bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

S. 330

At the request of Mr. MITCHELL, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 330, a bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to improve and clarify the protections provided by that act; to amend title 38 United States Code, to clarify veterans' reemployment rights and to improve veterans' rights to reinstatement of health insurance, and for other purposes.

S. 334

At the request of Mr. KENNEDY, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KERRY], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 334, a bill to provide child care services to families of members of the Armed Forces of the United States who are serving on active duty, to provide eligibility for certain health benefits for members who are released from active duty in connection with the Persian Gulf conflict, and for other purposes.

S. 337

At the request of Mr. SIMON, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 337, a bill to amend chapter 30 of title 38, United States Code, to provide that certain service by members of the Selected Reserve who are ordered to active duty in connection with the Persian Gulf conflict be deemed to satisfy certain requirements for basic educational assistance under such chapter, to revise the requirements for such assistance applicable to such members, and for other purposes.

SENATE JOINT RESOLUTION 21

At the request of Mr. SASSER, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Joint Resolution 21, a joint resolution expressing the sense of the Congress that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 census.

SENATE JOINT RESOLUTION 36

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Joint Resolution 36, a joint resolution to designate the months of November 1991, and November 1992, as "National Alzheimer's Disease Month."

At the request of Mr. PRESSLER, the names of the Senator from Florida [Mr. GRAHAM], the Senator from New York [Mr. D'AMATO], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 36, supra.

SENATE JOINT RESOLUTION 37

At the request of Mr. GARN, the names of the Senator from Texas [Mr. GRAMM], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Joint Resolution 37, a joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons.

SENATE JOINT RESOLUTION 40

At the request of Mr. THURMOND, the names of the Senator from Kansas [Mr. DOLE], the Senator from Maine [Mr. COHEN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Connecticut [Mr. DODD], the Senator from North Carolina [Mr. SANFORD], the Senator from Virginia [Mr. ROBB], the Senator from Delaware [Mr. BIDEN], the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. SIMON], the Senator from Texas [Mr. BENTSEN], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Joint Resolution 40, a joint resolution to designate the period commencing September 8, 1991, and ending on September 14, 1991, as "National Historically Black Colleges Week."

SENATE JOINT RESOLUTION 42

At the request of Mr. RIEGLE, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Georgia [Mr. FOWLER], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Joint Resolution 42, a joint resolution expressing the support of the United States for the independence of Lithuania, Latvia, and Estonia.

SENATE JOINT RESOLUTION 45

At the request of Mr. REID, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Louisiana [Mr. JOHNSTON], the Senator from New Hampshire [Mr. SMITH], the Senator from Tennessee [Mr. SASSER], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Joint Resolution 45, a joint resolution to require display of the POW/MIA flag at Federal buildings.

SENATE JOINT RESOLUTION 49

At the request of Mr. SARBANES, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Hawaii [Mr. INOUYE], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 49, a joint resolution to designate 1991 as the "Year of Public Health" and to recognize the 75th anniversary of the founding of the Johns Hopkins School of Public Health.

SENATE JOINT RESOLUTION 50

At the request of Mr. BRADLEY, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Missouri [Mr. BOND], the Senator from Nevada [Mr. REID], the Senator from Montana [Mr. BURNS], the Senator from Georgia [Mr. FOWLER], the Senator from Kansas [Mr. DOLE], the Senator from North Dakota [Mr. BURDICK], the Senator from Washington [Mr. GORTON], the Senator from Montana [Mr. BAUCUS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Hawaii [Mr. AKAKA], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Wisconsin [Mr. KASTEN], the Senator from Texas [Mr. BENTSEN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New York [Mr. D'AMATO], the Senator from Tennessee [Mr. GORE], the Senator from Utah [Mr. HATCH], the Senator from Connecticut [Mr. DODD], the Senator from Oregon [Mr. PACKWOOD], the Senator from Illinois [Mr. DIXON], the Senator from California [Mr. CRANSTON], the Senator from South Carolina [Mr. THURMOND], the Senator from Arizona [Mr. DECONCINI], the Senator from Vermont [Mr. JEFFORDS], the Senator from Rhode Island [Mr. PELL], the Senator from Maine [Mr. COHEN], the Senator from Michigan [Mr. RIEGLE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Illinois [Mr. SIMON], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from New York [Mr. MOYNIHAN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 50, a joint resolution to designate April 6, 1991, as "National Student-Athlete Day."

SENATE JOINT RESOLUTION 51

At the request of Mr. SARBANES, the names of the Senator from Utah [Mr. HATCH], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Washington [Mr. GORTON], the Senator from New Mexico [Mr. DOMENICI], the Senator from Kansas [Mr. DOLE], the Senator from Wisconsin [Mr. KASTEN], the Senator from Idaho [Mr. CRAIG], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Maine [Mr. MITCHELL], the Senator from Alabama [Mr. SHELBY], the Senator from Utah [Mr. GARN], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Arkansas [Mr. PRYOR], were added as cosponsors of Senate Joint Resolution 51, a joint resolution to designate the week beginning March 4, 1991, as "Federal Employees Recognition Week."

SENATE JOINT RESOLUTION 52

At the request of Mr. DECONCINI, the names of the Senator from North Carolina [Mr. SANFORD]. the Senator from New York [Mr. MOYNIHAN], the Senator from Rhode Island [Mr. PELL], the Senator from South Dakota [Mr. PRESSLER], the Senator from Kansas [Mr. DOLE], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Washington [Mr. ADAMS], the Senator from South Carolina [Mr. THURMOND], the Senator from Arkansas [Mr. BUMPERS], the Senator from Delaware [Mr. BIDEN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Ohio [Mr. GLENN], the Senator from Delaware [Mr. ROTH], the Senator from Maryland [Ms. MIKULSKI], the Senator from Wyoming [Mr. SIMPSON], the Senator from Idaho [Mr. CRAIG], the Senator from Washington [Mr. GORTON], the Senator from Missouri [Mr. BOND], the Senator from Utah [Mr. HATCH], the Senator from Mississippi [Mr. COCHRAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Montana [Mr. BURNS], and the Senator from Colorado [Mr. BROWN], were added as cosponsors of Senate Joint Resolution 52 a joint resolution to designate the month of April 1991 and 1992 as "National Child Abuse Prevention Month."

SENATE JOINT RESOLUTION 53

At the request of Mr. GRAHAM, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Nevada [Mr. BRYAN], the Senator from New York [Mr. D'AMATO], the Senator from New Jersey [Mr. BRADLEY], the Senator from Maine [Mr. MITCHELL], the Senator from Washington [Mr. GORTON], the Senator from Tennessee [Mr. SASSER], the Senator from Maryland [Ms. MIKULSKI], the Senator from Michigan [Mr. RIEGLE], the Senator from Wisconsin [Mr. KASTEN], the Senator from Indiana [Mr. COATS], the Senator from Delaware [Mr. ROTH], the Senator from South Dakota [Mr. PRESSLER], the Senator from Montana [Mr. BURNS], the Senator from South Carolina [Mr. THURMOND], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 53 a joint resolution to designate April 9, 1991 and April 9 1992, as "National Prisoner of War Recognition Day."

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. DECONCINI, the name of the Senator from Wisconsin [Mr. KASTEN], was added as a cosponsor of Senate Concurrent Resolution 9, a concurrent resolution to encourage the Angolan peace talks.

SENATE RESOLUTION 17

At the request of Mr. SYMMS, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Tennessee [Mr. GORE], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Resolution 17 a resolution to express the sense of the Senate in support of "Operation Homefront."

SENATE RESOLUTION 22

At the request of Mr. D'AMATO, the name of the Senator from Florida [Mr. MACK] was added as cosponsor of Senate Resolution 22 a resolution to urge the President to grant full diplomatic recognition to the Republic of Lithuania, Latvia, and Estonia.

AMENDMENTS SUBMITTED

NATIONAL ENERGY SECURITY ACT OF 1991

WIRTH AMENDMENT NO. 1

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. WIRTH submitted an amendment intended to be proposed by him to the bill (S. 341) to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.—This Act, together with the following table of contents, may be cited as the "National Energy Policy Act of 1991".

SEC. 2. TABLE OF CONTENTS.—

Sec. 1. Short Title.
Sec. 2. Table of Contents.
Sec. 3. Findings.
Sec. 4. Purposes.
Sec. 5. Goals.
Sec. 6. Definitions.

TITLE I—ENERGY POLICY INITIATIVES

Subtitle A.—National Energy Strategy

Sec. 101. Least-cost Energy Strategy
Sec. 102. Conforming Amendments.

Subtitle B.—Director of Climate Protection

Sec. 111. Appointment.

Subtitle C.—National Academies of Science and Engineering

Sec. 121. Review.
Sec. 122. Report to the Congress.

TITLE II—ENERGY EFFICIENCY INITIATIVES

Subtitle A.—Energy Efficiency

Sec. 201. Report.
Sec. 202. Energy-Intensive Industries.
Sec. 203. Federal Energy Management.
Sec. 204. Fuel Cells.
Sec. 205. Repeal of Prohibitions on Supply and Installation of Residential Energy Conservation Measures by Utilities.
Sec. 206. Energy Efficiency Labeling for Windows and Window Systems.

Sec. 207. Energy Efficiency Information.
Sec. 208. Compact Fluorescent Lamps in Federal Facilities.
Sec. 209. Demonstration of New Technology.
Sec. 210. Residential Energy Efficiency Ratings.
Subtitle B.—Amendments to the Public Utility Regulatory Policies Act of 1978
Sec. 211. Encouragement of Investments in Conservation and Energy Efficiency Resources and Study of Certain State Ratemaking Policies.
Subtitle C.—Fuel Cells
Sec. 221. Amendment.
TITLE III—ENERGY RESEARCH AND DEVELOPMENT INITIATIVES
Subtitle A.—General
Sec. 301. Energy Research and Development Priorities.
Sec. 302. Management Plan.
Sec. 303. Joint Ventures.
Subtitle B.—Engine and Vehicle Fuel Research
Sec. 311. Vehicle Engine Fuel Research.
Sec. 312. High Efficiency Heat Engines.
Sec. 313. Natural Gas Cofiring Research, Development and Demonstration.
Subtitle C.—Technology Development Program
Sec. 321. Program.
Sec. 322. Authorizations.
Subtitle D.—Fusion
Sec. 331. Programs.
Subtitle E.—Coal
Sec. 341. Coal Program Goals.
Sec. 342. Non Fuel Use of Coal.
Sec. 343. Authorizations.
Subtitle F.—Natural Gas and Other Alternative Fuels
Sec. 351. Mass Transit Program.
Sec. 352. Natural Gas and Other Alternative Fuel Use in Fleet Vehicles.
Sec. 353. Training Program.
Sec. 354. Vehicle Research, Development and Demonstration Program.
Sec. 355. Natural Gas Recovery Research, Development and Demonstration Program.
Sec. 356. Natural Gas and Electric Heating and Cooling Technologies.
Sec. 357. Vehicle and Battery Research, Development, and Demonstration Program.
Sec. 358. Definitions.
Subtitle G.—Hydropower
Sec. 361. Program.
Sec. 362. Report.
Subtitle H.—Electric Vehicle Technology Development and Demonstration
Sec. 371. Short Title.
Sec. 372. Findings.
Sec. 373. Definitions.
Sec. 374. Identification of Nonattainment Areas.
Sec. 375. Applications From Manufacturers.
Sec. 376. Selection of Manufacturers.
Sec. 377. Discounts to Purchasers.
Sec. 378. Reports to Congress.
Sec. 379. Authorizations.
Subtitle I.—Advanced Nuclear Reactor Study
Sec. 381. Report.
TITLE IV—MISCELLANEOUS
Subtitle A.—Methane Assessment
Sec. 401. Objective.
Sec. 402. Domestic Methane Source Inventory and Control Options.
Sec. 403. International Studies.
Subtitle B.—Committee on Renewable Energy Commerce and Trade
Sec. 411. Duties of CORECT.
Sec. 412. Information and Technical Program.
Sec. 413. Comprehensive Energy Technology Evaluation.
Sec. 414. Joint Ventures in Developing, Demonstrating, and Marketing Energy Efficient and Renewable Energy Technologies in Key Lesser-Developed Countries.
Sec. 415. Authorizations.
Subtitle C.—Fuel Cycle Costs Analysis
Sec. 421. Program.
Sec. 422. Report.
Subtitle D—United Nations Conference
Sec. 431. 1992 United Nations Conference on Environment and Development.
TITLE V—NATURAL RESOURCE POLICY
Sec. 501. Ecological and Environmental Resource Study.
Sec. 502. National Forestation Initiative.
Sec. 503. Urban Forestry and Energy Savings.

SEC. 3. FINDINGS.—The Congress finds that—

(1) scientific evidence indicates that the atmosphere of the earth is being affected by the generation from natural and man-made sources of carbon dioxide and other greenhouse gases;

(2) trends in the concentration of such greenhouse gases in the atmosphere may result in global changes in climate, with potentially significant economic, social and environmental implications for human-kind;

(3) a scientific understanding of the causes and economic effects of global climate change is necessary to formulate effective policies;

(4) the formulation of domestic and international energy and natural resource policies may be necessary in order to reduce the generation of carbon dioxide and other greenhouse gases and mitigate or adapt to potential adverse consequences of human-induced global climate change;

(5) the formulation of such policies by the Government will include an effort involving the private sector and the laboratories of the Department of Energy; and

(6) the United States should pursue a framework convention on global climate change by the year 1992 through the Intergovernmental Panel on Climate Change (IPCC) of the United Nations Environmental Program and the World Meteorological Organization.

SEC. 4. PURPOSES.—The overall purpose of this Act is to establish a national energy policy that will fully consider the contribution of energy use to potential changes in global climate and will include cost-effective strategies to lessen the generation of energy-related greenhouse gases consistent with the achievement of other domestic energy, economic, social, and environmental goals. The specific purposes of the Act are to—

(1) improve scientific understanding of the natural and man-made sources of greenhouse gases and their relative contributions to global climate change;

(2) evaluate the environmental, social, and economic consequences of global climate change;

(3) evaluate the environmental, social, and economic consequences of domestic and international policies for mitigating or adapting to global climate change;

(4) identify the actions required to mitigate current trends in atmospheric concentrations of greenhouse gases and analyze their relative cost-effectiveness;

(5) identify the actions necessary to mitigate or adapt to adverse consequences of global climate change;

(6) identify and evaluate the domestic policies required to mitigate or adapt to the possible adverse social and economic consequences of a reduction or stabilization in the generation of greenhouse gases;

(7) encourage the formulation of effective domestic and international energy and natural resource policies that will mitigate adverse consequences of human-induced global climate change;

(8) foster the development of technologies that will advance the goals and purposes of the Act and the transfer of such technologies to lesser-developed countries; and

(9) establish programs within the Department of Energy for the achievement of these purposes.

SEC. 5. GOALS.—(a) The goals of this Act are to—

(1) foster the identification of an appropriate mix of policies referred to in subsection (b) that have the potential, if fully implemented, to stabilize the generation of carbon dioxide and other greenhouse gases in the United States;

(2) assess the feasibility of further limiting, or reducing, the generation of carbon dioxide and other greenhouse gases not controlled by the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer;

(3) investigate the feasibility and economic, energy, social, and environmental implications of achieving a 20 per centum reduction in the generation of carbon dioxide by the year 2005 as recommended by the 1988 Toronto Scientific World Conference on the Changing Atmosphere;

(4) investigate the feasibility and economic, energy, social, and environmental implications of stabilizing carbon dioxide emissions by the year 2005; and

(5) evaluate the potential social, economic, energy, and environmental implications of implementing the policies mentioned in paragraphs (1), (2), (3), and (4) in order to enable the U.S. to comply with any obligations under an international global climate change framework convention or agreement;

(b) Policies to be considered in section 5(a) for the stabilization or reduction in the generation of carbon dioxide and other greenhouse gases include, but are not limited to, policies that—

(1) implement standards for more efficient use of fossil fuels;

(2) increase the energy efficiency of existing technologies;

(3) encourage technologies, including clean coal technologies, that generate lower levels of carbon dioxide and other greenhouse gases;

(4) promote the use of renewable energy resources, including solar, geothermal, sustainable biomass, hydropower, and wind energy;

(5) affect the development and consumption of energy and energy efficiency resources and electricity through tax policy;

(6) encourage investment in energy efficient equipment and technology;

(7) encourage the development of energy technologies, such as advanced nuclear fission and nuclear fusion, that product energy without carbon dioxide and other greenhouse gases as a byproduct, and encourage the deployment of nuclear electric generating capacity; and

(8) encourage afforestation and reforestation.

(c) The reduction of the generation of chlorofluorocarbons shall be in accordance with the provisions of the Montreal Protocol, unless subsequent Federal legislation is enacted establishing new guidelines for the reduction or elimination of the use of chlorofluorocarbons.

(d) In order to promote international cooperation in addressing potential global climate change, it is the goal of the United States to establish by 1992, an international framework convention on global climate change through the activities of the Intergovernmental Panel on Climate Change of the United Nations International Environmental Program and the World Meteorological Organization and secure the commitment of the community of nations to such convention.

SEC. 6. DEFINITIONS.—For the purposes of this Act, the term—

(1) "Department" means the Department of Energy;

(2) "energy efficiency resource" means energy saved through improvements in the efficiency of energy production, transportation, or utilization;

(3) "energy resources" includes, but is not limited to, supplies of natural gas, crude oil and petroleum products, coal, nuclear energy, and renewable energy;

(4) "global climate change" means changes in the climate of the earth that result from increases in the atmospheric concentrations of greenhouse gases;

(5) "greenhouse gases" means carbon dioxide and other gases such as chlorofluorocarbons, methane, ozone, and nitrous oxides that contribute to global climate change;

(6) "lesser-developed countries" shall include, but not be limited to, Eastern Europe and the Soviet Union; and

(7) "Secretary" means the Secretary of Energy.

TITLE I—ENERGY POLICY INITIATIVES

Subtitle A.—National Energy Strategy

SEC. 101. LEAST-COST ENERGY STRATEGY.—(a)(1) The first National Energy Policy Plan (the "Plan") under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) prepared and submitted by the President to Congress after the date of the enactment of this Act, and each subsequent such Plan, shall include a least-cost energy strategy prepared by the Secretary.

(2) The Secretary need not prepare and submit a least-cost energy strategy with the National Energy Plan scheduled to be submitted in April of 1991.

(b)(1) The least-cost energy strategy shall identify Federal priorities for the encouragement of the use of energy and energy efficiency resources. In developing the least-cost energy strategy, the Secretary shall take into consideration the economic, energy, social, and environmental consequences of his choices. Such strategy shall be designed to achieve to the maximum extent practicable and at least-cost to the Nation—

(A) the energy production, utilization, and conservation objectives of the Plan; and

(B) the stabilization and eventual reductions in the generation of carbon dioxide and other greenhouse gases mentioned in section 5(a).

(2) The least-cost energy strategy shall include—

(A) a comprehensive inventory of available energy and energy efficiency resources and their projected costs, taking into account all costs of production, transportation, and utilization of such resources, including—

(i) coal, clean coal technologies, coal seam methane, and underground coal gasification;

(ii) energy efficiency, including existing technologies for increased efficiency in production, transportation, and utilization of energy, and other technologies that are anticipated to be available through further research and development; and.

(iii) other energy resources, such as renewable energy, solar energy, nuclear fission, fusion, geothermal, biomass, fuel cells, and hydropower.

(B) a proposed two-year program for assuring adequate supplies of energy and energy efficiency resources under paragraph (1), and an identification of actions that can be undertaken within existing Federal authority; and

(C) recommendations for any new Federal authority needed to achieve the purposes of this Act.

(c)(1) The relative costs of energy and energy efficiency resources under this section shall be determined based upon a comparison of the estimated system costs of other similarly reliable and available resources.

(2) System costs under paragraph (1) are all direct and quantifiable net costs for the resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(3) When comparing an energy efficiency resource to an energy resource, a higher priority shall be assigned to the energy efficiency resource whenever its estimated system cost is equal to the estimated system cost of the energy resource.

SEC. 102. CONFORMING AMENDMENTS.—(a) Section 801 of Public Law 95-91 is amended in subsection (c)(1) by inserting "cost estimate," after "whatever data and analysis are necessary to support the".

(b) Title III of the Energy Security Act (42 U.S.C. 7361, et seq.) is hereby repealed.

Subtitle B.—Director of Climate Protection

SEC. 111. APPOINTMENT—(a) Within six months after the date of the enactment of this Act, the Secretary shall appoint within the Department, a Director of Climate Protection (the "Director"). The Director shall:

(1) in the absence of the Secretary, serve as his representative for interagency and multilateral policy discussions of global climate change;

(2) monitor domestic and international policies for their effects on the generation of carbon dioxide and other greenhouse gases; and

(3) have the authority to participate in the planning activities in relevant Departmental programs.

(b) Beginning 18 months after the date of the enactment of this Act, and annually thereafter, the Director shall participate in the formulation of the least-cost energy strategy under section 101, research and development priorities under section 301, and the management plan under section 302.

Subtitle C—National Academies of Science and Engineering

SEC. 121. REVIEW.—(a) Within ninety days after his appointment under section 111, the Director, in consultation with the Office of Science and Technology Policy (the "Office"), shall seek to enter into an agreement with the National Research Council to use the services of the National Academy of Sciences and the National Academy of Engineering (the "Academies") to conduct an ongoing review of current knowledge regarding—

(1) trends in the atmospheric concentrations of greenhouse gases, including current capabilities to model such trends with sufficient reliability to support international, domestic, and regional policy formulation;

(2) the causes of global climate change and the relative contribution of various sources of greenhouse gases including, but not limited to, fossil fuel production and use, forest management practices, agricultural practices, and other sources;

(3) the climatic, physical, economic, social and environmental consequences of current trends in atmospheric concentration of greenhouse gases;

(4) actions that might be taken to mitigate or adapt to possible adverse economic, social, and environmental consequences of global climate change and the relative cost-effectiveness of these actions;

(5) the generation and disposition of greenhouse gases into the environment including the relative contribution of the oceans, clouds, and biosphere; and

(6) current knowledge on the relationship between those policies that mitigate or abate stratospheric ozone depletion and those policies that mitigate or abate global climate change.

(b) In conducting such review, the Academies are encouraged to consult with international scientific and technical entities to determine where there is a consensus in current knowledge with respect to paragraphs (a) (1) through (6).

(c) The Secretary, the Secretary of Commerce, the Secretary of the Interior, the Secretary of Transportation, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Director of the National Science Foundation shall, upon request, furnish to the Office and the National Research Council any information that such Office or Council determines to be necessary for purposes of conducting the review required under subsection (a).

SEC. 122. REPORT TO THE CONGRESS.—(a) Within one year after the date of the enactment of this section and periodically thereafter the Academies shall submit a report containing the findings and recommendations resulting from the review conducted under section 121 to the Office and the Congress. The findings and recommendations contained in such report shall not be subject to any prior clearance or review, nor shall any prior clearance conditions be imposed on the National Research Council, as part of the agreement made by the Office.

(b) Within six months after the transmission of such report to the Congress, the President shall transmit to the Congress his assessment of the findings and recommendations in the report pursuant to subsection (a) and any recommendations therein.

TITLE II—ENERGY EFFICIENCY INITIATIVES

Subtitle A.—Energy Efficiency

SEC. 201. REPORT.—The Secretary, in consultation with the Council of Economic Advisors, shall submit to the Congress within one year after the date of the enactment of this Act, and every three years thereafter through the year 2004, a report evaluating energy efficiency policy options that would be necessary to produce decreases of one, two, three, and four percent per-year per-unit of GNP through the year 2005, below the projected energy consumption for 2005. The Secretary shall evaluate, describe and rank these policy options according to their cost-

effectiveness and their feasibility of implementation.

SEC. 202. ENERGY-INTENSIVE INDUSTRIES.—(a) The Secretary, acting in accordance with authority contained in the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901-5920) and other applicable laws, shall—

(1) pursue a research and development program intended to improve energy efficiency and productivity in energy-intensive industries and industrial processes; and

(2) in accordance with the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (P.L. 101-218), undertake joint ventures to encourage commercialization of technologies developed under paragraph (1).

(b)(1) The Secretary shall—

(A) conduct a competitive solicitation for proposals from specialized private firms and investors for such joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five such joint ventures.

(2) The purpose of the joint ventures shall be to design, test and demonstrate changes to industries and industrial processes that will result in improved energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries so long as demonstration of energy efficiency improvements is the principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall consider—

(A) whether the research and development efforts under this section (i) improve the quality and efficiency of industries or industrial processes, and (ii) reduce the generation of carbon dioxide and other greenhouse gases into the atmosphere;

(B) the regional distribution of energy-intensive industries and industrial processes; and

(C) whether the joint-venture projects are located in the region in which the energy-intensive industries are located.

(c) There is authorized to be appropriated to the Secretary $5,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.

SEC. 2.3. FEDERAL ENERGY MANAGEMENT.—Part 3 of Title V of the National Energy Conservation Policy Act (NECPA) (42 U.S.C. 8251 et seq.), as amended, is further amended as follows:

(a) in section 543:

(1) Strike subsection (a) and insert the following new text in lieu thereof:

"(a) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL BUILDINGS.—(1) Not later than January 1, 2000, each Federal agency shall, to the maximum extent practicable, install in Federal buildings under the control of such agency in the United States, all energy conservation measures with payback periods of less than ten years as calculated using the methods and procedures developed pursuant to section 544. By January 1, 1993, each agency shall submit to the Secretary a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved. Subject to the availability of appropriated funds, each Federal agency shall have substantially completed at least 25 per centum of the projects on the list or projects on the list that would account for 25 per centum of total energy savings, by January 1, 1995. If any agency has not met this requirement, such agency shall spend no funds in States where this requirement has not been met for the construction or acquisition of a Federal building except to meet the requirements of this section. If any agency has not met the requirements of this section for the year 2000, then such agency shall spend no funds in States where this requirement has not been met for the construction or acquisition of a Federal building except to meet the requirements of this section. The Secretary may waive the requirements of this section if the Secretary finds that an agency is taking all practicable steps to meet the requirement and that the sanctions of this section will pose an unacceptable burden upon the agency. If the Secretary waives the requirements of this section, he shall notify Congress promptly.

"(2) An agency may exclude from the requirements of paragraph (1) any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibiliyy of making the desired changes, and the unique character of many facilities operated by the Departments of Defense and Energy. Each agency shall identify and list in each report made under section 548 the Federal buildings designated by it for such exclusion. The Secretary of Energy shall review such findings for consistency with the impracticability standards set forth herein, and may within 90 days after receipt of the findings, reverse a finding of impracticability, in which case, the agency shall comply with the requirements of paragraph (1). This section shall not apply to an agency's facilities that generate or transmit electric energy, nor to the uranium enrichment facilities operated by the Department of Energy.";

(2) In subsection (b):

(A) after the words "subsection (a)," insert the following:

"The Secretary of Energy shall consult with the Secretary of Defense and the Administrator of the General Services Administration in developing guidelines for the implementation of this Part, and";

(B) strike the phrase "Federal Energy Management Improvement Act of 1988," in paragraph (1) and insert in lieu thereof "National Energy Policy Act of 1991, and submit to the Secretary of Energy";

(C) after the words "high priority projects;" insert the following: "and such plan shall include steps to take maximum advantage of contracts authorized under title VIII of this Act (42 U.S.C. 8287 et seq.), financial incentives, and other services provided by utilities for efficiency investment and other forms of financing to reduce the direct costs to the government;";

(D) at the end of paragraph (2), strike the semicolon and insert the following: ", and update such surveys periodically, but not less than every three years;";

(E) replace paragraph (3) with the following new paragraph;

"(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;"; and

(F) insert a new paragraph (4) as follows, and renumber paragraph (4) as "(5)".

(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in Section 544, and".

(b) in section 544:

(1) Strike "National Bureau of Standards," in subsection (a) and insert in lieu thereof "National Institute of Standards and Technology,"; and

(2) strike all after the word "each", in paragraph (b)(2) and insert in lieu thereof:

("agency shall, after January 1, 1994, fully consider the energy efficiency of all potential building space at the time of renewing or entering into a new lease. Further, all government owned and leased space constructed after January 1, 1994, shall meet model Federal building standards for energy efficiency.".

(c) in section 545, add after the "measures" the following:

"as needed to meet the requirements of section 543.".

(d) in section 546, strike subsection (b) and insert in lieu thereof the following:

"(b) IMPLEMENTATION.—To facilitate the financing of energy conservation energy measures, each Federal agency shall promote the use of contracts authorized by title VIII of this Act (42 U.S.C. 8287 et seq.). The Secretary, in consultation with the Secretary of Defense and the Administrator of the General Services Administration, within six months after the date of the enactment of the National Energy Policy Act of 1991, shall develop appropriate procedures and methods for use by Federal agencies to select energy service contractors that will achieve the intent of this section in a cost-effective manner. Notwithstanding any other procurement laws and regulations, such procedures and methods shall apply to the selection of energy service contractors by each Federal agency.".

(e) in section 548:

(1) strike the word "Each" in subsection (a) and insert in lieu thereof the following:

"In addition to the plan required to be submitted to the Secretary pursuant to Section 543(b)(1), each";

(2) insert the phrase "by April 2 of each year," after the word "annually" in subsection (b); and

(3) insert the words "by each agency", after the words "under this part" in subsection (b)(1).

SEC. 204. FUEL CELLS.—Subsection 6(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (P.L. 101-218) is amended by adding a new paragraph (6) as follows:

"(6)(A) The Secretary shall solicit proposals for, and provide financial assistance to, at least one joint venture for the demonstration of fuel cells technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the production of electric energy from fuel cells in order to accelerate commercial application of fuel cells.

"(C) There are authorized to be appropriated to the Secretary not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out this paragraph.".

"SEC. 205. REPEAL OF PROHIBITIONS ON SUPPLY AND INSTALLATION OF RESIDENTIAL ENERGY CONSERVATION MEASURES BY UTILITIES.—Section 216 of the National Energy Conservation Policy Act (42 U.S.C. 8217) is repealed and subsequent sections are renumbered accordingly.

SEC. 206. ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS.—(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of the enactment of this Act, the Secretary shall, in consultation

with the National Fenestration Rating Council and appropriate industry representatives, provide financial and technical assistance to support the voluntary development of a national window rating program to establish energy efficiency ratings for windows and window systems. Such program shall set forth information and specifications that will enable purchasers of windows or window systems to make more informed purchasing decisions based upon the potential cost and energy savings of alternative window products.

(b) SECRETARIAL ACTION.—If a national window rating program, consistent with the objectives of subsection (a), is not established within two years of the date of enactment of this Act, then the Secretary shall, in consultation with the National Institute of Standards and Technology, develop, within one year, a rating program to establish energy efficiency ratings for windows and window systems under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293).

(c) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission (hereinafter in this section, the "Commission") shall prescribe labeling rules, under section 324 of the Energy Policy and Conservation Act (42 U.S.C. 6294), for the rating program established pursuant to either subsection (a) or (b) of this section unless, the Commission determines that labeling in accordance with subsections (a) or (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of window or window system (or class thereof).

(d) COVERED PRODUCTS.—For purposes of sections 323 and 324 of the Energy Policy and Conservation Act, windows and window systems shall be considered covered products under section 322 of such Act (42 U.S.C. 6292) unless excluded by the Commission pursuant to subsection (c).

(e) AUTHORIZATION.—There are authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 207. ENERGY EFFICIENCY INFORMATION.—(a) Within one year after the date of the enactment of this section, the Administrator of the Energy Information Administration shall report to Congress on the information being collected or otherwise acquired by the Administrator with respect to the efficiency of energy consumption. The report shall estimate future needs for collection of additional information related to energy efficiency and environmental impacts. The report shall also consider the feasibility of—

(1) increasing the frequency of collection of information on the utilization of energy;

(2) including additional energy-using classes and sectors in surveys conducted; and

(3) collecting additional information to assist in the analysis of barriers to improvement in energy efficiency.

(b) The report shall take into account reporting burdens and the protection of proprietary information under law.

(c) The Administrator shall periodically publish measures of energy efficiency in classes, sectors, and regions that consume significant amounts of energy.

SEC. 208. COMPACT FLOURESCENT LAMPS IN FEDERAL FACILITIES.—Not later than one hundred and eighty days after the date of the enactment of this section, the Secretary shall submit to the Congress a report on the feasibility and effectiveness of requiring some or all Federal facilities to use compact fluorescent lamps instead of incandescent lamps in order to reduce the use of electrical energy and thereby reduce the generation of carbon dioxide and sulfur dioxide.

SEC. 209. DEMONSTRATION OF NEW TECHNOLOGY.—(a) Within one year after the date of the enactment of this Act, the Secretary shall submit a plan to Congress for the demonstration in Federal facilities, or by Federal agencies, of renewable energy and energy efficiency resource technologies that have received Federal financial assistance for research and development. The technologies shall be those that are ready for commercial demonstration but are not widely commercially available. The Plan shall include:

(1) a listing of those technologies with specific candidate sites for the demonstration;

(2) the energy, environmental, cost savings or other expected benefits;

(3) a timetable for implementation; and

(4) a process for evaluation of the performance of the techologies.

(b) The plan shall be updated every two years.

SEC. 210. RESIDENTIAL ENERGY EFFICIENCY RATINGS.—(a) Title II of the National Energy Conservation Policy Act is amended by adding a new Part 6 as follows:

"PART 6.—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"SEC. 271. RATINGS.—(a) Within twelve months after the date of the enactment of the National Energy Policy Act of 1991, the Secretary, in consultation with the Secretary of Housing and Urban Development and State governments, shall, by rule, promulgate guidelines for procedures to be implemented by State governments that would enable the assignment of an energy efficiency rating to residential buildings.

"(b) The guideline under subsection (a) shall—

"(1) provide for a numerical rating of the efficiency with which any residential building may be supplied with heating and cooling energy on an annual basis, and evaluate the practicality of including major energy consuming appliances in such rating;

"(2) provide that all residential buildings can receive a rating at the time of sale;

"(3) ensure that the rating is prominently communicated to potential buyers and renters; and

"(4) ensure that the rating system is designed to facilitate its use by lenders and the secondary mortgage markets to promote energy efficiency.

"SEC. 272. TECHNICAL ASSISTANCE.—Within twelve months of the date of the enactment of this section the Secretary shall establish a program to provide technical assistance for State and local governments adopting energy efficiency rating systems or building codes. The program shall utilize the Federal Government's experience in developing Federal building energy performance standards and shall provide compliance methods, educational materials for builders and code officials, and other technical support.

"SEC. 273. AUTHORIZATION.—There are hereby authorized to be appropriated such funds as are necessary to carry out the purposes of this subtitle.".

(b) The National Energy Conservation Policy Act should be further amended by adding in the table of contents at the end of Title II—Residential Energy Conservation, the following items:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"Sec. 271. Ratings.
"Sec. 272. Technical Assistance.
"Sec. 273. Authorization.".

Subtitle B.—Amendments to the Public Utility Regulatory Policies Act of 1978

SEC. 211. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES AND STUDY OF CERTAIN STATE RATEMAKING POLICIES.—(a) The Public Utility Regulatory Policies Act of 1978 (92 Stat. 3117), as amended, is further amended by inserting the following new paragraph at the end of section 111:

"(7) ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY RESOURCES.—

"(A) The rates allowed to be charged by a State-regulated electric utility shall be such that the utility's investments in and expenditures for energy conservation, energy efficiency resources and other demand-side management measures are at least as profitable as its investments in and expenditures for the construction of new generating facilities.

"(B) For purposes of implementing the provisions of this paragraph, any reference contained in this title to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of the National Policy Act of 1991.

(b) Not later than two years after the date of the enactment of this Act, the Secretary shall submit a report to the President and to the Congress containing—

(1) a survey of all State laws, regulations, practices, and policies under which State regulatory authorities require or permit rates charged by an electric utility to reflect least-cost planning?

(2) an evaluation by the Secretary of whether, and to what extent, least-cost planning is likely to result in:

(A) higher or lower electricity costs to an electric utility's ultimate consumers or to classes or groups of such consumers;

(B) enhanced or reduced reliability of electric service; and

(C) increased or decreased dependence on particular energy resources.

(3) an evaluation by the Secretary of whether, and to what extent, ratemaking methodologies, implementing least-cost planning adequately take into account the impact of such measures on electric utilities' costs, operations, and rate of return on investment.

(c) For purposes of subsection (b), the term "least-cost planning" means any standard, regulation, practice, or policy by which a state regulatory agency considers, or requires an electric utility to consider, actions (including, but not limited to, the construction of or purchase of electric energy from new generation facilities and investment in or expenditures for conservation, energy efficiency resources, or other demand side management measures) taken by a State regulated utility to provide adequate and reliable service to its electric consumers with the incurrence of lowest costs by such utility and its customers.

Subtitle C.—Fuel Cells

SEC. 221. AMENDMENT.—Title V of the National Energy Conservation Policy Act (42 U.S.C. 8251–8261) is amended by adding the following new part after section 569:

"PART 5—FUEL CELLS

"SEC. 571. DEFINITIONS.—For purposes of this subtitle the term:

"(1) 'Federal building' shall mean 'Federal building' as defined by Section 549(6); and

"(2) 'Task Force' shall mean the Interagency Energy Managment Task Force established pursuant to section 547, except

that, for purposes of this subtitle, the term 'Task Force' shall include the Environmental Protection Agency.

"SEC. 572. FUEL CELL PROGRAM.—The Secretary, in consultation with the Task Force, shall conduct a program to promote the early commerical application of fuel cell systems for the production of electricity by the demonstration of such systems in Federal buildings.

"SEC. 573. PURPOSES.—The purposes of this program are to:

"(1) improve the efficiency and reduce the environmental consequences of the nation's electric generation capability;

"(2) stimulate the creation of new industries and job opportunities in efficient and environmentally sound energy technologies; and

"(3) develop cost, efficiency, performance, environmental, and reliability data on fuel cell systems used in the production of electricity.

"SEC. 574. IMPLEMENTATION AND ACQUISITION.—(a) In preparing or updating the plan required by section 543(b)(1), each agency on the Task Force shall identify at least two potential projects for the demonstration of the application of fuel cells systems for the production of energy to satisfy electrical and other energy requirements of such buildings.

"(b) Not later than 6 months after the submission to the Secretary of such plan, including the list of potential projects required under subsection (a), the Secretary, in consultation with the Task Force, shall indentify a minimum of ten projects for implementation pursuant to subsection (c) and shall make a report of his selection including the basis therefor, to the Congress.

"(c) The Secretary may provide financial assistance to agencies sponsoring projects, identified under subsection (b), to acquire and install fuel cells systems manufactured in the United States and any associated equipment which may be necessary for the implementation of any of the listed projects. In order to receive financial assistance from the Secretary, a project identified under subsection (b) must meet the ten-year payback criterion of section 543. The calculation of such ten-year payback period shall take account of cost benefits associated with congenerated energy to the extent provided under section 544. In selecting qualified projects for financial assistance, the Secretary, in consultation with the Task Force, shall also consider the cost of the electricity to be generated; the extent of cost-sharing provided by other agencies for the acquisition of new equipment; the appropriateness of the locations, sites, and structures in question; the adaptability of facilities to program requirements; whether Federal building undergoing new construction or renovation offer advantages of cost-efficiency or ease of installation over existing Federal buildings; and such other factors that, in the judgment of the Secretary and the Task Force, may affect the benefits or costs of the fuel cell program.

"(d) Not late than January 1, 1996, the Secretary, in consultation with the Task Force, shall submit a report to Congress on the program authorized by this subtitle, which shall include information comparing the cost, efficiency, performance, environmental advantages, and reliability of fuel cells to other existing technological means of generating electricity, using data obtained from the operation of fuel cells acquired under this program. Such report shall also contain a discussion of all technical and economic issues which, in the judgment of the Secretary, might prevent the commercial use of fuel cells or restrict the use of fuel cells in certain applications and an analysis, including recommendations, of the steps needed to overcome such restrictions. A copy of such report shall be provided to each agency for further implementation of fuel cell projects consistent with the provisions of section 543(a), as appropriate.

"SEC. 575. AUTHORIZATION.—There is authorized to be appropriated to carry out the provisions of this subtitle a total of $15,000,000 for fiscal years 1992 through 1994.".

TITLE III—ENERGY RESEARCH AND DEVELOPMENT INITIATIVES

Subtitle A—General

SEC. 301. ENERGY RESERACH AND DEVELOPMENT PRIORITIES.—The Secretary shall establish priorities for research and development activities. These priorities shall include consideration of the following criteria:

(a) the potential to reduce generation of carbon dioxide and other greenhouse gases sooner than alternative projects;

(b) the projected cost-effectiveness of the energy or energy efficiency resource to be produced or saved, including an evaluation of the likelihood of the activities contributing to the achievement of commercialization of new energy technologies for the purposes of this Act;

(c) The comparative environmental and public health impacts of the energy to be produced or saved by the specific activities;

(d) the national security impact of the energy produced or saved, including its projected contribution to the reduction of oil imports and to the diversity of the domestic energy resource mix;

(e) the obstacles inherent in private industry's development of new energy technologies and steps necessary for establishing or maintaining technological leadership in the area of energy and energy efficiency resources technologies, including, but not limited to, solar, fuel cells, fusion, clean-coal technologies, and hydrogen;

(f) the contribution of a given activity to fundamental scientific knowledge;

(g) the anticipated impact of the results of these activities on special or targeted populations, including low-income or aged persons; and

(h) the contribution to U.S. competitiveness.

SEC. 302. MANAGEMENT PLAN.—(a) The Secretary, in consultation with the Energy Advisory Board to the Secretary, shall prepare a management plan for the conduct of research, development, and commercialization of energy technologies that is consistent with the purposes of this Act and guided by the priorities set forth in section 301.

(b) The management plan under subsection (a) shall contain proposals for—

(1) investigation of promising energy and energy efficiency resource technologies that have been identified as potentially significant future contributors to the least-cost energy strategy under section 101;

(2) development of contingency energy and energy efficiency resource technologies that have the potential to minimize adverse impacts on the environment, the global climate, and the economy and to reduce energy supply vulnerability; and

(3) creation of opportunities for export of energy and energy efficiency resource technologies from the United States that can make a substantial contribution to reducing the impact on the global climate of the energy resource supply and use patterns of foreign nations.

(c) Within one year after the date of the enactment of this section, the Secretary shall submit the first management plan under this section to Congress. Thereafter, the Secretary shall submit a revised management plan biennially at the time of submittal of the President's annual budget submission to the Congress.

SEC. 303. JOINT VENTURES.—Joint ventures authorized under this act shall be conducted pursuant to the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (P.L. 101-218).

Subtitle B—Engine and Vehicle Fuel Research

SEC. 311. VEHICLE ENGINE FUEL RESEARCH.—The Secretary shall establish and carry out a program of research, development, and demonstration on advanced vehicle engine systems (including engine systems that rely on alternative fuels, reformulated gasoline, or advanced, high efficiency materials) that offer the potential to reduce the generation of greenhouse gases and improve the efficiency of energy in transportation uses.

SEC. 312. HIGH EFFICIENCY HEAT ENGINES.—(a) The Secretary shall carry out a program of research, development, demonstration and commercialization of high efficiency heat engines. The Secretary shall emphasize advanced gas turbine cycles, and the incorporation of energy efficient materials in advanced gas turbine cycles for high efficiency electric and automotive power generation, such as—

(1) advanced combined cycle turbines;

(2) steam-injected gas turbines; and

(3) intercooled steam-injected gas turbines.

(b) The Secretary may enter into joint ventures with the appropriate parties to construct and demonstrate high efficiency heat engines.

(c) There is authorized to be appropriated not more than $25,000,000 for each of the fiscal years 1992, 1993, and 1994, for purposes of this section.

SEC. 313. NATURAL GAS COFIRING RESEARCH, DEVELOPMENT AND DEMONSTRATION.—(a) DEFINITIONS.—For the purposes of this section, the term—

(1) "cofiring" means the injection of natural gas and pulverized coal into the primary combustion zone of an electric utility unit or an industrial boiler and shall include gas reburn technologies; and

(2) "gas reburn" means the injection of natural gas into the upper furnace region of an electric utility unit or an industrial boiler to produce a fuel-rich zone thereby reducing nitrogen oxide emissions.

(b) The Secretary shall conduct a program of research, development and demonstration of cofiring in electric utility units and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits.

(c) The Secretary may provide financial assistance under this section to public entities or interested or affected private firms to perform the research, development and demonstration of cofiring technologies.

(d) The Secretary may enter into cooperative agreements with, and provide financial assistance under this section to, public entities or interested or affected private firms willing to provide at least 50 per centum of the costs of such programs to perform the research, development and demonstration of cofiring technologies.

(e) For purposes of this section, there is authorized to be appropriated to the Secretary not more than $9,000,000 for each of the fiscal years 1992, 1993 and 1994.

Subtitle C—Technology Development Program

SEC. 321. PROGRAM.—The Secretary shall establish a program to develop technologies originating with the Department that is directed at the stage of technology development beyond the basic research stage. The purpose of such program shall be to develop technologies, determined by the Secretary to have significant promise for commercial and public benefit to the Nation, to a point where private industry will undertake further scientific and commercial development. Technology development programs may be conducted at any Department facility and would be intended to enhance the commercial development and transfer to private industry of technologies originating with the Department, consistent with the technology transfer mission of the Department. As a condition for supporting specific projects, the Secretary may require a private sector commitment to future, and wholly non-Federal, funding of commercial development of particular technologies.

SEC. 322. AUTHORIZATIONS.—For the purposes of carrying out this subtitle, there are authorized to be appropriated such sums as are necessary for fiscal years 1992, and 1993, and 1994.

Subtitle D—Fusion

SEC. 331. PROGRAMS.—(a) The Secretary shall conduct research, development, and demonstration programs to address in a timely fashion questions concerning the development of magnetic and inertial confinement fusion for the production of electricity consistent with the purposes of this Act. Such programs shall be designed to demonstrate by the year 2010—

(1) a demonstration of the achievement of ignition conditions in both magnetic and inertial confinement fusion test facilities; and

(2) a demonstration of the technological feasibility of magnetic and inertial confinment fusion for the production of electricity.

(b) In the event such feasibility is determined for a fusion technology pursuant to subsection (a), the Secretary shall prepare a design for a prototype commercial fusion reactor using such technologies, including associated cost estimates and specifications shall be in sufficient detail to permit bids for construction.

Subtitle E—Coal

SEC. 341. COAL PROGRAM GOALS.—(a) The Secretary shall establish research, development, and demonstration goals to assure the timely development of technologies for the production, transportation, and utilization of coal consistent with this Act.

(b) The Secretary shall establish a research, development, and demonstration program within the Department designed to assure the timely development of cost-effective advanced coal based technologies to be available for widespread commercial use after the year 2010, which are capable of achieving the control of sulfur oxides and oxides of nitrogen at levels of proficiency greater than currently available commercial control technology. The coal technology development program shall also be designed to assure the timely development of cost-effective technologies or energy production processes or systems utilizing coal which achieve greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal and the control of emissions from coal.

(c) The Secretary shall develop the program described herein, for technologies that include, but are not limited to, the following:

(1) advanced integrated gasification combined cycle;

(2) pressurized fluidized bed combustion technology capable of achieving higher conversion efficiency than can be achieved through on-going demonstration projects;

(3) direct and indirect coal-fired turbines;

(4) coal refining processes capable of efficiently producing or utilizing the energy contained in coal and also utilizing the by-products thereof;

(5) technologies for the cost-effective control and disposition of carbon dioxide produced during the combustion of coal;

(6) magnetohydrodynamics;

(7) molten carbonate and solid oxide fuel cells; and

(8) other coal based technologies or processes on systems that are capable of achieving conversion efficiency greater than currently available technology.

SEC. 342. NON-FUEL USE OF COAL.—(a) Not later than one hundred and twenty days after the date of the enactment of this Act, the Secretary shall submit to Congress a plan for research, development, and demonstration with respect to technologies for non-fuel use of coal, including—

(1) production of coke and other carbon products derived from coal;

(2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;

(3) production of chemicals from coal-derived synthesis gas;

(4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and

(5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) As part of the plan under subsection (a), the Secretary may propose specific joint ventures to accelerate the development and commercialization of technologies for non-fuel uses of coal.

(c) The plan under subsection (a) shall address and evaluate:

(1) the known and potential products and processes for the use of coal for products in the chemical, utility, fuel, and carbon-based materials industries;

(2) the costs, benefits and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;

(3) the economics of co-production of products from coal in conjunction with production of electric power, thermal energy, and fuel;

(4) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(5) the steps that can be taken by the public and private sectors to bring about commercialization of research results produced by the research program recommended; and

(6) the past development, current status, and future potential of coal products and processes associated with non-fuel use of coal.

(d) The Secretary shall conduct a program of research and development under the plan under subsection (a).

(e) The Secretary may provide financial assistance for a research project under the plan using funds authorized by section 343(b) to the extent he finds that such project—

(1) furthers achievement of the goals and purposes of this Act;

(2) offers promise for commercial application; and

(3) has a reasonable prospect of support in at least 50 per centum of its direct costs from non-Federal funds.

(f) In preparing the plan and carrying out research under this section, including evaluating the technical progress, feasibility, and most effective means for utilizing the results of research, the Secretary shall consult with the private sector.

SEC. 343. AUTHORIZATIONS.—(a) There is authorized to be appropriated such sums as are necessary for each of fiscal years 1992, 1993, and 1994 for purposes of implementing the program pursuant to section 341.

(b) There is authorized to be appropriated to carry out section 342, a total of $20,000,000 for fiscal years 1992 through 1994.

Subtitle F—Natural Gas and Other Alternative Fuels

SEC. 351. MASS TRANSIT PROGRAM.—(a)(1) The Secretary, consistent with this Act, in consultation with the Administrator of the Urban Mass Transit Administration, may, consistent with the Alternative Motor Fuels Act of 1988 (P.L. 100-494), enter into cooperative agreements and joint ventures proposed by any municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility, including safety of specific vehicle design, of using natural gas or other alternative fuels for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(b)(1) The Secretary may not enter into any cooperative agreement or joint venture under subsection (a) with any municipal, county or regional transit authority unless such government body agrees to provide at least 25 per centum of the costs of such demonstration.

(2) The Secretary, at his discretion, may grant such priority under this section to any entity that demonstrates that the use of natural gas or other alternative fuels used for transportation would not have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(c) There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 352. NATURAL GAS AND OTHER ALTERNATIVE FUEL USE IN FLEET VEHICLES.—(a) The Secretary, consistent with the Alternative Motor Fuels Act of 1988 (P.L. 100-494), and in consultation with the Administration of the U.S. Environmental Protection Agency and the Secretary of Transportation, shall establish and carry out a program, and provide financial assistance to encourage the development and commercialization of natural gas and other alternative fuels for use in passenger fleets, light-duty trucks, and heavy-duty trucks consistent with the purposes of this Act. Such assistance shall provide for the purchase and construction of vehicles dedicated to the use of natural gas or other alternative fuels and of vehicles dually fueled by natural gas or other alternative fuels and gasoline or diesel, and associated refueling equipment.

(b) Public and private fleets may be eligible for financial assistance under this section.

(c) The Secretary, at his discretion, may grant such priority to those fleets where the use of natural gas and other alternative transportation fuels would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(d) To facilitate the use of natural gas and other alternative fueled vehicles, the conversion of a vehicle from either gasoline or diesel alone to natural gas or other alternative fuels alone, or to natural gas or other alternative fuels and either gasoline or diesel, shall not be considered a violation of any anti-tampering provisions of the Federal law and implementing regulations, provided that the conversion complies with emissions standards issued by the Administrator of the Environmental Protection Agency.

(e) Any program established under this section that applies to existing vehicles shall take into consideration the safety of specific vehicle design and the compatibility of natural gas or other alternative fuel use with the original components of such existing vehicles.

(f) There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994, for purposes of this section.

SEC. 353. TRAINING PROGRAM.—(a) The Secretary of the Department of Labor shall establish and carry out a training and certification program for technicians who are responsible for vehicle installation of equipment that converts gasoline or diesel-fueled vehicles to the capability to run on natural gas or other alternative fuels alone, or on natural gas or other alternative fuels and either diesel fuel or gasoline, and for the maintenance of such converted vehicles. Such training and certification programs shall provide these technicians with instruction on the correct installation procedures and techniques, adherence to specifications, vehicle operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these vehicle conversions.

(b) The Secretary, may enter into cooperative agreements with, and provide financial assistance to, under this section, appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(c) The program under this section shall be consistent with the Alternative Motor Fuels Act of 1988 (P.L. 100-494).

(d) There is authorized to be appropriated not more than $5,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 354. VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.—(a) The Secretary shall carry out a program of research, development, and demonstration on techniques related to improving natural gas and other alternative fueled vehicle technology including, but not limited to, the following areas—

(1) fuel injection;
(2) carburetion;
(3) manifolding;
(4) combustion;
(5) power optimization;
(6) efficiency;
(7) lubricants and detergents;
(8) engine durability;
(9) ignition, including fuel additives to assist ignition;
(10) multifuel engines;
(11) emissions control, including catalysts;
(12) novel gas compression concepts;
(13) advanced storage systems;
(14) advanced gaseous fueling technologies; and
(15) the incorporation of advanced materials in these areas.

(b) The Secretary, consistent with the Alternative Motor Fuels Act of 1988 (P.L. 100-494), may enter into cooperative agreements with, and provide financial assistance to, under this section, public entities or interested or affected private firms willing to provide 50 per centum of the costs of such programs to perform the research and development necessary to improve natural gas vehicle and other alternative fuel vehicle technology.

(c) There is authorized to be appropriated not more than $10,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 355. NATURAL GAS RECOVERY, RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.—(a) The Secretary shall expand and continue a program of research, development, and demonstration on techniques to increase the availability of natural gas from—

(1) intensive recovery of natural gas in place in discovered reservoirs or formations; and

(2) economic recovery of unconventional natural gas, including gas from tight sands, Eastern shales, gas from less permeable formations, coal-bed methane, and geopressured reservoirs.

(b) The Secretary shall seek to enter into joint ventures with persons engaged in the production, transportation, distribution, or major use of natural gas to implement the program under subsection (a).

(c) There is authorized to be appropriated not more than $25,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 356. NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.—(a) The Secretary shall expand the program for research, development, and domonstration for natural gas and electric heating and cooling technologies for residential and commercial buildings.

(b) The natural gas heating and cooling program shall increase research on thermally-activated heat pumps including:

(1) absorption heat pumps; and
(2) engine-driven heat pumps.

(c) The electric heating and cooling program shall increase research on:

(1) advanced heat pumps;
(2) thermal storage; and
(3) advanced electrically-driven HVAC (heating, ventilation, and cooling) and refrigeration systems that utilize replacements for chlorofluorocarbons, including HCFC-22.

(d) There is authorized to be appropriated to the Secretary, not more than $15,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section in addition to current authorizations.

SEC. 357. VEHICLE AND BATTERY RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.—(a) The Secertary shall conduct a program of research, development, and demonstration on techniques related to improving electric vehicle and battery technology including, but not limited to, the following areas:

(1) high efficiency electric power trains, including advanced motors and hybrid power trains for vehicle range improvement;

(2) light-weight body structures for vehicle weight reduction;

(3) advanced batteries with high specific energy and specific power for electric vehicle application; and

(4) primary batteries and fuel cells for hybrid vehicle application.

(b) The Secertary shall enter into joint ventures with, and provide financial assistance under this section to, public entities or interested or affected private firms willing to provide at least 50 per centum of the costs of the joint ventures.

(c) There is authorized to be appropriated not more than $10,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 358. DEFINITIONS.—For purposes of this subtitle natural gas includes natural gas derived fuels.

Subtitle G.—Hydropower

SEC. 361. PROGRAM.—The Secretary, in consultation with the Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of the Army, the Secretary of Agriculture, and the Secretary of Commerce shall undertake an assessment of the statutory, economic, and regulatory barriers to expanded hydroelectric capacity development at existing dams. The assessment shall quantify the contribution that expanded hydroelectric power development could reasonably be expected to reduce national energy needs and a reduction in the generation of greenhouse gases.

SEC. 362. REPORT.—The Secretary will submit a report to Congress containing the results of the assessment by December 31, 1991.

Subtitle H—Electric Vehicle Technology Development and Demonstration

SEC. 371. SHORT TITLE.—This subtitle may be cited as the "Electric Vehicle Technology Development and Demonstration Act of 1991".

SEC. 372. FINDINGS.—The Congress finds that:

(1) electric vehicles may be recharged primarily during times of nonpeak use of electricity, which will permit the most efficient utilization of electrical generating capacity, produce economic benefits for purchasers and producers of electricity, and improve the quality of air;

(2) the development, demonstration, and commercialization of electric vehicles in the United States will enhance the energy security of the United States and will encourage electric vehicle production in the United States;

(3) the use of electric vehicles rather than vehicles powered by conventionally fueled internal combustion engines could significantly improve the quality of air by allowing areas of the country that have not attained a quality of air that meets minumum health standards to meet such standards;

(4) because initial production of electric vehicles will not have economies of scale associated with mass production, the price to a user or owner may be so high as to discourage vehicle purchase and use; and

(5) because the substantial potential environmental and domestic energy security benefits that will result from the commercialization of electric vehicles are so great for the United States, it is in the public interest for the United States Government to assist in the development, demonstration, and commercialization of domestically produced, cost competitive, electric vehicles.

SEC. 373. DEFINITIONS.—For purposes of this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "conventionally fueled vehicle" means a vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source;

(3) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, and that may include a nonelectrical source of power designed to charge batteries and components;

(4) "eligible nonattainment area" means a nonattainment area that the Secretary designates as an eligible nonattainment area under section 374(b);

(5) "life cycle costs" means all costs associated with the purchase, operation, maintenance, and disposal of a vehicle; and

(6) "nonattainment area" means a nonattainment area identified by the Administrator pursuant to section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

SEC. 374. IDENTIFICATION OF NONATTAINMENT AREAS.—(a) The Secretary, in consultation with the Administrator, shall identify, not later than thirty days after the date of the enactment of this Act, the nonattainment areas in the United States in which the use of conventionally fueled vehicles contributes significantly to that nonattainment and in which the use of electric vehicles could contribute to attainment of applicable National Ambient Air Quality Standards. The Secretary shall provide notification to those nonattainment areas identified under this section.

(b) The Secretary, after consultation with the Administrator and not later than thirty days after notification of the nonattainment areas identified under subsection (a), shall designate nonattainment areas eligible to participate in the program authorized by this subtitle.

SEC. 375. APPLICATIONS FROM MANUFACTURERS.—(a) Not later than thirty days after the Secretary designated the eligible nonattainment areas under section 374(b), the Secretary shall make an initial request for applications from manufacturers to develop, demonstrate, certify, manufacture, sell, warranty, and service electric vehicles in one or more eligible nonattainment areas. Additional requests for applications may be made if the Secretary determines that the responses to the initial request are inadequate.

(b) The request for applications shall require a manufacturer to identify the following:

(1) SALES AREA.—Any eligible nonattainment area in which the electric vehicles will be sold;

(2) QUANTITY.—The quantity of vehicles that will be available for sale in each area;

(3) DISTRIBUTION.—The dealership network or other means to be used by a manufacturer to distribute, market, and sell vehicles;

(4) TYPE.—The type of vehicle (which may include light to medium duty cargo or passenger vehicles);

(5) CHARACTERISTICS.—The specifications and performance characteristics of each vehicle;

(6) SERVICE.—The maintenance and other support services that will be available to a purchaser;

(7) PRICE.—The selling price of a manufacturer for varying volumes of production of each type of vehicle;

(8) LIFE CYCLE COSTS.—Information regarding the life cycle costs, including projected costs of operating and maintaining an electric vehicle in comparison with operating and maintaining a conventionally fueled vehicle;

(9) STATE AND LOCAL INVOLVEMENT.—The level of involvement (cost-sharing or otherwise), if any, that state or local government entities will have in the manufacturer's proposal, and how that involvement will affect the level of Federal cost-sharing required; and

(10) OTHER.—Other information that the Secretary deems necessary.

SEC. 376. SELECTION OF MANUFACTURERS.—(a) After consulting with the Secretary of Commerce, the Secretary of Transportation, and the Administrator, and not later than one hundred eighty days after the initial request for applications is made under section 375, the Secretary may select one or more manufacturers eligible to receive reimbursement payments for the development, demonstration, manufacture, and sale of electric vehicles.

(b) The Secretary shall select a manufacturer based upon the overall quality of the proposal, including the following:

(1) CAPABILITY.—The ability of a manufacturer, directly or indirectly, to develop, demonstrate, manufacture, distribute, sell and service a significant number of electric vehicles;

(2) GEOGRAPHIC DIVERSITY.—The commitment of the manufacturer to distribute, sell and service electric vehicles in various regions of the country.

(3) SUITABILITY.—The suitability of the vehicles for use as a cargo or passenger vehicle;

(4) SAFETY AND ENVIRONMENTAL BENEFIT.—The quality of the vehicle with respect to safety and environmental considerations;

(5) VIABILITY.—The long-term technical viability of the vehicle, and the ability of the manufacturer to incorporate subsequent advancements, modifications, and technology;

(6) LIFE CYCLE COST REDUCTION.—The ability and commitment of a manufacturer to reduce the life cycle costs of electric vehicles over a period of five years or less after selection to a level at least equal to comparable conventionally fueled vehicles;

(7) PRICE.—The selling price of a manufacturer for varying volumes of production of vehicles, the proposed discount (as defined in section 377), and life cycle costs of the electric vehicles;

(8) STATE AND LOCAL SUPPORT.—The extent to which the involvement of state or local government in the program will permit the reduction of the Federal cost share per vehicle to be supported or will otherwise be used to leverage the federal cost-sharing to be provided among a greater number of vehicles;

(9) OTHER.—Other criteria that the Secretary deems necessary.

SEC. 377. DISCOUNTS TO PURCHASERS.—(a) A manufacturer selected by the Secretary shall offer a purchaser a discount equal to either:

(1) LIFE CYCLE COST DIFFERENTIAL.—An amount which represents the excess of the estimated life cycle costs of the electric vehicle over the life cycle costs of a conventionally fueled vehicle of comparable type; or

(2) PURCHASE PRICE COST DIFFERENTIAL.—An amount by which the selling price of the electric vehicle exceeds the suggested retail price of a conventionally fueled vehicle of comparable type.

In no case shall the discount be greater than 50 per centum of the selling price by varying volumes of production.

(b) The Secretary, not later than thirty days after a manufacturer has provided notice in the form and manner specified by the Secretary of the sale of an electric vehicle, shall pay a manufacturer a payment not to exceed the discount for each electric vehicle sold.

(c) To be eligible for payment under subsection (b), a manufacturer shall certify to the Secretary the following:

(1) PURCHASER DISCOUNT LIMITATION.—The discount to the purchaser does not lower the selling price of each electric vehicle below the suggested retail price of a conventionally fueled vehicle of comparable type;

DISCOUNT PASSTHROUGH.—The actual selling price of the vehicle is equal to the selling price specified in the manufacturer's proposal to the Secretary reduced by the full amount of the discount received, calculated as specified above, unless the Secretary agrees to a request by the manufacturer to adjust the selling price as specified in the contract to reflect higher costs actually incurred in production;

(3) NONATTAINMENT AREA USE.—The vehicle will be used primarily in the eligible nonattainment area in which the vehicle will be purchased;

(4) INFORMATION FROM PURCHASES.—The purchaser has agreed to provide the manufacturer with information regarding operation, maintenance, and usability of the vehicle for five years after purchase; and

(5) INFORMATION FROM MANUFACTURER.—The manufacturer will provide such information regarding the development, demonstration, manufacture, sale, and maintenance of electric vehicles that the Secretary requests for a period of five years, beginning in fiscal year 1992.

(d) The Secretary may enter into contracts with manufacturers of electric vehicles for purposes of carrying out this Act.

SEC. 378. REPORTS TO CONGRESS.—The Secretary shall report to Congress in fiscal years 1992 and 1994 on the programs and projects supported under this subtitle and the progress being made toward accomplishing the goals of this subtitle.

SEC. 379. AUTHORIZATIONS.—There is authorized to be appropriated for purposes of this subtitle $10,000,000 for each of the three fiscal years following the date of enactment of this Act.

Subtitle I—Advanced Nuclear Reactor Study

SEC. 381. REPORT.—Within one hundred and eighty days after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report on whether, and to what extent, continued or increased use of energy generated from nuclear fission can contribute substantially to safe and reliable supplies of electricity and reduce the generation of carbon dioxide and other greenhouse gases in the United States and internationally. The report shall include data on the extent to which additional increments of nuclear-generated electricity can reduce the generation of greenhouse gases and over what period of time. In preparing such report, the Secretary shall consider and make recommendations on the appropriate level of Federal support for research, development, and demonstration of advance nuclear reactor technologies to support these objectives. Such report shall also include the recommendations of the Secretary regarding the necessary restructuring of existing nuclear fission research programs to achieve these objectives and the role of joint funding and cost-sharing in these activities.

TITLE IV—MISCELLANEOUS

Subtitle A—Methane Assessment

SEC. 401. OBJECTIVE.—The objective of this subtitle is to identify and analyze options to reduce the risks of global climate change by—

(1) reducing worldwide generation of methane;

(2) identifying and analyzing the relationships between methane and other greenhouse gases to determine the synergies that may contribute to global climate change;

(3) promoting additional analyses of the factors causing methane concentrations to increase, and of the sources of methane generation, and the opportunities for reducing such generation; and

(4) identifying options for the reduction of methane generation that are economically as well as environmentally advantageous.

SEC. 402. DOMESTIC METHANE SOURCE INVENTORY AND CONTROL OPTIONS.—(a) Not later than two years after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture and the Secretary of the Interior, shall submit to the Congress reports on:

(1) methane emissions from biogenic sources such as

(A) tropical, temperate, and subarctic forests;

(B) tundra; and

(C) freshwater and saltwater wetlands;

(2) changes in the generation of methane from biogenic sources that may occur as a result of predicted increases in temperatures and atmospheric concentrations of carbon dioxide;

(3) methane generation associated with natural gas extraction, transportation, distribution, storage and use, including an inventory of methane generation associated with such activities within the United States, information on accidental and intentional methane releases from natural gas and oil wells, pipelines, processing facilities, and gas burners;

(4) methane generation associated with coal extraction, transportation, storage, and utilization, including, but not limited to, an inventory of methane generation associated with such activities within the United States, information on accidental and intentional releases from mining shafts, degasification wells, gas recovery wells and equipment, and from the processing and use of coal; and

(5) other sources of methane generation associated with human activities that are deemed by the Secretary to be significant.

(b) Not later than two years after the date of the enactment of this Act, the Secretary shall submit to the Congress a report that outlines measures that could be implemented to reduce the growth in atmospheric concentrations of methane from sources within the United States. This report shall identify and evaluate technical options for reducing the generation of methane from each of the sources listed in paragraph (a) as well as other sources deemed by the Secretary to be significant, and shall include an evaluation of costs.

SEC. 403. INTERNATIONAL STUDIES.—Not later than two years after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of State, shall submit to Congress a report on methane emissions from countries other than the United States. Such report shall include inventories of methane generation associated with the activities listed in section 402(a). The report shall also identify the United States and international lending agency programs, and an itemization of the costs of each category of reductions, that may be used to induce lesser-developed countries to undertake measures that could reduce the generation of methane and the resource needs of such programs.

Subtitle B.—Committee on Renewable Energy Commerce and Trade

SEC. 411. DUTIES OF CORECT.—Section 256(d) of Title II Part B of the Energy Policy and Conservation Act is amended by striking the existing text and inserting the following in lieu thereof:

"(d)(1) DUTIES.—There shall be established an interagency working group (hereafter in this subsection referred to as the Committee on Renewable Energy Commerce and Trade (CORECT)) which, in consultation with the representative industry groups and relevant agency heads, shall make recommendations to coordinate the actions and programs of the Federal government to promote the export of U.S. renewable energy and energy efficiency products and technologies. The Secretary of Energy shall be the Chairman of such group. The heads of appropriate agencies may detail such personnel and may furnish such services to such working group, with or without reimbursement, as may be necessary to carry out its functions.

"(2) ADDITIONAL DUTIES.—CORECT shall promote the development and application in lesser-developed countries of renewable energy and energy efficiency resource technologies that—

"(A) promote more efficient use of fossile fuels;

"(B) reduce dependence on the importation of fossil fuels by encouraging the use of sustainable biomass, wind power, hydropower, solar, geothermal and other energy and energy efficiency resource technologies;

"(C) foster rural and urban energy development and energy self-sufficiency through the use of reliable and economical renewable energy and energy efficiency resource technologies;

"(D) explore mechanisms for assisting in the domestic manufacturer, particularly by small business manufacturers, of energy-efficiency and renewable energy technologies, for export; and

"(E) increase staffing to support the new authority and responsibilities described in this section.

"(3) TRAINING AND ASSISTANCE.—In furthering the purposes of this section, CORECT shall—

"(A) provide aggressive in-country technical training for local users and international development personnel;

"(B) provide financial assistance to support nonprofit institutions designed solely and specifically to support the efforts of domestic renewable energy and energy conservation companies to market their products, and to develop environmentally responsible projects in developing nations;

"(C) establish feasibility and loan guarantee programs to facilitate access to capital and credit; and

"(D) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency resource technologies.

"(4) OUTREACH.—CORECT may establish renewable energy industry outreach offices in the Pacific Rim and in the Caribbean Basin for the purpose of providing information concerning renewable energy and energy efficiency technologies and industries of the United States to governments, industries, and other outside of the continental United States.".

SEC. 412. INFORMATION AND TECHNICAL PROGRAM.—Section 256(c)(2)(D) Title II Part B of the Energy Policy and Conservation Act is amended by striking clause (ii) and inserting in lieu thereof the following clause:

"(ii) information on the specific energy technology needs of lesser-developed countries, the technical and economic competitiveness of various renewable energy and energy efficiency resource technologies, and the status of ongoing technology assistance program shall be provided. Information from this program shall be made available to industry, Federal and multilateral lending agencies, nongovernmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.".

SEC. 413. COMPREHENSIVE ENERGY TECHNOLOGY EVALUATION.—Section 256 of Title II Part B of the Energy Policy and Conservation Act is amended by adding at the end a new subsection (e) as follows:

"(e)(1) Not later than June 1, 1991, and biennially thereafter, the Secretary shall prepare and submit to Congress, a report evaluating the range of energy efficiency and renewable energy technologies available to meet the energy needs of developing countries. This report shall also provide information on the specific energy needs of lesser-developed countries, an inventory of U.S. technologies and services to meet those needs, and an update on the status of ongoing bilateral and multilateral technology assistance and renewable energy resource programs.

"(2) The report should also include an evaluation of current programs and their priority for meeting programs objectives as well as recommendations for future programs that:

"(A) develop and promote sustainable use of indigenous renewable energy resources in lesser-developed countries;

"(B) given the credit and capital restrictions in lesser-developed countries, focus on technologies that are both appropriate and economically viable;

"(C) meet the needs of lesser-developed countries for energy rather than creating new needs, in order to ensure immediate income-generating use of the power generated;

"(D) work with local individuals to assure that programs and projects meet specific national and local needs;

"(E) use indigenous materials and associated hardware, wherever possible, in order to reduce costs and ensure project duplication;

"(F) provide examples of cost-effective systems and applications for in-country nongovernmental organizations and project technical personnel;

"(G) provide mechanisms for assisting U.S. manufacturers, particularly smaller manufacturers, of energy-efficient and renewable energy technologies, in exporting their goods and services;

"(H) expand technical and administrative training programs, as well as distribution of multilingual technical training manuals and related materials; and

"(I) examine the potential for using economic incentives to promote technology transfer (e.g. shared savings contracts, loan guarantees, tax incentives, etc.) to lesser-developed countries.

SEC. 414. JOINT VENTURES IN DEVELOPING, DEMONSTRATING, AND MARKETING ENERGY EFFICIENT AND RENEWABLE ENERGY TECHNOLOGIES IN KEY LESSER DEVELOPED COUNTRIES.—(a) FIVE YEAR PLAN.—The management plan under section 9(b) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218), shall include a five-year implementation plan for:

(1) pursuing joint ventures with United States manufacturers for the development, demonstration, or marketing of energy efficient and renewable energy technologies for application of use in key lesser-developed countries; and

(2) providing mechanisms to assist U.S. manufacturers, particularly smaller manufacturers of energy efficient and renewable

energy technologies, in identifying and pursuing opportunities for sales or joint ventures.

In developing the implementation plan required under this subsection, the Secretary shall consult with the Agency for International Development.

(b) The Secretary shall solicit proposals for joint ventures in the areas described in subsections (a)(1) and (a)(2) as if such joint ventures were required by, and subject to the requirements set forth in, section 6 of Public Law 101-218. The Secretary shall select a total of at least three joint ventures, except that the Secretary may reduce this requirement to the extent that the proposals received do not meet the Secretary's qualifications.

(c) For the purposes of this section, a lesser-developed country shall be considered a key lesser-developed country if direct export or use of U.S. manufactured energy efficient and renewable energy technologies in such country is inhibited by cultural, or other factors.

SEC. 415. AUTHORIZATION.—(a) Section 256 of Title II Part B of the Energy Policy and Conservation Act as amended, is amended by adding at the end a new subsection (f) as follows:

"(1) There is authorized to be appropriated for purposes of carrying out the programs under sections (d) and (e) $10,000,000 for fiscal year 1992, including $2,000,000 to carry out the purposes of subparagraph (d)(2), and such sums as may be necessary for fiscal year 1993 and 1994 to carry out the purposes of this subtitle except for subparagraph (d)(4).

"(2) There is authorized to be appropriated for the purposes of subparagraph 256(d)(4), in addition to the amount specified in the previous sentence, $2,750,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 and 1994."

(b) There is authorized to be appropriated for the purposes of section 414, in addition to the amount specified in sections (a), $1,000,000 for fiscal years 1992, 1993, and 1994.

Subtitle C—Fuel Cycle Costs Analysis

SEC. 421. PROGRAM.—The Secretary shall undertake a comparative analysis of United States, European, and Asian fuel cycle costs. The analysis shall be undertaken for five fuel cycles: coal, oil, natural gas, nuclear, and renewable energy. The renewable energy fuel cycle shall include solar, hydro, wind, and biomass. The analysis shall be based on comparable assumptions, data, and methodologies and will explicitly address the extent to which environmental and other externalities are, or are not, reflected in the energy prices paid by consumers in the United States, Western Europe, and in the market economies of Asia.

SEC. 422. REPORT.—The Secretary will submit a report to Congress containing the results of the comparative fuel cycle cost analysis by December 31, 1991.

Subtitle D—United Nations Conference

SEC. 431. 1992 UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT.—(a) FINDINGS.—The Congress finds that—

(1) the 1992 United Nations Conference on Environment and Development will play a crucial role in advancing efforts to protect the global environment;

(2) international preparations for 1992 Conference have already begun; and

(3) the effectiveness of U.S. participation in the 1992 Conference would be greatly enhanced by the establishment of a secretariat within the Department of State to coordinate U.S. preparations for the Conference.

(b) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of State for fiscal year 1992, $350,000 for the purpose of establishing within the Department of State a secretariat to prepare for the 1992 United Nations Conference on Environment and Development. Such funds shall remain available until expended.

TITLE V—NATURAL RESOURCE POLICY

SEC. 501. ECOLOGICAL AND ENVIRONMENTAL RESOURCE STUDY.—(a) The Secretary of the Interior, in consultation with the Secretary of Agriculture, shall conduct a study of the ecological and environmental resources in the United States that could be affected by a global climate change. The study should include implications for wildlife habitat preservation, coastal protection, inland rivers and lakes, irrigation and reclamation, ground water protection, and the natural resources within the boundaries of the Nation's wildlife refuges and parks, national forests, and other Federal lands.

(b) The study should—

(1) include specific regional climatic and resource base information useful in anticipatory and mitigatory planning;

(2) identify actions that, if taken, could help mitigate the effects of global climate change; and

(3) evaluate the cost-effectiveness, including the environmental effects of possible action.

SEC. 502. NATIONAL FORESTATION INITIATIVE.—The Secretary of Agriculture, in cooperation with the Secretary of the Interior, shall report to the President and the Congress on the feasibility of a National Reforestation Initiative. Such report shall include:

(a) in coordination with the Resources Planning Act of 1974, an inventory of Federal, State, and private forested lands;

(b) an evaluation of the status of timber harvesting on those lands, including the extent to which those lands are being reforested;

(c) an assessment of the extent to which Federal, State, and private lands can be reforested, including lands not necessarily suitable for timber harvesting such as urban areas;

(d) an evaluation of the potential of a national reforestation initiative for mitigating climate change, and the measures needed to achieve that potential; and

(e) an assessment of the potential economic and environmental benefits and costs of such an initiative, the measures available to mitigate such costs, and an evaluation of the effectiveness of such measures.

SEC. 503. URBAN FORESTRY AND ENERGY SAVINGS.—(a) The Secretary, in consultation with the Secretary of Agriculture, and other relevant Federal agencies, shall conduct a study of the potential for reducing carbon dioxide emissions by undertaking targeted urban tree and vegetative plantings, including landscaping and the use of natural windbreaks, designed to reduce the air-conditioning and heating needs of buildings. The study shall provide estimates of the cost-effectiveness of such a program and shall outline a range of Federal, State, and local public policies and incentives that would encourage public and private efforts to undertake such plantings.

(b) Within eighteen months after the date of enactment, the Secretary shall complete the study and transmit it to the Congress.

Amend the title so as to read: "A bill to establish a national energy strategy for the United States that reflects concern for the global environmental consequences of current trends in atmospheric concentrations of greenhouse gases, and for other purposes.".

SENATE CONCURRENT RESOLUTION 10—ORIGINAL CONCURRENT RESOLUTION REPORTED RELATIVE TO SERVICE ON THE JOINT COMMITTEE ON THE LIBRARY

Mr. FORD, from the Committee on Rules and Administration, reported the following original concurrent resolution; which was placed on the calendar:

S. CON. RES. 10

Resolved by the Senate (the House of Representatives concurring), That effective for the One Hundred Second Congress, the Chairman of the Committee on Rules and Administration of the Senate may designate another member of the Committee to serve on the Joint Committee of the Congress on the Library in place of the Chairman.

SENATE RESOLUTION 34—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON APPROPRIATIONS

Mr. BYRD, from the Committee on Appropriations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 34

Resolved, That in carrying out its power, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Appropriations is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or nonreimbursable, basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this resolution shall not exceed $5,029,959, of which amount (1) not to exceed $160,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $8,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this resolution shall not exceed $5,208,866, of which amount (1) not to exceed $160,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $8,000 may be expended for the train-

ing of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1992, and February 28, 1993, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 35—ORIGINAL RESOLUTION REPORTED PROVIDING FOR MEMBERS OF THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE ON THE LIBRARY

Mr. FORD, from the the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 35

Resolved, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

Joint Committee on Printing: Mr. Ford of Kentucky, Mr. DeConcini of Arizona, Mr. Gore of Tennessee, Mr. Stevens of Alaska, and Mr. Hatfield of Oregon.

Joint Committee of Congress on the Library: Mr. Pell of Rhode Island, Mr. DeConcini of Arizona, Mr. Moynihan of New York, Mr. Hatfield of Oregon, and Mr. Stevens of Alaska.

SENATE RESOLUTION 36—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 36

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of the rule XXVI of the Standing rules of the Senate, the Committee on Agriculture, Nutrition and Forestry is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March, 1991, through February 29, 1992, under this resolution shall not exceed $1,996,599, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $4,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) for the period March 1, 1992, through February 28, 1993, expenses of the committee under this resolution shall not exceed $2,069,273, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $4,000 may be expended for the training of the professional staff or such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable to the Senate at the earliest practicable date, but not later than February 29, 1992, and February 28, 1993, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationery supplies purchases through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, to be paid from the Appropriations account for "Expenses of Inquires and Investigations."

SENATE RESOLUTION 37—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 37

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimbursable, basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this resolution shall not exceed $1,521,403, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $3,500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

(b) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this resolution shall not exceed $1,579,954, of which amount (1) not to exceed $4,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946 as amended), and (2) not to exceed $3,500 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such Act).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1992, and February 28, 1993, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of long-distance telephone calls, or (3) for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and doorkeeper of the Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 38—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. KENNEDY, from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 38

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its

jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Labor and Human Resources is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this resolution shall not exceed $5,423,398, of which amount (1) not to exceed $30,900 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(b) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this resolution shall not exceed $5,628,440, of which amount (1) not to exceed $30,900 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1992, and February 28, 1993, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long-distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 39—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 39

Resolved, That, in carrying out its power, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1991, through February 29, 1992, and March 1, 1992 through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this resolution shall not exceed $5,267,105, of which amount (1) not to exceed $49,326 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,470 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) for the period March 1, 1992, through February 28, 1993, expenses of the committee under this resolution shall not exceed $5,462,040, of which amount (1) not to exceed $49,326 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,470 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3 (a) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate

(1) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of government funds in transactions, contracts, and activities of the government or of government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public.

(2) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) organized criminal activities which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud and the use of offshore banking and corporate facilities to carry out criminal objectives;

(5) The efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(A) The effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(C) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships;

(6) The efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of exports of scarce fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(L) research into discovery and development of alternative energy supplies; and

(7) the efficiency and economy of all branches and functions of government with particular reference to the operations and management of Federal regulatory policies and programs: *Provided*, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(b) Nothing contained in this section shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by

the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, is authorized, in its, his, or their discretion (1) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (4) to administer oaths, and (5) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(d) All subpoenas and related legal processes of the committee and its subcommittee authorized under S. Res. 66 of the One Hundred First Congress, second session, are authorized to continue.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1991, and February 28, 1992, respectively.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long-distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 6. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1991, through February 29, 1992, and March 1, 1992, through February 28, 1993, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 40—RELATIVE TO SOURCE REDUCTION IN PACKAGING

Mr. GLENN submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 40

Whereas the environmentally sound disposal of solid waste is one of the most urgent and fundamental environmental problems facing Federal, State and local jurisdictions today;

Whereas packaging materials constitute a significant portion of the solid waste stream;

Whereas the technology is available to substantially reduce the amount of packaging used in this country;

Whereas reduction of the amount of packaging material in the solid waste stream will reduce the amount that accumulates in disposal facilities;

Whereas systems that promote recycling are increasingly available;

Whereas use of recyclable materials in packaging can reduce the amount of packaging material that accumulates in disposal facilities;

Whereas toxic constituents within packaging materials can impede effectiveness of landfills and incinerators in providing safe disposal of solid waste; and

Whereas the removal of toxic materials from packaging will reduce the accumulation of toxics in the environment:

Resolved, That it is the sense of the Senate that Congress should support the following:

(1) a reduction of the total volume of disposable packaging material generated for domestic, commercial, industrial, and governmental use;

(2) an increase in the recyclability of packaging products that cannot be reduced;

(3) an increase in the recycled material content of packaging products; and

(4) a reduction in the disposal impact of packaging waste by decreasing toxic materials and materials with toxic byproducts in packaging.

• Mr. GLENN. Mr. President, I rise today to introduce a sense-of-the-Senate resolution stating that source reduction in packaging is favorable to the environment and should be promoted. Disposal of solid waste is one of the most urgent and fundamental environmental problems facing Federal, State, and local governments today.

Nationwide, over 3,500 landfills have closed since 1979; only 6,000 landfills remain, 45 percent of which have the capacity to hold less than 5 years' worth of waste. For example, of the 88 counties in my own State of Ohio, 28 have no landfills and 35 have 5 years or less capacity. As our landfill capacity has decreased our waste production has increased. Ohioans now generate 12 million tons of solid waste annually—more than a ton per person. These generation rates are predicted to increase by almost a quarter, to 15 million tons per year, by 1995.

New landfills are increasingly difficult to locate; since 1980, fewer than 2,000 have been constructed. In plain and simple terms, we're running out of space to throw our garbage. It is clear that we must develop alternatives to handle our growing crisis in solid waste management. These alternatives include, but are not limited to, recycling, source reduction, and increased utilization of degradable products.

Since packaging materials constitute a significant portion of the solid waste stream, this resolution seeks to encourage the reduction of the volume of disposable packaging material. Packaging related to product cleanliness or protection should continue to be utilized, but packaging solely for advertising purposes should be minimized to limit the increasing waste volume in our landfills.

I believe that the time has come for us all to realize that we must limit our use of disposable materials. This resolution is an important step in reaching that objective. I urge my colleagues to join me in cosponsoring this measure.•

SENATE RESOLUTION 41—RELATING TO NATIONAL RECYCLING DAY

Mr. LIEBERMAN (for himself, Mr. CHAFEE, Mr. MITCHELL, Mr. BURDICK, Mr. PELL, Mr. WARNER, Mr. INOUYE, Mr. DOMENICI, Mr. JEFFORDS, Mr. DURENBERGER, Mr. LAUTENBERG, Mr. CONRAD, Mr. MURKOWSKI, Mr. FORD, Mr. HOLLINGS, Mr. LEVIN, Mr. ADAMS, Mr. NUNN, Mr. KERRY, Ms. MIKULSKI, Mr. CRANSTON, Mr. PRYOR, Mr. GORE, Mr. SASSER, Mr. AKAKA, Mr. SANFORD, Mr. BUMPERS, Mr. MOYNIHAN, Mr. DIXON, Mr. GORTON, Mr. WELLSTONE, Mr. DODD, Mr. GRAHAM, Mr. FOWLER, Mr. SARBANES, Mr. SYMMS, Mr. DASCHLE, Mr. DECONCINI, Mr. D'AMATO, Mr. REID, Mr. THURMOND, Mr. LUGAR, Mrs. KASSEBAUM, Mr. KASTEN, Mr. HATCH, Mr. COHEN, Mr. PACKWOOD, Mr. BRYAN, Mr. KENNEDY, Mr. BIDEN, Mr. SIMPSON, Mr. BREAUX, Mr. SIMON, Mr. BOREN, Mr. METZENBAUM, Mr. ROTH, Mr. HEINZ, Mr. BROWN, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HELMS, Mr. BOND, Mr. EXON, Mr. CRAIG, Mr. COCHRAN, and Mr. KERREY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 41

Whereas the United States generates over 160 million tons of municipal solid waste each year—almost double the amount produced in 1965, and amounting to about 3.58 pounds per person per day—and the amount is expected to increase to 190 million tons of garbage annually by the year 2000;

Whereas the continued generation of enormous volumes of solid waste each year presents unacceptable threats to human health and the environment;

Whereas the Environmental Protection Agency expects that 27 States will run out of landfill capacity for municipal solid waste within 5 years and one-third of the currently operating landfills are expected to close by 1994 either because they are filled or because their design and operation do not meet Federal or State standards for protection of human health and the environment, and waste that is now disposed of in these facilities will have to be disposed through other means;

Whereas a significant amount of waste can be diverted from disposal by the utilization of source separation, mechanical separation and community-based recycling programs;

Whereas recycling can save energy, reduce our dependence on foreign oil, has substantial materials conservation benefits and can avoid the pollution created from extracting resources from their natural environment;

Whereas the revenues recovered by recycling programs offset the costs of solid waste management and some communities have established recycling programs which provide significant economic benefits to members of the community;

Whereas the current level of municipal solid waste recycling in the United States is low, although some communities have set a much higher rate;

Whereas to reach a goal of increased recycling, more materials need to be separated, collected, processed, marketed and manufactured into new products;

Whereas a well-developed system exists for recycling scrap metals, aluminum cans, glass and metal containers, paper and paper-

board, and is reducing the quantity of waste entering landfills or incinerators and saving manufacturers energy costs;

Whereas recycling of plastics is in the early stages of development and considerable market potential exists to increase the recycling;

Whereas yard and food waste is an important part of municipal solid waste and a large potential exists for mulching and composting the waste which would save both landfill space and nourish soil, but only small amounts of this material is currently being recycled;

Whereas Federal, State and local governments should enact legislative measures that will increase the amount of solid waste that is recycled;

Whereas Federal, State and local governments should encourage the development of markets for recyclable goods;

Whereas Federal, State and local governments should promote the design of products that can be recycled safely and efficiently;

Whereas the success of recycling programs depends on the ability of informed consumers and businesses to make decisions regarding recycling and recycled products and to participate in recycling programs; and

Whereas the people of the United States should be encouraged to participate in educational, organizational and legislative endeavors that promote waste separation methods, community-based recycling programs and expanded utilization of recovered materials: Now, therefore, be it

Resolved, That April 15, 1991, is designated as "National Recycling Day".

• Mr. LIEBERMAN. Mr. President, I am pleased to introduce, along with Senator CHAFEE and 64 of our colleagues, legislation to designate April 15, 1991, as "National Recycling Day."

This Nation is currently facing a solid waste disposal crisis caused by the growing volume of garbage and the shrinking number of places to put it. Every 5 years, the average American discards an amount of waste equal in volume to the Statue of Liberty. The municipal waste produced in this country in just 1 day fills about 63,000 garbage trucks, which would stretch the distance from San Francisco to Los Angeles. We are truly a throwaway society.

Towns and cities throughout the country are running out of landfill space. The Environmental Protection Agency estimates that 27 States will run out of landfill capacity for municipal solid waste within 5 years and that one-third of the currently operating landfills will by 1994.

Recycling must play a critical part in diverting a significant amount of waste from disposal.

Recycling has important energy savings and materials conservation benefits and can avoid pollution created from extracting resources from our natural environment. For example, it takes only 5 percent of the energy used to make aluminum cans from raw bauxite to turn a used aluminum can into a new one; and recycling 1 ton of recycled aluminum saves 4 tons of raw materials.

A recent report prepared for the Environmental Protection Agency concludes that overall energy savings resulting from recycling of plastics are 92 to 98 percent; steel 47 to 74 percent; and glass 4 to 32 percent. The report found that in addition to energy savings, recycling reduces air and water pollution. Put simply, recycling can play a large part in reducing our dependence on oil because it saves energy and in cleaning up pollution.

The current level of recycling in the United States is low. Last October, the Environmental Protection Agency estimated that 13 percent of municipal wastes are being recycled. The potential for much higher levels clearly exists. I am proud that the State of Connecticut has enacted a recycling law setting a statewide goal of 25 percent recycling each year. The State has designated certain materials as recyclable; landfills and incinerators are prohibited from accepting those materials. Eight recycling centers will exist in the State by the end of 1991. The recycling center in Groton, CT, which has been open for 9 years serves 26 towns in southeastern Connecticut and is the first center of its size in the country.

There is an urgent need for public education campaigns to inform consumers that garbage has very real financial and economic consequences. Successful recycling programs need participation from all segments of society. Product manufacturers, consumers, generators of waste, and public officials need to follow their garbage and realize the impact. Communities and businesses must develop recycling programs, including curbside and apartment-house pickup programs, publicly and privately operated neighborhood drop-off centers to sort, accumulate, process materials, and market them to end-user markets, privately run buyback centers for particularly valuable materials, and private commercial-waste hauling.

Consistently available markets for secondary materials are also an essential part of the success of recycling programs. The public and private sectors must support recycling by purchasing materials recovered from waste. Governments have a critical role to play in promoting the design of products that can be recycled safely and efficiently and in making certain that consumers have full and accurate information about the products they are purchasing and about recycling.

Recycling programs can provide important economic benefits for communities. It saves municipalities money because it costs less to recycle than to dump in landfills. In Connecticut, for example, 44 leaf composting sites taking in 90,000 tons of leaves from 1.5 million people—one-half of the State's population—saved municipalities $4.5 million in landfill fees. Second, recycling can also provide jobs. In New York City, for example, the city's recycling law calls for establishing in each borough at least one center to which residents can take recyclable material like newspapers in exchange for cash. Such businesses, called buy-back centers, are also intended to create jobs for depressed communities.

In order to deal with the solid waste crisis, we must face the difficult problem of changing human habits and educating people. The president of the Litchfield, CT, League of Women Voters, Marilyn Cann, said it well: "If people aren't educated to recycling, they're not about to do it consistently and effectively. If they're not educated, they're going to throw recyclables away." A national recycling day is needed because the problem requires a concerted effort on the part of individuals, elected officials, and private industry. It is my hope that on April 15, schools and communities will sponsor educational activities and training sessions on how recycling can help us both overcome the crisis we are now facing and help us preserve the Earth's natural resources.•

• Mr. CHAFEE. Mr. President, today I along with Senators LIEBERMAN, WARNER, JEFFORDS, DURENBERGER and others are introducing legislation to designate April 15, 1991 as National Recycling Day. The importance of educating the public about the real benefits to society from recycling cannot be overstated.

Recycling is not a new phenomenon, at least not in concept. America's early settlers recycled as a matter of survival, turning corn husks mattresses and old clothes into quilts. Many of my colleagues will remember the materials conservation efforts during World War II, when aluminum foil was carefully saved, used automobile tires collected, and many other consumer items were recycled and put toward the war effort. In fact, most of us have recycled materials at some point in our lives—typically paper, aluminum, or glass.

While many of us may be familiar with recycling, there is still a need for public education campaigns to inform consumers that garbage does not disappear when the sanitation worker loads it into the truck. Our society must be made aware that there are very real costs, both financial and environmental, associated with the continued proliferation of municipal garbage.

In the United States today we are facing a crisis in solid waste management. The United States presently is generating about 160 million tons of solid waste per year, almost double the amount we produced in 1965. If present trends continue, the United States will generate close to 200 million tons per year by the turn of the century. Towns and cities across the United States are realizing that the city dump will be forced to close its gates in a few short

years. Just in the last two decades the number of landfills accepting solid waste has been reduced dramatically—from about 30,000 to 6,000. It is becoming virtually impossible to establish any new landfill sites because of the "not in my backyard syndrome," and the rising value of land and real estate.

When confronting an urgent crisis, such as the threat to human health and the environment from burgeoning mountains of trash, it is tempting to look to technology to provide us with the easy solution. Such technological fixes, however, will not eliminate the undeniable need for significant changes in the way we conduct our daily lives. Not only must we find more environmentally sound ways of handling municipal trash, but we must also greatly reduce the amount of garbage we generate in the first place. This will require a concerted effort on the part of consumers, manufacturers, and government. That is why we are introducing legislation to designate April 15, 1991 as National Recycling Day.

Reducing the amount of household garbage we generate poses the most difficult of public policy problems: changing human habits. The purpose of this legislation is to encourage a public attitude that can allow these needed changes to take place. People must be made aware that their actions do have a critical impact on reducing the amount of garbage entering the waste stream.

My home State of Rhode Island, for example, was the first State to pass a mandatory recycling law. Cities and towns in Rhode Island separate recyclables such as glass, paper, aluminum and plastics for curbside collection.

Recycling also creates employment. According to one recent study 10,000 tons of material spawns 36 jobs compared to six for landfilling the same amount. Some communities have formed working partnerships with workshops for the disabled, developed and administered job training partnerships, or otherwise found work for unemployed labor in recycling programs. In my own State, the Rhode Island Department of Environmental Management estimates that 300 jobs have been created by recycling.

The exciting feature of the battle against solid waste is that it can be won. Other nations are doing far better than we are. No drastic solutions are required, nor are big sacrifices sought. With relatively small changes in habits, educational initiatives, and reasonable laws we can overcome the crisis we now face. I urge my colleagues to help us move closer toward this goal by joining us in designating April 15, 1991, as National Recycling Day.●

SENATE RESOLUTION 42—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

Mr. NUNN, from the Committee on Armed Services, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 42

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1991 through February 29, 1992, and March 1, 1992, through February 28, 1993, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimburable, basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1991, through February 29, 1992, under this resolution shall not exceed $3,180,965, of which amount (1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1992, through February 28, 1993, expenses of the committee under this resolution shall not exceed $3,291,040, of which amount (1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1992, and February 28, 1993, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1991 through February 29, 1992, and March 1, 1992, through February 28, 1993, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 43—RELATING TO THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following resolution which was considered and agreed to:

S. RES. 43

Resolved, That paragraph 2 of Rule XXV of the Standing Rules of the Senate is amended for the One Hundred and Second Congress as follows:

Strike "19" after "Agriculture, Nutrition, and Forestry" and insert in lieu thereof "18".

Strike "19" after "Energy and Natural Resources" and insert in lieu thereof "20".

Strike "19" after "Foreign Relations" and insert in lieu thereof "18".

Strike "16" after "Labor and Human Resources" and insert in lieu thereof "17".

SENATE RESOLUTION 44—RELATING TO THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following resolution which was considered and agreed to:

S. RES. 44

Resolved, That paragraph 3(c) of Rule XXV of the Standing Rules of the Senate is amended for the One Hundred and Second Congress as follows:

Strike "10" after "Indian Affairs" and insert in lieu thereof "16".

SENATE RESOLUTION 45—RELATING TO THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following resolution which was considered and agreed to:

S. RES. 45

Resolved, That paragraph 4 of Rule XXV is amended by striking (h)(1) through (h)(15) and inserting in lieu thereof the following:

"(h)(1) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Environment and Public Works and the Committee on Finance may, during the One Hundred Second Congress, also serve as a member of the Committee on Agriculture, Nutrition and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(2) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on Energy and Natural Resources may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(3) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Banking Housing and Urban Affairs and the committee on

Foreign Relations may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(4) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(5) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(6)(A) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred Second Congress served as a member of the Committee on Armed Services, the Committee on the Judiciary and the Committee on Labor and Human Resources, and who serves as chairman of the committee listed in paragraph 2, may serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.

"(7) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Commerce, Science and Transportation and the Committee on Foreign Relations may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(8)(A) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on the Judiciary so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred Second Congress serves on the Committee on Agriculture, Nutrition and Forestry, the Committee on Appropriations and the Committee on the Judiciary, and who serves as chairman of a committee listed in paragraph 2, may serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.

"(9) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Environment and Public Works and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(10) A Senator who on the last day of the One Hundred First Congress was serving on the Committee on Environment and Public Works and the Committee on Finance may, during the One Hundred Second Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(11) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Finance may, during the One Hundred Second Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(12) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Appropriations and the Committee on Banking, Housing and Urban Affairs may, during the One Hundred Second Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(13) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on Banking, Housing and Urban Affairs may, during the One Hundred Second Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(14) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Judiciary and the Committee on Labor and Human Resources may, during the One Hundred Second Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees in paragraph 2.

"(15) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on Energy and Natural Resources may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.".

SENATE RESOLUTION 46—RELATING TO THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following resolution which was considered and agreed to:

S. RES. 46

Resolved, That the following shall constitute the majority party's membership on the standing committees for the One Hundred and Second Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Leahy (Chairman), Mr. Pryor, Mr. Boren, Mr. Heflin, Mr. Harkin, Mr. Conrad, Mr. Fowler, Mr. Daschle, Mr. Baucus, and Mr. Kerrey (NEB).

Committee on Appropriations: Mr. Byrd (Chairman), Mr. Inouye, Mr. Hollings, Mr. Johnston, Mr. Burdick, Mr. Leahy, Mr. Sasser, Mr. DeConcini, Mr. Bumpers, Mr. Lautenberg, Mr. Harkin, Ms. Mikulski, Mr. Reid, Mr. Adams, Mr. Fowler, and Mr. Kerrey (NEB).

Committee on Armed Services: Mr. Nunn (Chairman), Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Gore, Mr. Wirth, Mr. Shelby, and Mr. Byrd.

Committee on Banking, Housing, and Urban Affairs: Mr. Riegle (Chairman), Mr. Cranston, Mr. Sarbanes, Mr. Dodd, Mr. Dixon, Mr. Sasser, Mr. Sanford, Mr. Shelby, Mr. Graham, Mr. Wirth, Mr. Kerry (MA), and Mr. Bryan.

Committee on Commerce, Science, and Transportation: Mr. Hollings (Chairman), Mr. Inouye, Mr. Ford, Mr. Exon, Mr. Gore, Mr. Rockefeller, Mr. Bentsen, Mr. Kerry (MA), Mr. Breaux, Mr. Bryan, and Mr. Robb.

Committee on Energy and Natural Resources: Mr. Johnston (Chairman), Mr. Bumpers, Mr. Ford, Mr. Bradley, Mr. Bingaman, Mr. Wirth, Mr. Conrad, Mr. Akaka, Mr. Fowler, Mr. Shelby, and Mr. Wellstone.

Committee on Environment and Public Works, Mr. Burdick (Chairman), Mr. Moynihan, Mr. Mitchell, Mr. Baucus, Mr. Lautenberg, Mr. Reid, Mr. Graham, Mr. Lieberman, and Mr. Metzenbaum.

Committee on Finance: Mr. Bentsen (Chairman), Mr. Moynihan, Mr. Baucus, Mr. Boren, Mr. Bradley, Mr. Mitchell, Mr. Pryor, Mr. Riegle, Mr. Rockefeller, Mr. Daschle, and Mr. Breaux.

Committee on Foreign Relations: Mr. Pell (Chairman), Mr. Biden, Mr. Sarbanes, Mr. Cranston, Mr. Dodd, Mr. Kerry (MA), Mr. Simon, Mr. Sanford, Mr. Moynihan, and Mr. Robb.

Committee on Governmental Affairs: Mr. Glenn (Chairman), Mr. Nunn, Mr. Levin, Mr. Sasser, Mr. Pryor, Mr. Kohl, Mr. Lieberman, and Mr. Akaka.

Committee on the Judiciary: Mr. Biden (Chairman), Mr. Kennedy, Mr. Metzenbaum, Mr. DeConcini, Mr. Leahy, Mr. Heflin, Mr. Simon, and Mr. Kohl.

Committee on Labor and Human Resources: Mr. Kennedy (Chairman), Mr. Pell, Mr. Metzenbaum, Mr. Dodd, Mr. Simon, Mr. Harkin, Mr. Adams, Ms. Mikulski, Mr. Bingaman, and Mr. Wellstone.

SENATE RESOLUTION 47—RELATING TO THE STANDING RULES OF THE SENATE

Mr. DOLE submitted the following resolution which was considered and agreed to:

S. RES. 47

Resolved, That paragraph 4 of rule XXV is amended by adding at the end of paragraph (h) the following new sections:

"(1) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Judiciary, and the Committee on Armed Services, may, during the One Hundred Second Congress, serve as a member of the Committee on Labor and Human Resources, so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(2) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Finance, and the Committee on Governmental Affairs, may, during the One Hundred Second Congress, serve as a member of the Committee on Banking, Housing and Urban Affairs, so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(3) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Appropriations, and the Committee on Energy and Natural Resources, may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(4) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Appropriations, and the Committee on Banking, Housing and Urban Affairs may, during the One Hundred Second Congress, serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(5) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Banking, Housing and Urban Affairs, and the Committee on Finance may, during the One Hundred Second Congress, serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(6) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Judiciary and the Committee on Labor and Human Resources may, during the One Hundred Second Congress, serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(7) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Environment and Public Works and the Committee on Finance may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(8) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Foreign Relations and the Committee on Labor and Human Resources may, during the One Hundred Second Congress, serve as a member of the Committee on Banking, Housing and Urban Affairs so long as her service as a member of each such committee is continuous, but in no event may she serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(9) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry, and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(10) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Finance and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Agriculture, Nutrition and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(11) A Senator who was sworn in on January 10, 1991, may serve as a member of the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition and Forestry, may, during the One Hundred Second Congress, serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

SENATE RESOLUTION 48—RELATING TO MINORITY PARTY APPOINTMENTS TO SENATE COMMITTEES FOR THE 102D CONGRESS

Mr. DOLE submitted the following resolution which was considered and agreed to:

S. RES. 48

Resolved, That the following shall constitute the minority party's membership on the standing committees for the 102d Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Lugar, Mr. Dole, Mr. Helms, Mr. Cochran, Mr. McConnell, Mr. Craig, Mr. Seymour, and Mr. Grassley.

Committee on Appropriations: Mr. Hatfield, Mr. Stevens, Mr. Garn, Mr. Cochran, Mr. Kasten, Mr. D'Amato, Mr. Rudman, Mr. Specter, Mr. Domenici, Mr. Nickles, Mr. Gramm, Mr. Bond, and Mr. Gorton.

Committee on Armed Services: Mr. Warner, Mr. Thurmond, Mr. Cohen, Mr. McCain, Mr. Wallop, Mr. Lott, Mr. Coats, Mr. Mack, and Mr. Smith.

Committee on Banking, Housing, and Urban Affairs: Mr. Garn, Mr. Heinz, Mr. D'Amato, Mr. Gramm, Mr. Bond, Mr. Mack, Mr. Roth, Mr. Domenici, and Mrs. Kassebaum.

Committee on Commerce, Science, and Transportation: Mr. Danforth, Mr. Packwood, Mr. Pressler, Mr. Stevens, Mr. Kasten, Mr. McCain, Mr. Burns, Mr. Gorton, and Mr. Lott.

Committee on Energy and Natural Resources: Mr. Wallop, Mr. Hatfield, Mr. Domenici, Mr. Murkowski, Mr. Nickles, Mr. Burns, Mr. Craig, Mr. Seymour, and Mr. Garn.

Committee on Environment and Public Works: Mr. Chafee, Mr. Simpson, Mr. Symms, Mr. Durenberger, Mr. Warner, Mr. Jeffords, and Mr. Smith.

Committee on Finance: Mr. Packwood, Mr. Dole, Mr. Roth, Mr. Danforth, Mr. Chafee, Mr. Heinz, Mr. Durenberger, Mr. Symms, and Mr. Grassley.

Committee on Foreign Relations: Mr. Helms, Mr. Lugar, Mrs. Kassebaum, Mr. Pressler, Mr. Murkowski, Mr. McConnell, Mr. Brown, and Mr. Hatch.

Committee on Governmental Affairs: Mr. Roth, Mr. Stevens, Mr. Cohen, Mr. Rudman, Mr. Heinz, and Mr. Seymor.

Committee on the Judiciary: Mr. Thurmond, Mr. Hatch, Mr. Simpson, Mr. Grassley, Mr. Specter, and Mr. Brown.

Committee on Labor and Human Resources: Mr. Hatch, Mrs. Kassebaum, Mr. Jeffords, Mr. Coats, Mr. Thurmond, Mr. Durenberger, and Mr. Cochran.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PRYOR. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on Monday, February 11, 1991, in Little Rock, AR. The hearing will focus on post office modernization and/or relocation and compliance with State Historic Preservation. The subcommittee will hear witnesses from the U.S. Postal Service, State, and local historic preservation officers, mayors.

The hearing is scheduled for 2 p.m. in the house chamber of the Old State House, Little Rock, AR. For further information, please contact Ed Gleiman, subcommittee staff director, at 224–2254.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on February 21, 1991, beginning at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the recent agreement to transfer control of the Yosemite Park and Curry Co. from MCA, Inc. to the National Park Foundation.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, SD-364, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 224-9863.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. LEAHY. Mr. President, I would like to announce that the Subcommittee on Agricultural Credit, of the Committee on Agriculture, Nutrition, and Forestry will hold a field hearing in Bismarck, ND. The hearing will take place on February 12, 1991, at 9 a.m. and will address credit availability and the effect of the 1990 farm bill on farmers' income and access to credit.

For further information, please contact Suzy Dittrich of the committee staff at 224-5207.

ADDITIONAL STATEMENTS

THE WAR PREVENTION AND ARMS TRANSFER CONTROL ACT

• Mr. GORE. Mr. President, last Thursday, I spoke briefly in this Chamber to endorse a bill which had just been introduced by Senator MCCAIN—The War Prevention and Arms Transfer Control Act. I would like to do now what time did not permit then: Discuss my reasons for cosponsoring this legislation.

The War Prevention and Arms Transfer Control Act is a very sweeping measure containing harsh provisions sure to be controversial diplomatically, economically, and perhaps even at the level of constitutionality. This bill would drastically affect the commercial interests of enterprises and of governments continuing to export arms and military technology to certain countries whose enmity toward the United States and whose menace to the peace of international community is well defined.

Normally, Mr. President, I might have hesitated to support a measure as severe as this. But I know that if this war ends without serious attention given to the arms trade, then when this war ends, we will soon be back to business as usual. It would be an outrage to let that happen. Our country cannot be expected repeatedly to raise armies to put down tyrants menacing peace because they have been armed to the teeth by those who put profit above every other consideration in life.

Hopefully, the international community will act in its own best interests. But that hope may be a little more likely to be realized if the U.S. Congress makes it clear that it is otherwise ready to set strict rules—to say: Restrain yourselves or we will cut you out of doing business with the United States, root and branch.

In my opinion, Mr. President, the Congress must act to show the anger of our people, whose sons and daughters are now at risk to Iraq's weapons. It is one thing to sell weapons to those we know can be trusted to buy with restraint and to use power with wisdom and for self-protection. It is another to sell weapons to the rogue states of the world who are steeped in hatred and zealous to harm the United States. The War Prevention and Arms Transfer Control Act says that there must be an end to that, or else.•

SOUTH AFRICA REFORM

• Mr. LUGAR. Mr. President, on February 1, South African State President F.W. De Klerk announced in his address to the Third Session of the Ninth Parliament significant new reforms that will accelerate the process of dismantling the "cornerstones of apartheid" in his country. These proposals should be welcomed by all who believe in racial equality, social justice and human rights. They should be welcomed by South Africans and by citizens all over the world.

Some of us in the Senate had the privilege to meet and talk with President De Klerk during his visit to the United States last summer. He told us that he was committed to abolishing the remaining legal basis of apartheid and that he was intent on healing the social and racial wounds of the past. He reminded us of the enormity of the challenge and the difficulties likely to be encountered as South African society evolved towards a pluralistic racial democracy. He hoped to achieve these objectives with as little violence and bloodshed as possible. His speech on February 1 affirms his commitment and I can only hope that the process of reform will take place and that it will evolve peacefully in the spirit of give and take.

In his February 1 address, President De Klerk proposed the repeal of the Land Acts of 1913 and 1936 which restricted the non-white majority to ownership of no more than 13 percent of the land area in South Africa. He proposed the termination of the Group Areas Act of 1966 and the Black Communities Act of 1984 which strengthened and deepened racial separatism and residential divisiveness in the country. Just as significantly, President De Klerk expressed his intention to abolish the Population Registration Act which classifies all South African people in four racial groupings. Together these proposed reforms, when enacted and implemented, would effectively abolish the last major legal foundations of institutional racism or apartheid in South Africa. Now, the South African leadership task will be to draft a new Constitution which includes political, economic and social guarantees for all people of South Africa.

President De Klerk and his government have shown extraordinary courage, foresight and determination in their decision to transform South African society and bring it back once again into the society of nations. He is keeping his commitment to dismantle apartheid, a commitment begun in earnest last February when he announced the release of African National Congress (ANC) Vice-President Nelson Mandela and other political leaders and the legislation of the ANC and other organized parties opposed to apartheid. As with his proposals of February 1990, these additional reforms constitute a giant step forward in the process of eliminating racial discrimination in South Africa. As President De Klerk said, "There is no room for injustice, tyranny, domination, violence, or for social degradation and economic decline" in South Africa.

No one believes that the reforms in South Africa have been or will be easy or that they are devoid of political dangers and uncertainties. The evolution of South Africa toward a post-apartheid society is clearly fraught with uncertainty. But, it is a brighter future, now full of hope and expectation for all the people of South Africa.

Mr. President, it is my hope that the steps undertaken to dismantle apartheid in South Africa in 1990 and those proposed by President De Klerk last week would be so significant that they would be irreversible. Certainly, we would all hope this to be the case.

I want to take this opportunity to commend President De Klerk and his government for keeping their commitment to end apartheid. At a time when we are absorbed with the war in the Persian Gulf and attentive to uncertain changes in Eastern Europe and the Soviet Union, we should be alert to positive developments elsewhere. South Africa offers the hope that the positive shifts toward market economics and political freedom so evident in 1989 and early 1990 are alive and well in many other parts of the world.•

IN UGANDA, A LIGHT OF LEARNING DIMS

• Mr. SIMON. Mr. President, it is clear that a disproportionately small amount of foreign aid now goes to Africa.

To the credit of Senator PATRICK LEAHY and others, that assistance level has improved, but it is still far below what it ought to be.

I could insert in the RECORD here the statistics on the matter, but they have appeared again and again, and statistics, frankly, do not convince people.

Instead of that, I ask to insert at the end of my comments an article about Makerere University in Uganda that appeared in the New York Times. It was written by Jane Perlez under the gloomy title, "In Uganda, a Light of Learning Dims."

The article is even more grim than the title.

Certainly, this is the kind of an area where we ought to be providing leadership and responding.

The article follows:

[From the New York Times, Jan. 24, 1991]

IN UGANDA, A LIGHT OF LEARNING DIMS

(By Jane Perlez)

KAMPALA, UGANDA, Jan. 19.—Tumusiime Dennis is one of his country's promising engineering students. But things have reached such a low point at Makerere University here, once one of the stellar institutions of higher learning in sub-Saharan Africa, that the talented 23-year-old mathematician cannot afford the space on a page for a margin.

"I have to write from one end of the page to the other because it is wasting paper to have a margin," Mr. Dennis said as he took a break from studying in the campus library where antiquated volumes rot on the shelves and new books have not been acquired in two decades. "Some people are forced to write in small letters."

In one of his course's most critical subjects—structures—the 25 students in third-year civil engineering have no lecturer; many of the other subjects are taught by underqualified tutorial assistants.

With rare exceptions, universities across black Africa fell into rapid decline in the 1980's. Like much else on the continent, the institutions suffered from mismanaged government treasuries, civil wars and corrupt national leadership.

The University of Dar es Salaam in Tanzania, once an exciting center for political science students, was shuttered for months last year and the students sent home because the Government was irritated by wall posters lampooning President Ali Hassan Mwinyi.

At the University of Nairobi in Kenya talented staff members have left in defiance of demands to toe the political line of the single-party state.

But nowhere is the disrepair as forlorn or the morale as shattered as at Makerere, where the contrast between past excellence and current neglect is stark. Founded in 1922 as the first university in East and Central Africa, Makerere was, according to the World Bank, "one of the finest academic institutions in the developing world."

Until the early 1970's when Idi Amin threw the country into violent turmoil, the medical department turned out doctors who practiced around the world. Now, the low standards, owing largely to a persistent brain drain among the teaching staff, preclude a new Makerere medical graduate from a license in many countries. Academics from all departments have fled, even to South Africa, where the money is good.

"There is no motivation for teachers to stay on the campus," said Dr. Sandy Tickodri-Togboa, a senior lecturer in engineering. "If I can't support my own kids in school from my university salary why is it worth my while to stay here?"

After a raise awarded by the Government in 1989, lecturers still receive only about 30,000 Ugandan shillings a month, or about $40. It costs Dr. Tickodri-Togboa about $30 a week to keep his family in food alone.

Dr. Tickodri-Togboa considers himself lucky; he receives a research grant to supplement his slim salary. But most staff members fail to turn up regularly for class because they are busy making ends meet with two or three other jobs, often of a kind demeaning to academics. A staff survey showed petty trading—raising chickens and selling the eggs, for example—to be the most common outside occupation.

For Mr. Dennis and many of the 5,000 other undergraduates, the economics of attending university seem even more perilous than for the staff, although the Government provides free tuition, free accommodation and meals on campus. Like Mr. Dennis, most of the students come from impoverished rural families who cannot afford the relatively small costs the debt-laden Government is now insisting students pay.

In September, the university canceled Government-financed allowances for stationary, texts and transport to rural homes. In response, the students went on strike, an action that ended in the fatal shooting by the police of two students taking part in a campus rally last month.

"Most of us can only get 10,000 shillings"—about $15—"from our family," Mr. Dennis said of the allowance he scraped together to finance his first term costs. "My mother sold some millet and ground nuts to pay for me, but you need 50,000 shillings to be self sufficient for the term."

Mr. Dennis spent one-third of his 10,000 shillings on his precious ream of paper that is his basic necessity for class, one-third on soap, toothpaste, salt and sugar, and one-third on transportation to the campus.

Makerere undergraduates complain bitterly about the food. "It's rice, beans, posho," said Mr. Dennis, the last being a thin porridge. "Having it every day is not conducive to study. You just eat it and pray you don't get sick."

Mr. Dennis' dormitory has no running water. Students rise at 5 A.M. to take jerrycans to an outdoor tap—sometimes the nearest working one is off campus—and then lug the water back. Rooms built for two usually hold four.

Recently there was a new threat. The university administrators, due to reopen the campus on Feb. 2 after first-term vacation, met to discuss how they were going to manage with a 30 percent budget cut ordered for all Government institutions because of increased oil costs. "They're thinking of not opening until June because of a shortage of funds," Dr. Tickodri-Togboa said.

Teachers and students predict a storm of protest if that happens, not least because Makerere, as broken down as it is, still manages to struggle on. It carries a symbolic value, many students say, of past glory and the glimmer, however meager, of a future.•

TRIBUTE TO FORMER CHIEF JUSTICE FREDRICK MOORE VINSON

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to a great Kentuckian. Fred M. Vinson was born in 1890 on the banks of the Big Sandy River in the little town of Louisa in eastern Kentucky. His father was the town jailer, and the family living quarters were in the same building that housed the jail. The boy was thus born almost, if not actually, in the jail—a circumstance to which in later life he sometimes humorously referred. The Vinson family knew poverty. The boy, Fred, knew also the stimulus, and opportunities of American life. As a youth, he was a prodigious reader and read all that the Louisa library offered. In the public schools of Louisa and Catlettsburg he excelled in both scholarship and sports.

The family was determined that he should go to college, and he went first to Kentucky Normal College and then, in 1908, on to the study of law at Centre College in Danville, KY. There his academic and athletic feats are legendary. A leader among his fellow students, he graduated as the top ranking student in his class in 1909, won prizes in the law school in 1910 and 1911, and emerged from the law school in 1911 with the unique distinction of possessing the highest academic record in the history of the law school. At the same time he ranked as one of the outstanding college athletes of his day as shortstop and captain of the Centre baseball team for 2 years.

He entered the practice of law in Louisa in 1911, and soon became city attorney. His varied practice in Louisa was interrupted during the First World War with a brief stint of military service ending in Officer's Candidates School.

As a lawyer and a Kentuckian he was naturally interested in politics. He was, moreover, singularly endowed for public service. His ability, integrity, fair mindedness and gentle spirit won an ever-widening circle of friends and admirers. In 1921 he was elected commonwealth attorney for his district. In 1923, at the age of 33, he ran for Congress in the old Ninth District of Kentucky and was elected.

For 14 years Fred M. Vinson served his country in the Congress of the United States. In 1931, in recognition of his demonstrated ability, he was assigned to the critically important Ways and Means Committee of the House of Representatives where he quickly became a key figure. In 1936, despite his lesser seniority, he was named as chairman of the Special Sun-Committee on Revenue Legislation of the House Ways and Means Committee. In all, seven Revenue Acts were passed while Fred Vinson was a member of the committee. Many of the major features of our modern revenue system stem from his work. When the revenue bill of 1938, a wholesale revision of the revenue statute and predecessor of the Internal Revenue Code, was before the House, it was then known that he was leaving Congress for the bench of the Court of Appeals for the District of Columbia. The bill passed almost without debate as a tribute to its guiding spirit and the time was given over instead to heartfelt tributes from both sides of

the aisle to this man from Kentucky who had served his country so well.

But he was more than the congressional tax expert, though there are easier subjects. His mastery of intricate revenue legislation, his ability to translate the complex into the understandable, and his talent for conciliation of divergent viewpoints combined to make him a key congressional leader on such important measures as the Vinson-Guffey Coal Acts, the Social Security Act of 1935, the Fair Labor Standards Act, the National Labor Relations Act, and the reciprocal trade legislation. He was in fact one of the architects of the basic social and economic reform legislation of the thirties. He believed in all rights guaranteed by the Constitution. He believed in the importance of all the folks and in the obligation of Government to preserve for all the opportunity to live fruitful, useful and happy lives. To this end as a legislative leader, he devoted his legislative talents and in so doing won deep respect and the abiding friendship of adherents and opponents alike.

In 1937, President Franklin D. Roosevelt appointed Fred Vinson to a position on the bench of the Court of Appeals for the District of Columbia. Resigning from Congress after the passage of the Revenue Act of 1938, he took the oath of office as an associate justice of that court on May 12, 1938. To the bench he brought experience as a lawyer in private practice, extraordinary legislative experience, and most important of all, real understanding and wisdom.

With the advent of World War II and the institution by Congress of a system of price and rent controls, Chief Justice Stone of the Supreme Court was charged with the responsibility of designating a Federal judge to serve as the chief judge of the newly established Emergency Court of Appeals to review administrative rulings of the Office of Price Administration. In 1942, Fred M. Vinson was selected by Chief Justice Stone for this responsibility.

A year later he was asked by President Roosevelt to become the Director of Economic Stabilization, to serve in effect as the President's deputy to stabilize the civilian economy in support of the war effort. With his characteristic willingess to do the job that needed doing, he left the security of the Federal judiciary to become, in the executive department, one of our great wartime civilian leaders. No assignment was too demanding, no task was too hard for "Available Vinson" as he became affectionately known by the press. As Director of Economic Stabilization his was the duty, for 21 months, to fight the fires of inflation and thus help to sustain both the fighting front and home front. Resisting pressures for special dispensation with firmness, he held the line in the national interest. Appointed by President Franklin D. Roosevelt to serve as Federal Loan Administrator in March 1945, he held the post for 1 month. He was then named by the President as Director of War Mobilization and Reconversion, an office charged not only with continued mobilization of resources for the war but also with formulating the basic plans for converting our economy from war to peace.

In July 1945, President Truman appointed Vinson as Secretary of the Treasury. The nomination received the enthusiastic approval of the Senate and for 11 months he served his country in that post.

On June 6, 1946 his service as Secretary of the Treasury was cut short, when President Truman appointed him as Chief Justice of the United States. The Senate unanimously confirmed the nomination and on June 24, 1946, he took the oath of office. For 7 years until his death on September 8, 1953, Fred M. Vinson served as the 13th Chief Justice of the United States. That is not a long time as terms of the Chief Justice have run. But the years of service as Chief Justice presented issues to the Court of transcendent importance to the Nation.

This then is the record of some of the public service in a career of rare distinction. Congressman, judge, war-time administrator, Cabinet officer, Chief Justice of the United States, Fred Vinson graced every role. On the death of this statesman and jurist in 1953, President Dwight D. Eisenhower proclaimed a period on national mourning and in tribute said of Fredrick Moore Vinson:

A man of exemplary character, he possessed great human understanding, appreciation of our national heritage and a keen mind. He has filled positions of great responsibility in all three branches of government—legislative, administrative, and judicial. In all of them he served with efficiency, dignity, and integrity. He was an outstanding citizen whose death was a loss to America.●

DISPATCHES FROM A DYING GENERATION

● Mr. SIMON. Mr. President, one of the finest and most meaningful pieces of journalism I have read in recent months was the article by Nathan McCall, a reporter from the Washington Post, that appeared in its Sunday, January 13, 1991, Outlook section.

Nathan McCall is an African-American who tells about growing up in a middle-income black neighborhood, but even then, sharing the tragedy and lack of hope that is too much a part of the scene for minorities in this country.

I would like to read just a few sentences from his article:

Yet somewhere between adolescence and adulthood, something inside us changed. Our optimism faded. Our hearts hardened, and many of us went on to share the same fates as the so-called disadvantaged.

He adds:

Looking back, the reality may well have been that possibilities for us were abundant. But in Cavalier Manor, we perceived our choices as being severely limited.

Later in the same story he writes:

Our defiance may have stemmed partly from youthful rebellion, but it came mostly from rage at a world we sensed did not welcome us.

Then, talking about crime that is all too rampant in monority areas particularly he writes:

When your life in your own mind has no value, it becomes frighteningly easy to try to take another's life.

Obviously, as a society we have to instill hope in all of our people. We have not done that and, particularly, in the last 10 years there has been a slippage in our efforts to provide hope.

There are no simple answers, but two of the essentials are to provide everyone with a chance for quality education and to provide everyone a chance for a job. Things as basic as that are not being provided for all young people and all of our citizens today.

When we perceive a threat in the Middle East, we can in a matter of months galvanize our resources and get over 400,000 troops in that area of the world. No one questions the cost.

Meaning no disrespect to the problems we face in the Middle East, let me say to my colleagues that the threat we face at home has much more to do with the future security of our Nation than anything that has happened in recent months in the Middle East. And yet we find ourselves unwilling and unable to galvanize the resources to do the most obvious, the most minimal kind of effort.

I ask to insert into the RECORD the complete article by Nathan McCall titled, "Dispatches from a Dying Generation."

That very title ought to cause us serious concern. I urge my colleagues in the House and the Senate and their staffs who have not read this article to do so.

The article follows:

DISPATCHES FROM A DYING GENERATION

(By Nathan McCall)

"Make me wanna holler, and throw up both my hands, It make me wanna holler, and throw up both my hands."—

Two Christmases ago, I went home to Portsmouth, Va., and some of the boys from my old days on the block—Tony, Nutbrain and Roger—dropped by to check me out. We caught up on the years, and their stories revealed that not much with the old gang had changed: One had just gotten out of jail, he said, "for doing a rain dance" on his estranged girlfriend. Another had lost his house and family to a cocaine habit. A third friend, they said, had recently gotten his front teeth bashed out with a brick in a soured drug deal.

We learned that another old friend was back in town and decided to pay him a sur-

prise visit. We crammed into my car, stopped at a store and bought a bottle of cheap wine—Wild Irish Rose, I think—just like the old days. I slid Marvin Gaye's classic "What's Going On?" into the cassette player and, while cruising along, it struck me: It really *was* like old times—them passing the wine bottle from hand-to-hand; Roger and Nutbrain arguing and elbowing each other in the back seat; and everybody playing the dozens—trading insults left and right.

When our friend answered the door, he seemed surprised but not glad to see us. Within minutes, we knew the reason for his nervousness. There was a knock, followed by whispers and the stealthy entry of a scraggly-bearded man and a disheveled woman. Clearly, the three of them were about to do some drugs, *just like old times*.

What was different was that we left. And though I made a point of not being judgmental, I wondered, like Marvin Gaye had nearly two decades earlier, what *is* going on?

Lately, with the mounting toll of homicides, drug abuse and prison stints threatening to decimate a generation of young black men, I'm still wondering—not as an outsider but as one who came perilously close to becoming a fatal statistic myself.

These days, my visits home have become occasions for mourning, soul-searching and anger. On one recent visit, I saw a story, splashed across the top of the newspaper about the police busting up a $20-million narcotics ring. Listed in the article were several people I've known most of my life.

I sighed. It wasn't the first time that day I'd been hit with negative news about the neighborhood. And it wasn't the last. Before that day ended, family members and people I met on the streets told tale after tale of homeboys, young black men like me, living lives mired in lunacy.

Every day in D.C., I read dismal accounts of blacks murdered over trivia—drugs, a coat, a pair of sneakers, pocket change. The people in those stories are faceless to me. I peruse the accounts with detached sadness, then turn the page.

But in my hometown, 200 miles south, the names conjure images of real people who lived down the street, around the corner, on the next block.

Trips to my old neighborhood, a large black community called Cavalier Manor, bring a distressingly close-up view of black America's running tragedy. When I'm there, it dawns on me over and over again that this "endangered species" thing is no empty phrase.

Consider this: Most of the guys I hung out with are either in prison, dead, drug zombies or nickel-and-dime street hustlers. Some are racing full-throttle toward self-destruction. Others already have plunged into the abyss: Kenny Banks got 19 years for dealing drugs. Baby Joe just finished a 15-year bit for a murder beef. Charlie Gregg was in drug rehab. Bubba Majette was murdered. Teddy sleeps in the streets. Sherman is strung out on drink and drugs. Since I began writing this story several weeks ago, two former peers have died from drugs and alcohol.

Many of my former running pals are insane—literally; I'm talking overcoats in August and voices in their heads. Of the 10 families on my street that had young males in their households, four—including my own—have had one or more siblings serve time. One of my best buddies, Shane, was recently sent to prison. He shot a man several times, execution-style. He got life.

Often when I go home, as I did this past Christmas season, I prepare with a pep talk to myself and a pledge to focus on the positive—time spent with family and old friends who are doing well, and opportunities to lend a compassionate ear to those not so well off.

I know I will see former buddies. Some are old hoods, hanging on the same corners where I left them 15 years ago. I see in them how far I've come. I'm not sure what they see in me. In exchanges that are sometimes awkward, they recount their hard knocks. I say little about my establishment job or the new life I've found.

What should I say? Get a job? Go to college? Adopt my middle-class success strategies?

The fact is, I know what they've been through. And I understand what they face. I took the plunge myself, several times.

From a shoplifting charge, to stealing an ice-cream truck, to possession of a sawed-off shotgun and, ultimately, to armed robbery, I've had my share of clashes with the law.

Before I was 20, I'd seen people shot and was shot at myself. When I was 19, in a running rivalry with some other thugs, I shot a man in the chest at point-blank range. He survived, and the following year he shot and killed a man and went to prison.

When I read about the shootings in D.C. and at home, I often flash back to scenes in which I played a part. It's hard for me now to believe I was once very much a part of that world. Yet it's all too easy to understand how it came to be.

Many people are puzzled about the culture of violence pervading black communities; it's so foreign to them. Some wonder if there is something innately wrong with black males. And when all else fails, they reach for the easy responses: "Broken homes?" "Misplaced values?" "Impoverished backgrounds?"

I can answer with certainty only about myself. My background and those of my running partners don't fit all the convenient theories, and the problems among us are more complex than something we can throw jobs, social programs or more policemen at.

Portsmouth, a Navy town of nearly 103,000, is not the blighted big city that D.C. is. And Cavalier Manor is no ghetto or lair of single-parent homes. In fact, my old neighborhood is middle class by black standards and has long symbolized the quest for black upward mobility in Portsmouth. There are sprawling homes, manicured lawns and two-car garages. A scenic lake winds through part of the neighborhood. The homeowners are hard-working people who embrace the American dream and pursue it passionately.

Shane and I and the others in our loosely-knit gang started out like most other kids. Ebullient and naive, we played sandlot football, mowed neighbors' lawns for spending change and went to the movies. We devoured comic books, exchanged baseball cards and attended church.

Yet somewhere between adolescence and adulthood, something inside us changed. Our optimism faded. Our hearts hardened, and many of us went on to share the same fates as the so-called disadvantaged.

I'm not exactly sure why, but I've got a good idea.

A psychologist friend once explained that our fates are linked partly to how we perceive our choices in life. Looking back, the reality may well have been that possibilities for us were abundant. But in Cavalier Manor, we perceived our choices as being severely limited.

Nobody flatly said that. But in various ways, inside our community and out, it was communicated early and often that as black men in a hostile world our options would be few.

The perception was powerfully reinforced by what we saw in our families, where we had inherited a legacy of limited choices. My grandmother's parents were unschooled, and she spent her life as an uneducated domestic, working for white families. My stepfather left school after the 10th grade, and my mother, who dropped out after 11 years, did only slightly better. They all managed to exceed the accomplishments of their forebears, but they lagged behind their white contemporaries.

What is not so easy for outsiders to grasp is why we did not follow our parents' lead and try to seize what we could with what we had. For us, somehow, growing up in the '70s, it was different. Our parents tried to insulate us from the full brunt of racism, but they could not counteract the flood of racial messages, subtle and blatant, filtering into our psyches—messages that artists like Richard Wright, James Baldwin and Ralph Ellison have documented, ones you never get accustomed to; the look in white storekeepers' eyes when you enter; the "click" of door locks when you walk past whites sitting in their cars.

Our parents, we believed, had learned to swallow pride for survival's sake. But my more militant generation seemed less inclined to make that compromise. In a curious way, we saw anything that brought us into the mainstream as a copout. We came to regard the establishment as the ubiquitous, all powerful "white man" who controlled our parents' lives and, we believed, determined our fates as well.

I think once we resigned ourselves to that notion, we became a lost and angry lot.

It is difficult to write this without sounding apologetic. But I know many of us could not bear to think about a future in which we were wholly subject to the whims of whites. We could not see a way out of that. Moreover, like many African Americans, then and now, we couldn't make the connections that seem so basic in the world where I now live and work.

For instance, the concept of education as a passport to a better life was vague to us. We saw no relation between school and our reality. That's why it was so easy for my buddies to drop out in our sophomore year. One day, as a group of us were walking to class, someone casually suggested we quit. I did not. (After all, I reasoned, you could find girls in school.) But one by one, the others tossed their books into the trash, just like that.

Still, there were plenty of role models in the neighborhood who were not our parents—teachers, postal workers and a smattering of professionals. But even those we respected seemed unable to articulate, or expose us to, choices they had not experienced themselves.

Besides, they were unappealing to us as heroes. They couldn't stand up to the white man. They didn't fulfill our notions about manhood.

Instead, we revered the guys on the streets, the thugs who were brazen and belligerent. They wore their hats backwards, left their belt buckles unfastened and shoelaces untied. They shunned the white establishment and worshipped violence.

In our eyes, they were real men. We studied their bouncy walk, known as the Pimp, and the slick, lyrical way they talked. Manhood became a measure of who could fight fiercest, shoot hoops best or get the most girls into bed. Our self-perceptions were re-

flected in the nicknames some of us took on: Dirty Stink, Whiskey Bottle, Bimbo, White Mouse, Turkey, Buzzard, Rat Man, Scobie-D, Gruesome, Frank Nitty, Sweet Wolf, Black Sam, Sack Eye.

Our defiance may have stemmed partly from youthful rebellion, but it came mostly from rage at a world we sensed did not welcome us. And we knew there were countless others out there just like us, armed and on edge, and often all it took was an accidental brush against a coat sleeve or a misunderstood look to trigger a brawl or a shooting.

When your life in your own mind has no value, it becomes frighteningly easy to try to take another's life.

When I think about how to explain the carnage among young blacks in our cities—and how to stop it—I think about my hometown. In Portsmouth, black males are assumed to have three post-high school options; the naval shipyard, the military or college. All of us knew that working in the system carried a price; humiliation on some level. Among us was the lingering fear that the racially integrated work world, with its relentless psychological assaults, was in some ways more perilous than life in the rough-and-tumble streets.

At least in the streets, the playing field is level and the rules don't change.

Even among those of us who opted for college, there was the feeling that it was a place to stall. "We don't know what to do or what we could do," Calvin Roberts, an old school friend told me recently. "We were in uncharted waters. Nobody we knew had been there, and we didn't know what to expect."

Perhaps for the first time in this nation's history, blacks began searching on a large scale for alternatives, and one action of course, was the drug trade, the urban answer to capitalism. "The drug trade is one of the few places where young, uneducated blacks can say, 'I am the boss. This is my corporation.'" says Portsmouth Commonwealth Attorney Johnny Morrison, who has prosecuted some of his former friends for peddling drugs.

Contrary to some assumptions, there is no lack of work ethic in the drug trade. My best friend in school parlayed $20 into a successful drug operation. By the time we were both 18, he had employed a few people, bought a gold tooth and paid cash for a Buick Electra 225 (a deuce-and-a-quarter in street parlance). College students couldn't do that.

My friend didn't get caught, but others who were selling drugs, burglarizing and robbing did. I was one of them.

Often, during my teenage years, I felt like Bigger Thomas, the protagonist in Richard Wright's "Native Son"—propelled down a destructive road over which I had no control.

Seven months after being placed on probation for shooting a man, my journey ended: Nutbrain, Charlie Gregg, and myself were caught after holding up a McDonald's. I was the gunman in the late night robbery, and I came so frighteningly close to pulling the trigger when the store manager tried to flee that my fingers moistened.

We actually got away with the money—about $2,000, I think—and were driving down the highway when several police cruisers surrounded us. After being searched, handcuffed and shoved into the back seat of the police car, I remember staring out the window and thinking that my life, at age 20, was over. How, I wondered, had it come to this? I had the strange, sudden wish that I could go back in time, perhaps to the year of my third-grade spelling bee, when I felt so full of hope.

In a weird way, I also felt relieved, as if I had been saved from something potentially worse. I truly had expected a more tragic fate: to go down in a shootout with police like Prairie Dog, a cross-town hood; to be caught by surprise one day, like Charles Lee, a neighborhood kid who was shot to death while burglarizing a home. When I read stories today in which shooting is involved, I think back to the moment when two lives could have been destroyed if I had put the slightest pressure on a trigger.

I realize that skeptics will say that nothing so concentrates the mind as getting caught. But in fact, that is exactly what happened. I realized that something in my life had gone terribly wrong. Prison was my wake-up call.

For nearly three years, I was forced to nurture my spirit and ponder all that had gone on before. A job in the prison library exposed me to a world of black literature that helped me understand who I was and why prison had become—literally—a rite of passage for so many of us. I sobbed when I read "Native Son" because it captured all of those conflicting feelings—Bigger's restless anger, hopelessness, his tough facade among blacks and his morbid fear of whites—that I had often sensed in myself but was unable to express.

Malcolm X's autobiography helped me understand the devastating effects of self-hatred and introduced me to a universal principle: that if you change your self-perception, you can change your behavior. I concluded that if Malcolm X, who also went to prison, could pull his life out of the toilet, then maybe, I could too.

My new life is still a struggle, harsher in some ways than the one I left. At times I feel suspended in a kind of netherworld, belonging fully to neither the streets nor the establishment.

I have come to believe two things that might seem contradictory; that some of our worst childhood fears were true—the establishment is teeming with racism. Yet I also believe whites are as befuddled about race as we are, and they're as scared of us as we are of them. Many of them are seeking solutions, just like us.

I am torn by a different kind of anger now: I resent suggestions that blacks enjoy being "righteous victims." And when people ask, "What is wrong with black men?" It makes me want to lash out. When I hear that question, I am reminded of something once said by Malcolm X: "I have no mercy or compassion in me for a society that will crush people and then penalize them for not being able to stand up under the weight."

Sometimes I wonder who I endured when so many others were crushed. I was not special. And when I hear the numbing statistics about black men, I often think of guys I grew up with who were smarter and more talented than me, but who will never realize their potential. Nutbrain, a mastermind in the ways of the streets, had the kind of raw intellect that probably could not be gauged in achievement tests. Shane, who often breezed effortlessly through tests in school, could have done anything he wanted with his life had he known what to do.

Now he has no choices.

When Shane was caught in a police manhunt a couple of years ago, I considered volunteering as a character witness, but dismissed the notion because I knew there was no way to tell a jury what I was unable to articulate to a judge at my own trial: How could I explain our anger and alienation from the rest of the world? Where was our common language?

Most people, I'm sure, would regard Shane's fate with the same detachment I feel when reading crime reports about people I don't know. But I hurt for Shane, who will likely spend the rest of his days behind bars and who must live with the agony of having taken a life. I hurt more for Shane's mother, who has now seen two of her four sons go to prison. A divorcee, she now delivers newspapers in Cavalier Manor.

I saw her recently after she tossed a paper onto my parents' doorstep. Her hair had grayed considerably. We hugged and chatted. She seemed proud that I had turned my life around, but I felt guilty and wondered again why I got a second chance and her sons did not.

After an awkward silence, I got Shane's prison address and said goodbye. I wrote to him but got no reply.

For those who'd like answers, I have no pithy social formulas to end black-on-black violence. But I do know that I see a younger, meaner generation out there now—more lost and alienated than we were—and placing even less value on life. We were at least touched by role models; this new bunch is totally estranged from the black mainstream. Crack has taken the drug game to a more lethal level and given young blacks far more economic incentive to opt for the streets.

I've come to fear that of the many things a black man can die from, the first may be rage—his own or someone else's.

For that reason, I seldom stick around when I stop on the block. One day not long ago, I spotted a few familiar faces hanging out at the old haunt, the local convenience store. I wheeled into the parking lot, strode over and high-fived the guys I knew. Within moments, I sensed that I was in danger.

I felt the hostile stares from those I didn't know. I was frightened by these younger guys, who now controlled my former turf. I eased back to my car and left, because I knew this: that if they saw the world as I once did, they believed they had nothing to lose, including life itself.

It made me wanna holler, and throw up both my hands.●

S. 305, THE MONEY LAUNDERING ENFORCEMENT AMENDMENTS ACT OF 1991

● Mr. KERRY. Mr. President, on Wednesday, January 30, 1991, along with my colleagues Senators D'AMATO, RIEGLE, GARN, METZENBAUM, GRAHAM, BRYAN, and DIXON, I introduced S. 305, the Money Laundering Enforcement Amendments Act of 1991.

Due to a clerical error, the text of the bill was inadvertently omitted from the RECORD. I now ask unanimous consent that the complete text of the bill be printed in today's RECORD.

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

S. 305

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Money Laundering Enforcement Amendments of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—TERMINATION OF CHARTERS AND INSURANCE
Sec. 101. Revocation of charter of Federal depository institutions convicted of money laundering or cash transaction reporting offenses.
Sec. 102. Termination of insurance of State depository institutions convicted of money laundering or cash transaction reporting offenses.
Sec. 103. Removal of parties involved in currency reporting violations.
Sec. 104. Unauthorized participation.
Sec. 105. Access by State financial institution supervisors to currency transactions reports.
TITLE II—MONEY LAUNDERING ENFORCEMENT
Sec. 201. Identification of financial institutions.
Sec. 202. Prohibition of illegal money transmitting businesses.
Sec. 203. Compliance procedures.
Sec. 204. Nondisclosure of orders.
Sec. 205. Provisions relating to record-keeping with respect to certain international funds transfers.
Sec. 206. Use of certain records.
Sec. 207. Report on currency changes.
Sec. 208. Report on bank prosecutions.
Sec. 209. Money laundering training team.

TITLE I—TERMINATION OF CHARTERS AND INSURANCE

SEC. 101. REVOCATION OF CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

"(c) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A)(i) If a national bank has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After receiving written notification from the Attorney General of such a conviction, the Comptroller of the Currency shall issue to such national bank a notice of his or her intention to terminate all rights, privileges, and franchises of such bank and schedule a pretermination hearing.

"(B) If a national bank is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Comptroller of the Currency may issue to such national bank a notice of his or her intention to terminate all rights, privileges, and franchises of such bank and schedule a pretermination hearing.

"(C) Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the bank has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be significant losses to the Federal deposit insurance funds or the Resolution Trust Corporation; and

"(E) whether the bank maintained at the time of the conviction, according to the review of the Comptroller of the Currency, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a bank that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a national bank, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of such bank or its holding company. If the institution is a Federal branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Comptroller shall by regulation specify which officials of a national bank shall be treated as senior management officials for the purpose of this subsection.".

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) FORFEITURE OF CHARTER FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A)(i) If a Federal savings association has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After receiving written notification from the Attorney General of such a conviction, the Director shall issue to such savings association a notice of his or her intention to terminate all rights, privileges, and franchises of such savings association and schedule a pretermination hearing.

"(B) If a Federal savings association is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director may issue to such savings association a notice of his or her intention to terminate all rights, privileges, and franchises of such savings association and schedule a pretermination hearing.

"(C) Subsection (d)(7) shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Director shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the association has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be significant losses to the Federal deposit insurance funds or the Resolution Trust Corporation; and

"(E) whether the association maintained at the time of the conviction, according to the review of the Director, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a savings association, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of such savings association or its holding company. If the savings association is a United States branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Director shall by regulation specify which officials of a savings association shall be treated as senior management officials for the purpose of this subsection.".

(c) FEDERAL CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 130. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—(1)(A) If a credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(B) After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of such credit union and schedule a pretermination hearing.

"(2) If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of such credit union and schedule a pretermination hearing.

"(3) Section 206(j) shall apply to any proceeding under this section.

"(b) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under subsection (a), the Board shall consider—

"(1) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(2) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(3) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(4) whether there will be significant losses to the credit union share insurance fund; and

"(5) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(c) SUCCESSOR LIABILITY.—This section does not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section.

"(d) DEFINITION.—For purposes of this section, the term 'senior management officials' means those individuals who exercise major supervisory control within a credit union, including members of the board of directors. The Board shall by regulation specify which officials of a credit union shall be treated as senior management officials for the purpose of this section.".

SEC. 102. TERMINATION OF INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) STATE BANKS AND SAVINGS ASSOCIATIONS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A)(i) If an insured State depository institution, including a State branch of a foreign institution, has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to such insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a) of this section.

"(B) If an insured State depository institution, including a State branch of a foreign institution, is convicted of any offense punishable under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of such insured depository institution in the manner described in subparagraph (A).

"(C) The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the institution has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be significant losses to the Federal deposit insurance funds or the Resolution Trust Corporation; and

"(E) whether the institution maintained at the time of the conviction, according to the review of the Corporation, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) and the Director of the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with section 8(a)(7).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured depository institution, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of such institution or its holding company. If the institution is a State branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Board of Directors shall by regulation specify which officials of an insured State depository institution shall be treated as senior management officials for the purpose of this subsection.".

(2) TECHNICAL AMENDMENT.—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection or subsection (v)" after "subparagraph (B)".

(b) STATE CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(t) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—(A)(i) If an insured State credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) After written notification from the Attorney General to the Board of Directors of such a conviction, the Board shall issue to such insured credit union a notice of its intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

"(B) If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

"(C) The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be significant losses to the credit union share insurance fund; and

"(E) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeds federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE CREDIT UNION SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the

order of the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured credit union, including members of the board of directors. The Board shall by regulation specify which officials of an insured State credit union shall be treated as senior management officials for the purpose of this subsection.".

SEC. 103. REMOVAL OF PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the appropriate Federal banking agency determines that—

"(A) an institution affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured depository institution knew that an institution affiliated party of the insured depository institution violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(C) an officer or director of an insured depository institution committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of its intention to remove him from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution.

"(B) A copy of such notice shall also be served upon the depository institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(D) A copy of such order shall also be served upon such depository institution, whereupon such party (if a director or an officer) shall cease to be a director or officer of such depository institution. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency.".

(b) CREDIT UNIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the Board determines that—

"(A) an institution affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured credit union knew that an institution affiliated party of the insured credit union violated any such provision or any provision of law referred to in subsection (1)(1)(A)(ii); or

"(C) an officer or director of an insured credit union committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of its intention to remove him from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) FELONY CHARGES.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union.

"(B) A copy of such notice shall also be served upon the credit union. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(D) A copy of such order shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.".

SEC. 104. UNAUTHORIZED PARTICIPATION.

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended by inserting "or money laundering" after "breach of trust".

SEC. 105. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.".

TITLE II—MONEY LAUNDERING ENFORCEMENT

SEC. 201. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) Title 31, United States Code, is amended by inserting after section 5326 the following:

"§ 5327. Identification of financial institutions

"By January 1, 1992, the Secretary shall prescribe regulations providing that each depository institution identify its customers which are financial institutions as defined in section 5312(a)(2) (H) through (Y) and the regulations thereunder and which hold accounts with the depository institution. Each depository institution shall report the names of and other information about these financial institution customers to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation. No person shall cause or attempt to cause a depository institution not to file a report required by this section or to file a report containing a material omission or misstatement of fact. The Secretary shall provide these reports to appropriate state financial institution supervisory agencies for supervisory purposes.".

(b) Section 5321 of title 31, United States Code, is amended by adding a new subparagraph (a)(7) as follows:

"(7)(A) The Secretary may impose a civil penalty on any person or depository institution, within the meaning of section 5327, that willfully violates any provision of section 5327 or a regulation prescribed thereunder.

"(B) The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 per day for each day a report is not filed or a report containing a material omission or misstatement of fact remains on file with the Secretary.".

SEC. 202. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) IN GENERAL.—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

"§ 1960. Prohibition of illegal money transmitting businesses

"(a) Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is in illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

"(b) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person in respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.

"(c) As used in this section—

"(1) the term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

"(A) without the appropriate money transmitting State license; and

"(B) where such operation is punishable as a misdemeanor or a felony under State law;

"(2) the term 'money transmitting' includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 95 of title 18, United States Code, is amended by adding at the end the following item:

"1960. Prohibition of illegal money transmitting businesses.".

SEC. 203. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting before the semicolon "or to guard against money laundering".

SEC. 204. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) NONDISCLOSURE OF ORDERS.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of or terms of the order to any person except as prescribed by the Secretary.".

SEC. 205. PROVISIONS RELATING TO RECORD-KEEPING WITH RESPECT TO CERTAIN INTERNATIONAL FUNDS TRANSFERS.

Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b)(1) Where"; and

(2) by adding at the end the following new paragraph:

"(2) FUNDS TRANSFERS.—

"(A) IN GENERAL.—Before October 1, 1991, the Secretary, after consultation with the Board of Governors of the Federal Reserve System and State Banking Departments, shall prescribe such final regulations as may be appropriate to ensure that insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, traveler's checks or other similar instruments maintain such records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, traveler's checks or similar instruments as will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) FACTORS FOR CONSIDERATION.—In prescribing the regulations required under subparagraph (A), the Secretary shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) AVAILABILITY OF RECORDS.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary upon request.".

SEC. 206. USE OF CERTAIN RECORDS.

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "and only for criminal investigative or prosecutive purposes relating to money laundering by the Department of the Treasury" after "the Department of Justice".

SEC. 207. REPORT ON CURRENCY CHANGES.

The Secretary of the Treasury, in consultation with the Attorney General and the Administrator of Drug Enforcement, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the date of enactment of this Act, on the advantages for money laundering enforcement, and any disadvantages, of—

(1) changing the size, denominations, or color of United States currency; or

(2) providing that the color of United States currency in circulation in countries outside the United States will be of a different color than currency circulating in the United States.

SEC. 208. REPORT ON BANK PROSECUTIONS.

(a) IN GENERAL.—The Attorney General, after obtaining the views of all interested persons and agencies through public notice and comment procedures, shall determine to what extent compliance with the Money Laundering Control Act (18 U.S.C. 1956 and 1957), the Bank Secrecy Act (31 U.S.C. 5322), criminal referral reporting obligations, and cooperation with law enforcement authorities generally would be enhanced by the issuance of guidelines for the prosecution of financial institutions for violations of such Acts.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall transmit to the Congress a report on such determination.

SEC. 209. MONEY LAUNDERING TRAINING TEAM.

(a) IN GENERAL.—The Secretary of the Treasury shall establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.

(b) AUTHORIZATION.—There are authorized to be appropriated not more than $1,000,000 to carry out this section.●

HUBERT H. HUMPHREY

• Mr. SIMON. Mr. President, one of the finest public servants I've ever had the privilege to work with was Hubert H. Humphrey.

I am sure that history is going to record that the American people made a great mistake in not electing Hubert Humphrey in 1968. He came so very, very close to winning.

If he had won, we would have been out of the Vietnam war much earlier and would have moved much more vigorously on our social problems. But that is history.

The other day, I had the chance to read a column in Chicago magazine, written by its editor, Hillel Levin.

I am asking that the first part of his column be inserted in the RECORD. It shows a little of the inspiration Hubert Humphrey could be to people. At this point, I ask to insert the article into the RECORD.

The article follows:

OF THE PEOPLE—HERE'S TO THOSE WHO SEE POLITICS AS THEIR VOCATION—AND THEIR REMARKABLE SKILL IN DEALING WITH THE REST OF US

(By Hillel Levin)

Fortunately, we can look back on our obstinate youth and be grateful for the many things our elders made us do. One such instance for me was when I was summoned by a college professor to an urban affairs seminar conducted by Hubert H. Humphrey. I was less than thrilled by the prospect. Only a few years before, Humphrey had lost the Presidency to Richard Nixon—considering the victor, as noble a defeat as any in the annals of American politics. But he seemed forever tainted to the people who should have been most impressed by his progressive credentials, running as he did with the blessing of the reviled incumbent, Lyndon Baines Johnson. That taint had yet to wear off by the time I was ordered to be in attendance.

Almost worse, it was requested as well that I put on a tie—no easy task for a college student amid the rigidly lax fashion codes of the early seventies. Despite a frantic search made just hours before the seminar, the only neckwear I could scrounge up from my entire dormitory was a clip-on job that barely reached below my sternum. It would do, I figured, as long as I kept my sports jacket buttoned tightly shut and stayed hunched, *Thinker*-like, in a chair as far from the seminar table as I could find.

I was the first to arrive in the tiny conference room and had just assumed my inconspicuous position when the senator from Minnesota burst through the door and strode directly toward me with his hand extended, as though I were the one he had come all that way to meet. Of course, I sprang to my feet, my Oliver Hardy tie flapping outside my jacket. Humphrey didn't seem to notice. "My name is Hubert Humphrey," he said. "Who are you?"

I can barely remember what I mumbled in response, but I do recall that Humphrey appeared genuinely interested in what I had to say. And the experience went uphill from there. If the media ever committed a calumny against the man, it was their portrayal of him as a blitering lightweight who did not know when to stop talking. In fact, he had the sort of substance that kept even know-it-alls like college professors spellbound. His conversation that day ranged from the success of the Marshall Plan to the failure of America's urban renewal programs and what he saw as the inevitable collapse of the Soviet economy. I particularly remember his recitation of the problems Russian farmers had drying grain after it was harvested and his prediction that food shortages, more than any U.S. nuclear arsenal, would be the undoing of Communism.

Of course, time has proved how prescient his comments were. But I also remember that meeting with Humphrey in my first encounter with the vocation that politics can be. It's something people in the press don't talk about much. More of our time is spent examining the negative aspects of the profession: instances of corruption, insincerity, and egomania. As well it should be. If we have any responsibility in this democracy, it's as the perpetual loyal opposition, continually questioning the powers that be. Yet, as a reporter, I found that the more I was exposed to politics, the more I came to respect the majority of politicians. True, there are bad ones, and there is also bad in some of the good ones. But it takes a special personality to contend for the affection of the voters, and those who have it should be more revered than reviled.

Humphrey's ability to speak so knowledgeably about so many topics that day did not stem from the sort of research the academics listening to him might do. Instead, the same easy grace that had him seeking out an awkward student had him talking about grain storage with a Minnesota farmer and later, commiserating with an *apparatchik* in some Soviet collective. At their best, politicians offer a valuable link between disparate views and people.•

A TRIBUTE TO MAYOR FEDERICO PENA

• Mr. WIRTH. Mr. President, I rise today to pay tribute to Mayor Federico Pena, Denver's 37th mayor. I have had the honor and the pleasure of knowing and working with him for 20 years; my respect for him continues to grow.

Federico Pena received both an undergraduate degree and a law degree from the University of Texas at Austin. He moved to Denver in 1972 and in 1978 he was elected to the Colorado House of Representatives where he served two terms. During his first term, he was named as the "Outstanding House Democratic Freshman" by the Colorado Social Action Committee. He was elected as mayor in June 1983 and was reelected 4 years later to serve a second term.

Mr. President, it is my opinion that history will mark Federico Pena as one of Denver's greatest mayors. Even though he faced the toughest economic era in Denver since the Great Depression, his accomplishments are many. Recently, he opened the Colorado Convention Center which is already enhancing tourism in Colorado. In addition, he helped gain Federal support for the new Denver International Airport which is projected to open in late 1993; the FAA predicts that the new airport will become one of the world's busiest. The Pena administration has also been nationally recognized in the area of air quality. Because of Pena's efforts, Denver was named the winner of the prestigious "City Liveability Award" by the U.S. Conference of Mayors. But most importantly is that Mayor Pena's administration has been characterized by a strong commitment to open government and the inclusion of people from every segment of the community.

Clearly, Federico Pena has a great deal to be proud of; his career as Mayor of Denver is exemplary. He has truly demonstrated an outstanding level of commitment to Denver and to Colorado. I would like to commend and congratulate him on a job well done. I have enjoyed Federico's friendship and wish him and his wife, Ellen, and their daughter, Nelia, my very best. In conclusion, Mr. President, I ask to insert the following editorials into the RECORD from the Denver Post, Rocky Mountain News, and Colorado Springs Gazette Telegraph.

The editorials follow:

[From the Denver Post, Nov. 29, 1990]

PENA'S BAD RATINGS: THE UNSPEAKABLE REASON

(By Chuck Green)

It seems to be a mystery why, with an impressive list of accomplishments behind him despite nearly a decade of troubled times, Federico Peña hasn't been given due credit for his stewardship of Denver.

There's only one sensible answer, and the reason you haven't heard it mentioned is that it is unspeakable.

Racism.

No other mayor of a city in the economically depressed energy belt of America, and possibly no other mayor of a city anywhere in America, can boast the fine record of Peña. Yet his popularity, when last measured, hovered at the dismal level of 37 percent.

He is untainted by any hint of scandal. His integrity is solidly intact. He has worked extraordinarily hard on the job. He has efficiently managed a big city in bad economic times.

He has succeeded where predecessors failed—presided over the construction of a convention center, the opening of the city's first major retail mall in modern times, groundbreaking of the new airport, cleansing of the city's filthy air, major road-improvement projects, approval of a baseball stadium, and voter acceptance of important bond issues.

His critics have a pathetic list of indictments against his administration: a failure to clean up the mess at Denver General Hospital, vague references to a failure to attract competent staff, an unhealthy dependence on outside consultants, the deterioration of downtown, and an aloof personality.

But any reasonable assessment of the Peña years certainly must conclude: He failed where others had failed, but he also succeeded where others had failed.

He inherited the DGH mess, and it defied any solution by Peña just as it defied solution by former Mayor Bill McNichols. He inherited a deteriorating downtown, and it is as much a symptom of deep economic woes as it is poor city policies. If he's guilty of being aloof, or of not having the best staff in the world, or of hiring too many consultants, that's a political misdemeanor, at worst.

And so with his impressive list of accomplishments, against a rather paltry list of failures, the question goes begging: Why is he so unappreciated?

As the first minority person to be elected mayor of Denver, and as a candidate who defeated a popular, likeable incumbent from an old-line Denver political family, Peña's inauguaration was awash in a sea of resentment.

Denver's old-boy network felt ambushed by Peña's ambitious voter-registration drive and by his strong finish in a run-off election against McNichols. Any chance of forgiveness by the good old boys was dashed when Peña swept their cronies out of City Hall's suites.

And while he was wetting on the leg of the city's political establishment, Peña simultaneously was raising the hopes of blacks and Hispanics in Denver.

His inaugural featured dancing in the streets, mariachi-style, rather than the traditional black-tie gala. And, as if to underscore the winds of change, even the union-boycotted Coors label was banned from the inaugural.

Denver, formerly the capital city of cowboys and Coors, had elected a Hispanic mayor.

But Peña turned out to be a minority who was mayor, rather than a minority mayor. A big difference, indeed. He did not see city government as a minority-jobs program; his first black cabinet member was appointed only this year.

Many Hispanic political activists have been disappointed that Peña hasn't been their captive mayor, blacks have been resentful that he hasn't provided them a higher profile in his administration.

And so, while his accomplishments piled up, his popularity eroded.

His very election to office surprised, and offended the city's traditional white Democratic power structure. And as time passed, his independence aggravated minority constituents.

There is no other compelling explanation of Peña's feeble popularity.

There is no doubt that his record would command more respect if compiled by a mayor 6-foot-2 with eyes of blue.

And so, while it's a dirty job, somebody has to do it. And so it is I who will report the distasteful source of Federico Peña's bad ratings:

Subtle, but real, racism in Denver.

[From the Denver Post, Nov. 29, 1990]

FEDERICO PENA: A GOOD MAYOR

When the next batch of history books on Denver is written, they likely will share one conclusion: Federico Peña was a good mayor.

Certainly Peña, who said Wednesday he wouldn't seek reelection, had his flaws.

During his first term, he was aloof, indecisive, formal, distant, dependent on outside consultants; uneasy with the demands of his new job and surrounded by staff and cabinet members whose competency frequently was called into question.

His leadership skills improved during his second term, but Peña still lacked political clout to get major projects—including the convention center and the new airport—completed without assistance from state lawmakers and Gov. Roy Romer.

He also failed to revive a comatose retailing downtown, despite the priority he assigned the effort.

He even bungled a couple of issues wholely under his control. Denver General Hospital still suffers from financial and administrative problems. And the city still hasn't figured out how to plow the streets properly after a major snowstorm.

Simply put, Peña didn't accomplish as much as he promised.

But rare indeed is the politician who does. When Peña's failures are weighed against Peña's achievements, the balance tips heavily toward a flattering review of his two terms—far more than his continued low rating in popularity polls would indicate.

The on-time and on-budget construction of the convention center; the on-schedule building of the new airport; Denver's much-improved air quality, and the tight fiscal controls under which the city now operates are among his most visible accomplishments.

Yet some of his most important achievements are more subtle.

Under previous contemporary mayors, including Bill McNichols, who served for 14 years until 1983, many public construction projects were built without regard to how they affected human aspects of the city.

But Peña insisted that public works projects be consistent with the ideals of early 20th century Mayor Robert Speer, who foresaw Denver as a "city beautiful" and was responsible for creating many of Denver's wonderful parks and gardens.

So, while many other urban areas are deteriorating into filth and physical decay, Denver will continue to be one of the most liveable cities in America.

Additionally, Peña opened the political process to people who felt shut out of important civic decisions. Denver is more democratic because the mayor involved his constitutents, even when they disagreed with him.

Although metropolitan cooperation remains an elusive goal, this mayor reduced the persistent political warfare between Denver and its suburban neighbors to an occasional skirmish.

And while he was dogged by some moderate scandals, such as his firing of former Police Chief Tom Coogan and more recently hospital chief John Fairman, Peña generally avoided any major disgrace and always conducted himself with personal honor.

That itself is noteworthy, particularly in an era when politicians generally merit less public respect than garbage collectors.

But there was more.

Many politicians put their personal pride and partisan interests ahead of the public good, but Peña always considered Denver's welfare ahead of his own ambitions.

While Denverites many times questioned the mayor's policies—such as using garbage trucks to pack down the snow on side streets after a blizzard—they at least knew his actions were well-intended.

For instance, Peña has been derided because he let Governor Romer carry the campaign that persuaded Adams County voters to let Denver annex land for the new airport.

But the move was graceful and realistic. Peña didn't have the political clout to carry Adams County; his power base is Denver. So instead of letting pride hamper his cause, he corralled his ego and faded into the background until the votes were counted. Many politicians lack that sort of common sense.

Likewise, Peña could have run for a third term, and he might have won re-election.

But like old prizefighters, politicians have to know when it's time to get out of the ring. So Peña walked back to the locker room while he still wore the champion's buckle.

And Peña did all this during the most desperate economic era Denver has endured since the Great Depression. He accomplished more during lean times than his two predecessors did during years of plenty.

Peña imagined a great city. And under his leadership, Denver came closer to being one.

[From the Rocky Mountain News, Nov. 29, 1990]

FEDERICO PEÑA CAN POINT WITH PRIDE TO HIS LEGACY

It speaks well of Mayor Federico Peña and his values that he can so easily step aside. The truly ego-driven person never abandons such a high-prestige occupation—unless in trade for one of even greater cachet.

Few sights are sadder, in fact, than the fellow who clings to his job or craft for too long: Willie Mays with the Mets; J. Edgar Hoover after World War II; Hemingway in the 1950s; Sen. Alan Cranston the day after he was first sworn in.

Not that Peña was in serious danger of joining that unhappy list. Yet remember: Incumbents who keep running for re-election are as hard to beat as Ben Johnson on steroids. What's more, Peña had plenty of other advantages: The local economy is stronger than it was a few years ago; the mayor's core constituency, the city's minority population, continues to grow as a percentage of total voters; most importantly, a number of the goals Peña set for himself, such as construction of the convention center and groundbreaking on the new airport, have come to pass.

There simply was no obvious lever that an opponent could seize to pry Peña from his post.

And yet, to most citizens' shock, the mayor announced yesterday that he will not run for re-election. He says personal reasons, including the sense he'd accomplished what he set out to achieve, prompted Peña to give up what to many people looks like a terrific job.

What will be his legacy? At this point, it is customary to attribute everything that happened during a mayor's tenure either to his wisdom or stupidity. Such an analysis, however, grossly overstates the importance of politics; we suspect the mayor himself would readily prefer a less ambitious accounting.

Clearly the most important contribution any mayor makes is the efficient delivery of traditional services such as street maintenance. In this respect, Peña probably rates a B—at least compared with his predecessor. Several departments are undoubtedly better managed today than they were eight years ago. Still, one or two major agencies are in no better shape; they will present a challenge to the person who succeeds the mayor.

One problem with evaluating Peña is that so much of his reputation is staked upon the success of the new airport, and the verdict on that project won't be delivered for several (or even many) years. But say this much for the mayor's effort on the airport: He was as tenacious and consistent in defense of this dream as anyone could have asked. More than any other construction monument, the airport belongs to Peña.

Two other accomplishments: the fact that Denver is now, if belatedly, investing more in its infrastructure, and that the city's once rancid relationships with the suburbs have been transformed.

Of course, Denver today also boasts a new convention center and glitzy shopping center, and the prospect of a major league baseball team. Peña's role in each of these achievements varies from important, to modest, to negligible.

On the negative side, he and his lieutenants never managed to attract major down-

town retailers—but then probably no mayor would have succeeded in that daunting battle. Nor is it clear that another mayor could have stemmed the outflow of middle-class families that continued during the 1980s.

This newspaper was among the first to recognize the mayor's virtues: his drive, intelligence, grasp for details, sincerity. Hence our early endorsement of the former state legislator in 1983. By 1987 we had come to question some aspects of his leadership. But now is hardly the moment to dwell on those misgivings. Now is a time, instead, to wish the mayor well—which we hereby do. May his third (or is it his fourth?) career be no less fulfilling than his current one.

[From the Colorado Springs Gazette Telegraph, Nov. 30, 1990]

PEÑA EXIT AN EXAMPLE FOR OTHERS

Political junkies are still searching for the "real" reason why Denver Mayor Federico Peña decided not to seek a third term, but Peña's official explanation—that eight years in one office is long enough—should be reason enough.

Unlike most politicians, Mayor Peña had the perspective to step aside before age or scandal forced him out. Most of the state's political experts believe he would have been a strong bet for re-election had he chosen to run.

"I'm going to graciously step aside as mayor of this great city and allow a new generation of leadership to take this city into that decade," he said during his surprise announcement on Wednesday. "Sometimes people in public office continue to run and run and run, and I don't think that's what voters want . . . More of us in public office ought to say, 'It's time.'"

Well said, Mr. Mayor.

It's too bad more public officials don't share this same healthy perspective on their public service. Most of them cling to their office as though it were a birthright, not unlike a peerage in the House of Lords. Politicians who have the good sense to voluntarily move on, as Peña and U.S. Sen. Bill Armstrong have done, are still the exceptions rather than the rule.

Eight to 12 years should be plenty of time for any politician to make a mark and serve with distinction. For better or worse, eight years proved plenty of time for Peña to have an impact on the future of Denver. During his tenure, a new convention center was built, a new airport was begun, a baseball-stadium referendum was passed, the Cherry Creek Mall opened and new air-pollution programs were implemented. Whatever one thinks of Peña's policies, it's tough to argue that he did not have a chance to pursue them.

We would encourage every other elected official in Colorado to heed Peña's advice and recognize when it's time to go.●

COLLEGES ARE WORKING FOR EQUAL OPPORTUNITY

● Mr. SIMON. Mr. President, one of the most impressive college leaders in the Nation is William H. Danforth, chancellor of Washington University in St. Louis, MO and the brother of our colleague, Senator JACK DANFORTH.

Recently, he had an op-ed piece in the St. Louis Post-Dispatch in which he talks candidly about a mistake that was made by an Assistant Secretary in the Department of Education on scholarships for minorities.

I could not agree more with the sentiment expressed by Chancellor Danforth.

While we still have a long way to go in providing opportunity for all Americans, relative to many nations we have achieved a surprisingly effective merger of ethnic groups in our country. But we should not be taking it for granted.

I urge my colleagues to read the statement by Chancellor Danforth. At this point, I ask unanimous consent to insert his article into the RECORD:

COLLEGES ARE WORKING FOR EQUAL OPPORTUNITY

(By William H. Danforth)

A high-ranking official of the U.S. Department of Education has said that colleges and universities that receive federal funds cannot offer scholarships designated for minority students. Of more than 25 merit-based scholarship programs at Washington University, six are directed to minority students. One of these, the Patricia Roberts Harris Scholarship Program for "underrepresented groups," is funded by Congress and administered by the Department of Education under Title IX of the Higher Education Act.

Of 645 undergraduates receiving merit-based scholarships at Washington University, about 50 are minority students. It is worth looking at the rationale for such scholarships for minorities.

Since its founding, the United States has wrestled with the integration and lack of integration of ethnic and racial minorities into the mainstream of society. In the American tradition, many institutions have joined in this effort. Despite many difficulties and setbacks, on the whole, the record is one of progress toward more inclusiveness, so that today the United States has perhaps the most successful multi-ethnic society in the world.

That statement may come as a surprise to some, but one only has to look at other countries around the world to see the terrible suffering that is caused by ethnic strife. Today we in this country are fortunate, but not so fortunate that we can relax. We can still slide backward, or we can strive always to be a model for the rest of the world of a just and fair multi-ethnic, multi-religious, multi-racial society.

In addition, one of America's ideals is to judge individuals on their own merits rather than on ethnic, family or social background. Our concepts of justice and fairness are firmly rooted in providing equal opportunities for all. How do we establish a successful multi-ethnic society in the light of our national commitment to fairness to each individual? What role should higher education play?

These are not easy questions with easy answers. These kinds of issues are not limited to colleges and universities. They have been and are being dealt with by decent people of good will in every city, county and state capital and in every school, hospital, large agency, business, indeed, in every institution in our land. No one has been exempt from these trials. Slowly but steadily, progress is being made.

It is surprising that a governmental official would display so little confidence in our nation's institutions and in the American people by trying to take from us the freedom to deal with one of our nation's historic challenges in the most effective way we can devise.

It would be a tragic mistake to stop our progress now and to tell important American institutions that they can no longer wrestle with this program in ways best suited to balance fairness and the development of all our citizens.●

PETERSBURG, IN, VOLUNTEER FIRE DEPARTMENT

● Mr. LUGAR. Mr. President, I take this opportunity to ask my colleagues to join me in saluting the Petersburg, IN, Volunteer Fire Department for their commendable service during a statewide disaster.

In May 1990, the town of Petersburg was inundated with water from the swollen White River. The area was left with no safe drinking water. The Petersburg Volunteer Fire Department, with assistance from neighboring communities, organized and distributed 12 million gallons of safe water to the citizens of Petersburg.

As the Petersburg community began to recover from the devastating effect of the flood, disaster struck again. Tornadoes hit the community. The community suffered millions of dollars in damages and left seven citizens dead. Once again, the volunteer fire department stepped in and spent countless hours aiding citizens in need.

The Congressional Fire Service Institute's Community Service Award, which recognizes fire department for their outstanding community service, will be awarded to the Petersburg Volunteer Fire Department on February 23–24, 1991, during the Indiana Fire Instructors Association's Fire Conference.

The Indiana Fire Instructors Association [IFIA] will also be honored with the Congressional Fire Service Institute's Length of Service Award, IFIA was founded at Purdue University in 1948, and has provided the State's fire service members with quality education. They strive to unite both public and private fire service professions for the benefit of all citizens. They also provide technical information and development in firemanship training, cooperation with other fire prevention agencies, and encouraging high professional standards in teaching fire instructors.

Again, I urge my colleagues to join me in congratulating both the Petersburg Volunteer Fire Department and the Indiana Fire Instructors Association for the receipt of these awards. I wish for them many more years of outstanding service to the people of Indiana.●

ATTAINING THE RANK OF EAGLE SCOUT

● Mr. HEINZ. Mr. President, on Saturday, February 2, 1991, Dominic Perry, Jonathan Truchan, and Matthew Thiry

will attain the rank of Eagle Scout, and I would like my colleagues to join me in offering our most sincere congratulations for this most distinguished honor.

These young men have been judged by the Boy Scouts of America of being worthy of that organization's highest honor. As Eagle Scouts, they have dilligently followed the solemn obligation of the Boy Scout oath:

On my honor, I will do my best to do my duty to God and my country and to obey the Scout law, to help other people at all times, to keep myself physically strong, mentally awake, and morally straight.

While each of these accomplished young men will become Eagle Scouts this weekend, they have each taken different paths to attain this honor.

Dominic Perry, age 17, joined Cub Scout Pack No. 1 in 1981. Upon graduation in 1984, he joined Boy Scout Troop No. 1, where he has served as patrol leader, senior patrol leader, and is currently the squad leader. In addition, Dominic earned several awards and honors since becoming a Boy Scout, including the Arrow of Light Award, 23 merit badges, and 8 skill awards. For his Eagle project, Dominic built directional signs to point the location of the historic Kidd's Mill Covered Bridge in Mercer County, PA which was built in the year 1868.

Jonathan Truchan is 18 years old and joined Cub Scout Pack No. 65 in 1982. In 1987, he earned his varsity letter and became a Boy Scout. Jonathan has served as squad leader, treasurer, and is currently cocaptain of the varsity team. He is a member of Langundowi Lodge No. 46 Order of the Arrow, and has earned 44 merit badges and 8 skill awards. For his Eagle Scout project, Jonathan planned and organized a wonderful dinner banquet for 50 senior citizens for which food was donated by local businesses in Sharon, PA.

Matthew Thiry, age 14, became a Cub Scout in 1984 when he joined Pack No. 45. After transferring to Cub Scout Pack No. 1 as a Webelo, Matthew earned the Arrow of Light Award—the highest honor a Cub Scout can earn. Soon after, he graduated to the varsity team and joined Troop No. 1. Jonathan has served as assistant patrol leader, patrol leader, and is currently senior patrol leader. He has earned 21 merit badges and 12 skill awards. For his Eagle project, Matthew constructed shelves and painted floors, walls, and ceilings at St. Joseph Food Pantry in Sharon, PA.

Mr. President, I ask you to join me, the Scouts' families, their friends, and their Scoutmaster, Jim Perry, in celebrating the achievements of these three young men. We all are especially proud of each of them.●

REDIRECTION OF SDI

● Mr. KERRY. Mr. President, in his State of the Union address last week, President Bush praised the Patriot missile defense system and announced that the SDI program would be refocused to protect against limited ballistic missile strikes. In a February 3 editorial entitled "Patriots Work. Star Wars Won't.", the New York Times pointed out why the success of the Patriot system in the Persian Gulf says very little about the feasibility of ballistic missile defense as envisioned under the SDI Program.

Despite the President's redirection of SDI, its focus will continue to be a space-based defense system, the first phase of which would be centered around the Brilliant Pebbles Program. This program—which has not proceeded much beyond the view-graph stage—will threaten the ABM Treaty long before it threatens the Iraqi Scuds that the Patriots have handled so successfully. However, the Patriot system, which is ground-based, has had nothing to do with SDI; it is an Army air defense program begun in the late-1960's and adopted for ATBM use in the mid-1980's.

Patriot has indeed performed well in defending against Iraqi Scud missiles fired at Israel and Saudi Arabia. But its mission has been a limited one. The Scud is a 1960's vintage, single-warhead missile that travels at a relatively slow speed, and the Iraqis have launched only a few missiles at a time. Because the Patriot was not intended to defend cities, it generally intercepts missiles near the end of their flight, which sometimes results in debris—and even warheads—landing and causing substantial damage.

Further research and development on enhancing the Patriot might enable it to intercept tactical ballistic missiles earlier in flight, destroy them more effectively, and contend with multiple launches. That is why I have supported Patriot enhancement as a means of achieving greater ATBM capability. However, it is important to understand that SDI's mission is much more demanding.

Although the President called for a refocused SDI Program, he still envisions its having the capability to deal with any future threat to the United States, to our forces overseas, and to our friends and allies—hardly a limited task. It would require protecting cities against both strategic and tactical ballistic missiles, missiles equipped with conventional, chemical, nuclear, or biological warheads. The President's SDI system must be able to defeat a barrage attack as well as the countermeasures—such as jamming, decoys, and depressed trajectories—that any determined adversary would likely employ in launching a missile strike.

In the almost 8 years since President Reagan proposed SDI as a means of making nuclear weapons impotent and obsolete, there is virtually no evidence that the United States is any closer to developing a survivable and cost-effective system capable of defending against a large-scale ballistic missile strike. The success of the Patriot in the gulf has demonstrated only that we can defeat a limited, short-range, decoy-free, nonnuclear, surface-to-surface Scud attack. This success should not be used as a justification for the grandiose, costly, and destabilizing SDI Program—most recently reincarnated under the name Global Protection Against Limited Strikes [GPALS]—which the Bush administration continues to pursue.

I thank the chair and ask that the New York Times editorial be printed in the RECORD following my statement.

The editorial follows:

[From the New York Times, Feb. 3, 1991]

PATRIOTS WORK—STAR WARS WON'T

Night after night, television viewers have been stirred by scenes of Patriot missiles rising into the sky to knock down Iraq's Scud missiles aimed at Israel and Saudi Arabia. But now President Bush and Congressional hawks wrongly cite this achievement to justify reviving Star Wars, the ailing program to develop a space-based missile defense.

In his State of the Union message last week, the President praised the Patriots and called for refocusing the Strategic Defense Initiative. His idea is to protect against limited ballistic missile strikes that might threaten the United States, its forces overseas or its friends and allies.

Mr. Bush's call for a new focus is welcome. The original Star Wars goal of defending the United States against an all-out attack by thousands of Soviet warheads no longer seems feasible, or perhaps even necessary. Meanwhile, the threat of limited missile attacks abroad is growing as third world dictators develop small missile forces.

But Mr. Bush and other Star Wars boosters are planning too grandiose a cure for this limited problem. The success of the Patriots proves only that *ground-based* missiles can protect cities against small-scale attacks employing conventional warheads. Nothing so far in the Persian Gulf war suggests the need for costly, technically dubious weapons that would be *based in space*.

The Patriots appear to have intercepted most of the Scuds they have been fired at. But their success should not be exaggerated. Scuds are crude missiles, inaccurate and relatively slow, and the Iraqis have fired only a few at a time. A missile attack could hardly be easier to counter.

The Patriot itself is relatively crude, an anti-aircraft weapon upgraded to intercept missiles and now pressed into a role for which it was not designed, the defense of populated areas. In protecting isolated military sites, a Patriot need only nudge a Scud off course. But in populated areas, the intercepts must be near-perfect. In Israel and Riyadh, the Patriots are intercepting Scuds near the end of their trajectories, allowing debris and even warheads to land and cause damage.

Even so, the Patriots have nullified Iraq's terror weapons—and made it possible for Israel to stay out of the war. Imagine how much worse it would be if all the Scuds hit their targets.

The real lesson of the Patriots is that research is needed to develop even more effective ground-based defensive missiles, with longer range, greater power to demolish the target and the ability to handle many attacking missiles. The Star Wars program announced success with one such missile in a test last week. The Eris, a ground-based interceptor, knocked down a mock warhead from an intercontinental missile when it was still 100 miles away and moving four times as fast as a Scud.

That is the kind of weapon that should be emphasized as Star Wars research is refocused. It could protect American forces and friendly nations in regions already threatened by short-range missiles. And at some future date, it might be needed to protect the continental United States. Only the Soviet Union and China, among potentially hostile powers, have long-range missiles that can reach the United States today. No third world nation is likely to have that capability before the next century.

No plausible threat yet exists that would justify a major effort to develop and deploy space-based weapons. Yet that's what high Defense Department officials want to do in response to Mr. Bush's call for a new focus. They are simply shrinking the grandiose system they have long planned, both in space and on ground. Once they hoped to orbit 4,600 small rockets that would swoop down on enemy missiles. Now they contemplate a fourth as many.

That sounds more like a desperate attempt to salvage the extravagant and chancy old Star Wars program than an effort to meet a genuine need. The best defense would forgo such pie-in-the-sky dreams and remain solidly based on the ground.●

PROPRIETARY SCHOOLS

● Mr. SIMON. Mr. President, there have been some negative stories about proprietary schools, some of them deserved.

But the proprietary schools of the Nation offer aid and educational opportunity to non-college-bound students that is extremely important.

The so-called business schools of whatever variety are making an extremely important contribution to the Nation.

Only about 8 percent of those who do not go on from high school to college get any kind of skills training during their school years.

That's a grim statistic.

I do not suggest that the proprietary schools can or should fill this gap by themselves, but they are making an important contribution.

I ask to insert an article from the Chicago Tribune titled "Proprietary Schools Offer Training, Job Guarantees," written by Merrill Goozner.

The article follows:

[From the Chicago Tribune, Jan. 6, 1991]

PROPRIETARY SCHOOLS OFFER TRAINING, JOB GUARANTEES

(By Merrill Goozner)

College students aren't promised a job after four years of tuition payments. Community colleges are an even dicier proposition for students, if the measurement is a guaranteed job placement at the end of the two-year program.

But proprietary schools are held to that standard. These profit-making educational institutions—usually known for training people in fields like cosmetology, truck driving, electronics and office work—can't offer their students the excuse that at least they got a liberal arts education for their tuition money.

Their only reason for being, and their promise to the students who pay thousands of dollars to attend the schools, is that they hold the tickets to jobs in their fields.

Unfortunately, as numerous government crackdowns and newspaper exposes over the years have shown, very few of them do it right. One Illinois proprietary school regulator, who did not want his name used, despairs of ever being able to clean up the "proprietary school mess."

"You wonder why the kids are going there in the first place, especially when they have community colleges to go to," he said.

However, there are proprietary schools that give their students real value for their money. The good ones:

Have rigorous academic standards for admission into the program. No student is accepted who can't do the work;

Give students a realistic sense of the career and what is expected of them before they enroll in the school;

Constantly update the curriculum so that it is in tune with the needs of the industry; and

Have an active and successful placement program for graduates.

Looking at one proprietary school that does it right provides some valuable lessons for young adults who are considering plunking down their hard-earned cash or taking out a loan to attend one of these schools.

Fox College in southwest suburban Oak Lawn has been training executive assistants for downtown corporations, law and accounting firms since 1957. Housed in a former District 123 elementary school building, the college trains more than 100 students a year in a rigorous curriculum of word processing, shorthand, business math and English and office management.

Before any young woman—and in a world where sex-role stereotyping remains imbedded in the work culture, 100 percent of its students are women—enrolls in the one-year course, school president Edward Kapelinski Sr. encourages the prospective student to contact employers about the school. Graduates can be found at downtown employers like Amoco Corp., National Life Insurance Co., Coopers & Lybrand and First National Bank of Chicago.

"Fox is dedicated to turning out qualified students," said Laura Bellis, a recruitment specialist at Arthur Andersen & Co., one of the firms that recruits from Fox College, "It's been fairly difficult to find skilled, qualified executive assistants because there aren't as many people interested as there were in the past.

"Plus, the grammar and vocabulary skills tends to be lacking in students coming out of school. But Fox doesn't skimp on the program. They don't just pass people through," she said.

Fox requires its students have a high school diploma and a certain level of math and English proficiency before starting the program. The school gives prospective students a battery of tests to ensure they are capable of performing the work.

About half of the student body comes directly from high school, where most were "B" and "C" students. The other half are college dropouts.

"We are really looking for a level of desire when we screen people, not the academic background," said Edward Kapelinski Jr., who is director of marketing for the school.

The desire has to be there because of the rigors of the program. Classes run from 8:30 a.m. to 2 p.m. every day with three hours of typing and shorthand that can be done between 2 and 5 p.m. on the Fox premises.

Fox's academic calendar corresponds to the work world, not the vacation-laden school year. Students are required to dress as if they were headed downtown for a job. The program can be completed in nine months, although most students take up to a year.

"There are some dropouts," said Kapelinski Sr. "If a young lady falls behind on her work, she's given a probation for a month. And if she doesn't catch up, she's dismissed."

Tuition for the program is $4,950 plus an additional $450 for course materials. About a third of the students get government grants and loans. Its default rate is about 5 percent, according to government figures.

Another third accept a loan from the college, which must be repaid within one year. The school charges 9 percent interest on the one-year loan.

When asked how young adults just entering the work force can afford to pay back nearly $5,000 in one year, the Kapelinskis pointed to the salary ranges and placement rates of their graduates. The school says it has placed 100 percent of its graduates in the last year. The average starting pay was $19,000.

It's that kind of salary that continues to draw students to Fox College. Most of whom hear about it by word-of-mouth.

"I heard from my beauty shop that their friends got real good jobs," said Elaine Taidus of Alsip, who at 56 is attending Fox with her 19-year-old daughter Michele. She's hoping in a year's time to leave her job as a cook at Westgate Country Club. Michele wants something better than waitressing.

"These people make or break the executives they work for," said Arthur Andersen's Bellis. "Our starting salary for executive assistants ranges from the upper teens to the low twenties and an executive assistant with experience can earn up to the mid- to upper-thirties."

Despite employer raves for Fox College's program, school enrollment has suffered in recent years. Newspaper reports about abusive proprietary schools have scared away prospective students, Kapelinski Sr. said.

Gary Osga, acting manager of the non-public school approval section of the Illinois Board of Education, said the state passed new rules for proprietary schools in 1989 in the wake of a Chicago Sun-Times investigation of proprietary schools.

Those rules won't be effective for some time. The rules require that all proprietary schools report their government-backed student loan default rates and placement rates to the state. The state then will be able to refuse a license to any school that falls below 50 percent of the state-wide average.

However, the state is still months and possibly years away from developing its database. Moreover, the rules will only eliminate the worst of student loan abusers.

That leaves the relatively unsophisticated education consumers populating the proprietary school marketplace on their own. Osga recommends that prospective students go and spend time talking to the students before enrolling in a school.

They should also get the names of graduates and see where they wound up working.

"Did the kid spend $10,000 to learn auto mechanics and wind up changing oil at a Jiffy Lube?" he said.

"Unfortunately, most of these kids aren't that sophisticated," he said. "I don't know if there is any way to save them from their own gullibility."•

SENATOR PACKWOOD SALUTES DIANA GOLDEN—THE RECIPIENT OF THE 1991 FLO HYMAN AWARD

• Mr. PACKWOOD. Mr. President, today I am honored to tell you about this year's recipient of the Flo Hyman Award, which recognizes those female athletes who best exemplify courage and dedication to their sport. This year, the award goes to Diana Golden, a woman who despite the loss of her right leg to cancer at the age of 12, went on to become one of the best ski racers—disabled or able bodied—this country has ever produced.

As a member of the U.S. Disabled Ski Team from 1979–82 and 1985–90, Diana won 10 World Disabled Ski Championship titles, a 1988 Olympic gold medal in the disabled giant slalom, and 19 U.S. National Event Championship titles between 1981–90. She was the first disabled athlete to be recognized with the most prestigious awards for skiing, including Female Skier of the Year in 1988.

Ms. Golden's skiing accomplishments are phenomenal. She has had an outstanding skiing career, and has earned a place along side some of this country's greatest female athletes—Chris Evert, Martina Navratilova, Jackie Joyner-Kersee, and Evelyn Ashford.

Diana Golden's accomplishments have and will continue to be shared by others. Her pioneering ways have set the stage for other disabled skiers. "Passing the Torch"—this year's theme for National Girls and Women in Sports Day—appropriately symbolizes Diana's role as an athlete who will inspire all who follow her lead to reach for the gold.

Mr. President, on February 7, I will honor the recipient of the 1991 Flo Hyman Award at this year's "National Girls and Women in Sports Day" luncheon. Many of you know the story behind the Flo Hyman Award, but for those of you who do not, I would like to explain how this tradition started 5 years ago. In 1984, I met a special woman by the name of Flo Hyman when she came to lobby Congress. Flo and other Olympic athletes were working with Senators at that time to try to restore landmark civil rights protection for women, minority, and disabled athletes. At a crowded press conference, Flo delivered an inspiring speech about how the Civil Rights Law—title IX—had enabled her to fulfill her dream and "reach for the gold."

Flo Hyman died of Marfan's Syndrome 2 years later on January 24, 1986. I was moved by the sudden death of such a gifted young woman and wanted to do something in her memory. In honor of Flo Hyman, I introduced the resolution to begin "National Girls and Women in Sports Day" because although the history of women in sports is rich and long, there has been little formal recognition of women's athletic achievements.

Five years have passed since the first Flo Hyman Award was given. This year I am pleased that the torch will be passed to such an outstanding and deserving recipient. My congratulations and best wishes to Diana Golden.•

THE DEPARTMENT OF LABOR'S ADVISORY COMMISSION REPORT ON UMW RETIREE HEALTH BENEFITS

• Mr. WALLOP. Mr. President, on November 10 of last year, the Department of Labor's Coal Commission issued a report on the financial problems of the pension and benefit plans of the United Mine Workers of America [UMWA] and the Bituminous Coal Operators Association [BCOA]. The report focused on the growing number of orphan coal miner retirees whose health benefits have been cut off by companies which have gone out of business, quit coal mining or were sold to nonunion companies. The Commission has made a recommendation to the Secretary of Labor that these problems be addressed with an industry-wide tax on coal. This will be one of the first controversies facing the Secretary-designate.

Mr. President, a tax on all coal producers is not the solution to this problem. This problem was created by the companies which are signatories to the UMWA-BCOA agreement which guaranteed benefits to all union workers. Nonunion companies which were not signatories to this agreement should not be forced to pay for promises they neither made nor a system they did not design—a system that has created the problem of the underfunded benefit plans. This is not a regional problem; it is a union versus nonunion problem and one which should be resolved through collective bargaining. The Government does not belong in this dispute.

I would like to call my colleagues attention to a recent column on this report by syndicated columnist Warren Brookes and will ask that it be printed in the RECORD at the conclusion of my remarks. As Mr. Brookes points out, private unionized companies are moving to shift health benefit commitments made by them in collective bargaining to the general taxpayer through a national health insurance scheme or otherwise mandate benefits at a union-based level to all employers. The purpose of this move is straightforward. It is an attempt to level competition by Government fiat. So once again, high-sulfur eastern coal companies which are less competitive will attempt to burden their low-sulfur, western counterparts with their bad union bargains which should, under labor law, be resolved in other ways. This broad-based approach is unfair and would make a sham of the collective bargaining process.

A tax on coal ignores fundamental labor law concepts and it is not the way to resolve pension and benefit problems. I cannot imagine why any business or labor union would seek Government intervention in the collective bargaining process.

Mr. President, legislation was introduced last year which was designed to resolve the financial problems of the UMWA/BCOA agreement by taxing all producers, including those not involved in the contract. I have little doubt that we will revisit this issue in the 102d Congress. Before we do so, however, I sincerely hope that the new Secretary of Labor answers one question I and many others have about the Coal Commission report. Why should American taxpayers shoulder the burden of ill-conceived union bargains with big business?

The column referred to follows:

[From the Washington Times, Jan. 7, 1991]

BIG LABOR'S AGENDA: MANDATED BENEFITS

(By Warren Brookes)

Last week, when Representative William Ford, Michigan Democrat, took over the moribund House Education and Labor Committee, big labor could hardly wait, and big business was right behind it. Mr. Ford is the quintessential big-labor, union-label Democrat.

Mr. Ford's agenda is clear: Both labor and big business want to "level the playing field" on health benefits, where non-union firms now enjoy substantial competitive advantages.

There are two ways this can be done: Shift the entire health benefit burden to the general taxpayers through some kind of national health insurance scheme, or mandate those benefits at a union-based level to all employers. With current fiscal austerity, mandates will be the vehicle of choice.

The opening wedge in this drive is a report of Labor's Advisory Commission on the United Mine Workers of America Retiree Health Benefits, known as the Coal Commission. This report focused on the growing number of "orphan" coal miner retirees, whose health benefits have been cut off by companies that have gone out of business, quit coal mining or been sold to non-signatories to the agreement between the United Mine Workers of America and the Bituminous Coal Operators Association.

Under the BCOA/UMW agreements, these "orphans" are the responsibility of the signatory companies who have seen their health care benefit costs more than double in the last decade and who project a deficit in this fund of more than $300 million by the year 1993, a number that is hotly contested.

While the commission could not reach a consensus on how to deal with this problem, its Chairman William Usery (labor secretary under President Gerald Ford) argues that this can only be solved by an industrywide tax on coal. Seventy-percent of the industry is non-union.

As Mr. Usery told the National Journal recently, "You couldn't hardly take a position

that there wasn't a responsibility on behalf of the industry to these people." But Sen. Malcolm Wallop, Wyoming Republican, expressed the unified opposition of the Western coal operators: "I do not see any reason why either Wyoming miners or their companies ought to pay for a problem that is not of their making and to which they had no part in the negotiation."

The spectacle of retired West Virginia coal miners coping with serious illnesses in their declining years, abandoned by runaway corporations, is almost certain to make this a tough issue for the Bush administration. It will be sorely tempted to let Mr. Ford and the forces of UMW/BCOA roll right over them.

Before doing so, however, the administration will want to consider the facts. First and foremost, this problem is entirely the result of bad collective bargaining—mainly on the part of the UMW, which sacrificed workers' jobs to preserve health benefit levels (100 percent coverage of all medical needs). Since 1979, the UMW has lost more than 64,000 jobs. But through 1987, total BCOA contributions to the pension and benefit funds only fell 9 percent (See table.)

HOW BIG COAL AND UMWA GOT IN TROUBLE

	Workers covered	Tons produced (millions)	Total contrib. (millions)	Health contrib. (millions)	Health contrib.	
					Ton	Worker
1979	112,000	350	$706	$134	$0.38	$1,196
1983	74,000	310	672	128	.41	1,729
1987	57,000	324	640	188	.58	3,298
New contract:						
1988	52,000	310	462	196	.63	3,769
1989	48,000	304	255	194	.64	4,042
Percent change:						
1979–87	−49	−7	−9	40	53	175
1987–89	−16	−6	−60	3	10	23

Sources: Energy Department, Mine Safety and Health Administration.

This made Eastern coal less and less competitive, with total benefit costs reaching $2.25 per ton. So in 1988, the UMW accepted management's proposal to shift from a tonnage basis for contributing to the funds to an hourly basis. They got snookered.

Soaring productivity in the mines meant hours would be declining even as tonnage kept rising. As a result, the UMW accepted a 60 percent cut in total benefit contributions (pension and health) precisely at the time when health benefit demands were rising geometrically.

Since 1987, total contributions by the BCOA companies to the health and pension funds fell from 7 percent to 3 percent of the price of Eastern coal. While this reflected two legitimate concerns—the competitiveness of Eastern coal and the overfunding of the UMW pension benefits—it also created a health benefits crisis, in an attempt to force an industrywide solution.

The Private Benefits Alliance (about 70 percent of coal tonnage) argues that had the industry merely maintained health fund contributions at the contractually assumed level, the 1950 benefit trust would be in balance. It says the entire health care deficit could be balanced by raising the cost per ton by 16 cents or 0.6 percent of the cost of Eastern coal.

In a very competitive marketplace, that is not small, but it is certainly too small to warrant federal intervention and industrywide taxes, particularly for a too-generous contract that now costs the BCOA companies more than $4,000 per worker.

As Senator James Jeffords, a liberal Vermont Republican, complained to outgoing Labor Secretary Elizabeth Dole: "How coal operators who have never been party to any United Mine Workers of America contract can be expected to fund the liabilities of their competitors is difficult to understand."

Just as difficult to understand is why Western low-sulfur coal should subsidize Eastern high-sulfur coal. Why should general taxpayers subsidize bad union bargains made with big business? Mr. Ford and Labor Secretary-designate Lynn Martin need good answers.•

WAR IN THE GULF

• Mr. SIMON. Mr. President, all Americans are united in the hope that the gulf conflict will end quickly, with as few casualties as possible. We all support our men and women serving this Nation in the Gulf.

That does not mean that silence should replace discourse.

I believe that I and 46 other Senators voted correctly in urging continued use of sanctions rather than the alternative of force. Many experts believed that sanctions had a real chance of working, including the two immediate past chairmen of the Joint Chiefs of Staff, and six of the seven living former Secretaries of Defense. But following the course laid out in the constitution, Congress authorized the use of force, and the President has acted. Now our only option is to pursue the war vigorously and get it over quickly.

For both social and economic reasons, we should not let the financial burden of this war fall on our children. Other nations should be picking up more of the cost, but the financial balance that remains should be faced squarely. The economic reasons should be obvious; we don't need bigger deficits. But there are social reasons also. Neither the President nor the Congress nor the public should believe that we can enter a war, and the only people who will suffer will be troops in Saudi Arabia and their families here at home. However, small the sacrifice, the costs of war should in some way be shared.

The vote in Congress approving the use of force was the narrowest vote authorizing conflict since the War of 1812, and in percentage terms was the narrowest in our Nation's history. This war carried the Senate 52–47, by 52 percent, the War of 1812 by 19–13, 61 percent. It carried the House this year by 250–183, 59 percent and in 1812 by 79–49, 61 percent.

That 1991 division does not mark a difference on whether tyrants should be resisted. The question was not whether they should be resisted but how they should be resisted. In a meeting several of us had with the President after returning from the Middle East, I urged what President Eisenhower called the courage of patience. I told President Bush that if Libya invades Chad or Mozambique invades Malawi, the President will not send 400,000 troops. But he would authorize the use of sanctions. If we can unite the world on the use of sanctions for every aggressor as effectively as we are for Saddam Hussein, our banners can make tyranny tremble, without firing a shot. And the burden would be a shared international burden, not so lonely and eminently a U.S. role. Our effort should be to use the United Nations more effectively as an instrument for stability.

We will win the war. It is much less clear that we will win the peace. We have entered this fray with too little concern for its aftermath. Saddam is trying, with some success, to portray this as a struggle between Arabs and the West; between Moslems, and the forces of Christianity and Judaism. Already our Peace Corps volunteers have been removed from Moslem countries. Who will ever measure the cost of that? Anti-American crowds have gathered in places as far away as Pakistan and Malaysia. Moslem fundamentalism in many countries has dramatically increased its fervor and activities since January 16.

When the President addressed the Nation only hours after hostilities started, he did not mention casualties on the other side, a far cry from the generosity of spirit shown by Abraham Lincoln when in the midst of the bitter Civil War, he spoke about "malice toward none and charity toward all." It is difficult to send signals of concern at the same time we send bombers, but it must be done.

Thursday's New York Times had a story about growing internal hostility toward President Mubarak because of Egypt's involvement with us in this war. We do not want to face a post-war Middle East with greatly heightened antipathy toward the United States, and a weaker, or worse, Egypt. We should not be planting seeds of discontent in Moslem countries.

The war must be won, and then the peace must be won. The sounds of bombs dare not make inaudible the talk of peace.

Israel and Arab countries have indicated a willingness to meet after the war to write a verifiable treaty outlawing nuclear, chemical, and biological weapons from the Middle East. That can be an important first step toward building trust and diminishing fears. Then we can take the second step of solving the problems of territory and people, with the end result that an area of great conflict can become an area where the resources are used to aid people, not blow them apart. Imagining that, working for that, is no more hopeless a vision and enterprise than that the Berlin Wall would come down, or that President Sadat would address the Knesset.

Our dreams should encompass the Middle East, but more than the Middle East. If we can quickly muster 400,000 personnel and billions of dollars to face a threat 8,000 miles away, we can also

muster the personnel and resources to face the threat to millions of Americans of an inadequate education. If we can help the Middle East, we can also help Americans who cry for basic health care. If we can create jobs in Saudi Arabia, we also can on the westside of Chicago where people too often choose crime out of a sense of hopelessness.

We must not learn the wrong lessons from this War. The military lesson is that we should be prepared and continue research; but mindless, almost endless expenditures for MX missiles, star wars, and other exotic forms of destruction make no more sense today than they did on January 14. If we are excessively generous to the military but are unresponsive to desperate domestic needs, we will serve the Nation poorly.

"Let us bind the wounds" Abraham Lincoln admonished us in a tragic war. Indeed. Let everyone in the Middle East understand that our Nation's mission is not simply to shoot people in the name of justice but, also, to help people in the name of justice. And let the socially wounded in this country of all races and religions and sexes and nationalities and regions sense that their Government will not sit in immobile silent splendor while they suffer.●

COMMITTEE ON RULES AND ADMINISTRATION RULES OF PROCEDURE

● Mr. FORD. Mr. President, I ask that pursuant to paragraph 2 of rule XXVI of the Standing Rules of the Senate, the rules of procedure of the Committee on Rules and Administration adopted on January 30, 1991, be printed in the RECORD at this point.

The rules follow:

RULES OF PROCEDURE OF THE SENATE COMMITTEE ON RULES AND ADMINISTRATION

(Adopted January 30, 1991)

TITLE I—MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the committee shall be the second and fourth Wednesdays of each month, at 9:30 a.m., in room SR-301, Russell Senate Office Building. Additional meetings may be called by the chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the committee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a recorded vote in open session by a majority of the members of the committee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Paragraph 5(b) of rule XXVI of the Standing Rules.)

3. Written notices of committee meetings will normally be sent by the committee's staff director to all members of the committee at least 3 days in advance. In addition, the committee staff will telephone reminders of committee meetings to all members of the committee or to the appropriate staff assistants in their offices.

4. A copy of the committee's intended agenda enumerating separate items of legislative business and committee business will normally be sent to all members of the committee by the staff director at least 1 day in advance of all meetings. This does not preclude any member of the committee from raising appropriate non-agenda topics.

5. Any witness who is to appear before the committee in any hearing shall file with the clerk of the committee at least 3 business days before the date of his or her appearance, a written statement of his or her proposed testimony and an executive summary thereof, in such form as the chairman may direct, unless the chairman and the ranking minority member waive such requirement for good cause.

TITLE II—QUORUMS

1. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 9 members of the committee shall constitute a quorum for the reporting of legislative measures.

2. Pursuant to paragraph 7(a)(1) of rule XXVI of the Standing Rules, 6 members shall constitute a quorum for the transaction of business, including action on amendments to measures prior to voting to report the measure to the Senate.

3. Pursuant to paragraph 7(a)(2) of rule XXVI of the Standing Rules, 4 members of the committee shall constitute a quorum for the purpose of taking testimony under oath and 2 members of the committee shall constitute a quorum for the purpose of taking testimony not under oath; provided, however, that in either instance, once a quorum is established, any one member can continue to take such testimony.

4. Under no circumstances may proxies be considered for the establishment of a quorum.

TITLE III—VOTING

1. Voting in the committee on any issue will normally be by voice vote.

2. If a third of the members present so demand, a record vote will be taken on any question by rollcall.

3. The results of rollcall votes taken in any meeting upon any measure, or any amendment thereto, shall be stated in the committee report on that measure unless previously announced by the committee, and such report or announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment by each member of the committee. (Paragraph 7(b) and (c) of rule XXVI of the Standing Rules.)

4. Proxy voting shall be allowed on all measures and matters before the committee. However, the vote of the committee to report a measure or matter shall require the concurrence of a majority of the members of the committee who are physically present at the time of the vote. Proxies will be allowed in such cases solely for the purpose of recording a member's position on the question and then only in those instances when the absentee committee member has been informed of the question and has affirmatively requested that he be recorded. (Paragraph 7(a)(3) of of rule XXVI of the Standing Rules.)

TITLE IV—DELEGATION OF AUTHORITY TO COMMITTEE CHAIRMAN

1. The chairman is authorized to sign himself or by delegation all necessary vouchers and routine papers for which the committee's approval is required and to decide in the committee's behalf all routine business.

2. The chairman is authorized to engage commercial reporters for the preparation of transcripts of committee meetings and hearings.

3. The chairman is authorized to issue, in behalf of the committee, regulations normally promulgated by the committee at the beginning of each session.●

BLACK HISTORY MONTH

● Mr. RIEGLE. Mr. President, I rise today to commemorate Black History Month.

Until recently, most history books contained a very narrow part and view of our Nation's history as it relates to the contributions of Black Americans. That history was often left unrecorded or completely ignored. Dr. Carter G. Woodson recognized this inequity and in 1926 introduced a week to celebrate the history of Black Americans. Over the years, this celebration has evolved into Black History Month. So, as we celebrate this event, we should also recognize and appreciate the effort, foresight and hard work of Dr. Carter G. Woodson, the "father of Black history."

As Americans, we have set high ideals for ourselves. While we have made much progress toward reaching those goals, much work lies ahead of us. Today, as we fight for justice, we are inspired by the great Black men and women, both in the past and present, who have made tremendous sacrifices to help our Nation live up to its highest ideals. Black History Month

provides us with an opportunity to pay tribute to these great people.

We can look to the very beginning of American history to see that Black Americans have made strong contributions to our Nation. One of the first people to die in our Nation's fight for freedom was a Black American—Crispus Attucks—who was shot during the Boston Massacre. Black Americans have served to protect our freedom in every war we have been involved in, despite the fact that their own freedom has often been limited. As war continues in the Middle East today, Blacks are serving with great distinction and pride as evidenced by the leadership of our top military officer, Colin Powell, the Chairman of the Joint Chiefs of Staff.

We need to make sure that every step is taken to support our service men and women in the war zone so they can return safely to their families.

Meanwhile, we have to continue to fight for the rights of those soldiers, and all Americans. In fighting for equal opportunity we are inspired by great Black leaders like Frederick Douglas, a strong moral and intellectual voice who was a leader in the movement to end slavery back in the 1800's. We can also look to Thurgood Marshall, our only Black Supreme Court Justice and, before his service on the Court, a leader in the legal battle to end segregation.

There are a countless number of Black Americans who have enriched our history. I have mentioned just a few of them. Black History Month provides us with an excellent opportunity to expand our knowledge of the contributions of Black Americans and to attain a deep appreciation for the Black experience.●

BILL PLACED ON CALENDAR—S. 347, TO EXTEND THE EXPIRATION DATE OF THE DEFENSE PRODUCTION ACT OF 1950 TO MARCH 18, 1991—S. 348

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 347, a bill introduced earlier today by Senators RIEGLE, GARN, DIXON, HEINZ, SARBANES, and others, reauthorizing the Defense Production Act, and for other purposes, be placed on the calendar; that the majority leader, after consultation with the Republican leader, may proceed to the consideration of this bill at any time beginning on February 19, notwithstanding the provisions of rule XXII; that upon the entering of this agreement, the Senate proceed to the consideration of S. 348, a short-term extension of the Defense Production Act until March 18, 1991, introduced earlier today by Senators RIEGLE, GARN, and DIXON; that no amendments or motions to commit be in order with respect to this bill; that there be no time for debate on the bill; that statements may be inserted in the RECORD today on this bill as may be appropriate; and that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection it is so ordered.

So the bill (S. 348) was deemed passed as follows:

S. 348

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

SECTION 1. TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "October 20, 1990" and inserting "March 18, 1991".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect on October 20, 1990.

(b) EFFECT OF PRIOR ACTIONS.—No action taken by the President or the President's designee between October 20, 1990, and the date of enactment of this Act shall prejudice the ability of the President or the President's designee to take action under section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170).

S. 232 REFERRED TO VETERANS AFFAIRS COMMITTEE

Mr. MITCHELL. I ask unanimous consent that S. 232, a bill to increase the maximum amount of life insurance coverage for servicemen, be referred to the Veterans' Affairs Committee.

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

AUTHORITY FOR COMMITTEES TO REPORT ON THURSDAY, FEBRUARY 14, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that during the recess or adjournment of the Senate, that committees may file reported Legislative and Executive Calendar business on Thursday, February 14, from 11 a.m. until 2 p.m.

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

MAJORITY COMMITTEE ASSIGNMENTS—SENATE RESOLUTIONS 43, 44, 45, and 46

Mr. MITCHELL. Mr. President, I send to the desk four resolutions dealing with the majority committee assignments, and I ask unanimous consent that they be considered en bloc, agreed to en bloc, and that the motions to reconsider their adoption be tabled en bloc.

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

The resolutions, considered and agreed to en bloc, are as follows:

S. RES. 43

Resolved, That paragraph 2 of Rule XXV of the Standing Rules of the Senate is amended for the One Hundred and Second Congress as follows:

Strike "19" after "Agriculture, Nutrition, and Forestry" and insert in lieu thereof "18".

Strike "19" after "Energy and Natural Resources" and insert in lieu thereof "20".

Strike "19" after "Foreign Relations" and insert in lieu thereof "18".

Strike "16" after "Labor and Human Resources" and insert in lieu thereof "17".

S. RES. 44

Resolved, That paragraph 3(c) of Rule XXV of the Standing Rules of the Senate is amended for the One Hundred and Second Congress as follows:

Strike "10" after "Indian Affairs" and insert in lieu thereof "16".

S. RES. 45

Resolved, That paragraph 4 of Rule XXV is amended by striking (h)(1) through (h)(15) and inserting in lieu thereof the following:

"(h)(1) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Environment and Public Works and the Committee on Finance may, during the One Hundred Second Congress, also serve as a member of the Committee on Agriculture, Nutrition and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(2) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on Energy and Natural Resources may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees list in paragraph 2.

"(3) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Banking, Housing and Urban Affairs and the Committee on Foreign Relations may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(4) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(5) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(6)(A) A Senator who on the last day of the One Hundred First Congress was serving

as a member of the Committee on Armed Services and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred Second Congress serves on the Committee on Armed Services, the Committee on the Judiciary, and the Committee on Labor and Human Resources, and who serves as chairman of a committee listed in paragraph 2, may serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.

"(7) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Commerce, Science and Transportation and the Committee on Foreign Relations may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(8)(A) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on the Judiciary so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred Second Congress serves on the Committee on Agriculture, Nutrition and Forestry, the Committee on Appropriations and the Committee on the Judiciary, and who serves as chairman of a committee listed in paragraph 2, may serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.

"(9) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Environment and Public Works and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(10) A Senator who on the last day of the One Hundred First Congress was serving on the Committee on Environment and Public Works and the Committee on Finance may, during the One Hundred Second Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(11) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry and the Committee on Finance may, during the One Hundred Second Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(12) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Appropriations and the Committee on Banking, Housing and Urban Affairs may, during the One Hundred Second Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(13) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on Banking, Housing and Urban Affairs may, during the One Hundred Second Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(14) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Judiciary and the Committee on Labor and Human Resources may, during the One Hundred Second Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees in paragraph 2.

"(15) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on Energy and Natural Resources may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.".

S. RES. 46

Resolved, That the following shall constitute the majority party's membership on the standing committees for the One Hundred and Second Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Leahy (Chairman), Mr. Pryor, Mr. Boren, Mr. Heflin, Mr. Harkin, Mr. Conrad, Mr. Fowler, Mr. Daschle, Mr. Baucus, and Mr. Kerrey (NE).

Committee on Appropriations: Mr. Byrd (Chairman), Mr. Inouye, Mr. Hollings, Mr. Johnston, Mr. Burdick, Mr. Leahy, Mr. Sasser, Mr. DeConcini, Mr. Bumpers, Mr. Lautenberg, Mr. Harkin, Ms. Mikulski, Mr. Reid, Mr. Adams, Mr. Fowler, and Mr. Kerrey (NE).

Committee on Armed Services: Mr. Nunn (Chairman), Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Gore, Mr. Wirth, Mr. Shelby, and Mr. Byrd.

Committee on Banking, Housing, and Urban Affairs: Mr. Riegle (Chairman), Mr. Cranston, Mr. Sarbanes, Mr. Dodd, Mr. Dixon, Mr. Sasser, Mr. Sanford, Mr. Shelby, Mr. Graham, Mr. Wirth, Mr. Kerry (MA), and Mr. Bryan.

Committee on Commerce, Science, and Transportation: Mr. Hollings (Chairman), Mr. Inouye, Mr. Ford, Mr. Exon, Mr. Gore, Mr. Rockefeller, Mr. Bentsen, Mr. Kerry (MA), Mr. Breaux, Mr. Bryan, and Mr. Robb.

Committee on Energy and Natural Resources: Mr. Johnston (Chairman), Mr. Bumpers, Mr. Ford, Mr. Bradley, Mr. Bingaman, Mr. Wirth, Mr. Conrad, Mr. Akaka, Mr. Fowler, Mr. Shelby, and Mr. Wellstone.

Committee on Environment and Public Works: Mr. Burdick (Chairman), Mr. Moynihan, Mr. Mitchell, Mr. Baucus, Mr. Lautenberg, Mr. Reid, Mr. Graham, Mr. Lieberman, and Mr. Metzenbaum.

Committee on Finance: Mr. Bentsen (Chairman), Mr. Moynihan, Mr. Baucus, Mr. Boren, Mr. Bradley, Mr. Mitchell, Mr. Pryor, Mr. Riegle, Mr. Rockefeller, Mr. Daschle, and Mr. Breaux.

Committee on Foreign Relations: Mr. Pell (Chairman), Mr. Biden, Mr. Sarbanes, Mr. Cranston, Mr. Dodd, Mr. Kerry (MA), Mr. Simon, Mr. Sanford, Mr. Moynihan, and Mr. Robb.

Committee on Governmental Affairs: Mr. Glenn (Chairman), Mr. Nunn, Mr. Levin, Mr. Sasser, Mr. Pryor, Mr. Kohl, Mr. Lieberman, and Mr. Akaka.

Committee on the Judiciary: Mr. Biden (Chairman), Mr. Kennedy, Mr. Metzenbaum, Mr. DeConcini, Mr. Leahy, Mr. Heflin, Mr. Simon, and Mr. Kohl.

Committee on Labor and Human Resources: Mr. Kennedy (Chairman), Mr. Pell, Mr. Metzenbaum, Mr. Dodd, Mr. Simon, Mr. Harkin, Mr. Adams, Ms. Mikulski, Mr. Bingaman, and Mr. Wellstone.

REPUBLICAN COMMITTEE ASSIGNMENTS—SENATE RESOLUTIONS 47 AND 48

Mr. DOLE. Mr. President, I send to the desk two resolutions and ask they be considered en bloc in reference to committee assignment on so-called A committees and A committee waivers.

The PRESIDING OFFICER. Without objection, the resolutions will be considered and agreed to.

The resolutions, considered and agreed to en bloc, are as follows:

S. RES. 47

Resolved, That paragraph 4 of rule XXV is amended by adding at the end of paragraph (h) the following new sections:

(1) "A Senator who on the last day of the One hundred and first Congress was serving as a member of the Committee on the Judiciary, and the Committee on Armed Services, may, during the One hundred and second Congress, serve as a member of the Committee on Labor and Human Resources, so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(2) "A Senator who on the last day of the One hundred and first Congress was serving as a member of the Committee on Finance, and the Committee on Governmental Affairs, may, during the One hundred and second Congress, serve as a member of the Committee on Banking, Housing and Urban Affairs, so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(3) "A Senator who on the last day of the One hundred and first Congress was serving as a member of the Committee on Appropria-

tions, and the Committee on Energy and Natural Resources, may, during the One hundred and second Congress, also serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as his service as a member of such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(4) "A Senator who on the last day of the One hundred and first Congress was serving as a member of the Committee on Appropriations, and the Committee on Banking, Housing and Urban Affairs may, during the One hundred and second Congress, serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(5) "A Senator who on the last day of the One hundred and first Congress was serving as a member of the Committee on Banking, Housing and Urban Affairs, and the Committee on Finance may, during the One hundred and second Congress, serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(6) "A Senator who on the last day of the One hundred and first Congress was serving as a member of the Committee on the Judiciary and the Committee on Labor and Human Resources may, during the One hundred and second Congress, serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(7) "A Senator who on the last day of the One hundred and first Congress was serving as a member of the Committee on Environment and Public Works and the Committee on Finance may, during the One hundred and second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(8) "A Senator who on the last day of the One hundred and first Congress was serving as a member of the Committee on Foreign Relations and the Committee on Labor and Human Resources may, during the One hundred and second Congress, serve as a member of the Committee on Banking, Housing and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(9) "A Senator who on the last day of the One hundred and first Congress was serving as a member of the Committee on Agriculture, Nutrition and Forestry, and the Committee on Appropriations may, during the One hundred and second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(10) "A Senator who on the last day of the One hundred and first Congress was serving as a member of the Committee on Finance and the Committee on the Judiciary may, during the One hundred and second Congress, also serve as a member of the Committee on Agriculture, Nutrition and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

(11) "A Senator who was sworn in on January 10, 1991, may serve as a member of the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry, may, during the One hundred and second Congress, serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2."

S. RES. 48

Resolved, That the following shall constitute the minority party's membership on the standing committees for the 102d Congress, or until their successors are chosen:

Committee on Agriculture, Nutrition, and Forestry: Mr. Lugar, Mr. Dole, Mr. Helms, Mr. Cochran, Mr. McConnell, Mr. Craig, Mr. Seymour, and Mr. Grassley.

Committee on Appropriations: Mr. Hatfield, Mr. Stevens, Mr. Garn, Mr. Cochran, Mr. Kasten, Mr. D'Amato, Mr. Rudman, Mr. Specter, Mr. Domenici, Mr. Nickles, Mr. Gramm, Mr. Bond, and Mr. Gorton.

Committee on Armed Services: Mr. Warner, Mr. Thurmond, Mr. Cohen, Mr. McCain, Mr. Wallop, Mr. Lott, Mr. Coats, Mr. Mack, and Mr. Smith.

Committee on Banking, Housing, and Urban Affairs: Mr. Garn, Mr. Heinz, Mr. D'Amato, Mr. Gramm, Mr. Bond, Mr. Mack, Mr. Roth, Mr. Domenici, and Mrs. Kassebaum.

Committee on Commerce, Science, and Transportation: Mr. Danforth, Mr. Packwood, Mr. Pressler, Mr. Stevens, Mr. Kasten, Mr. McCain, Mr. Burns, Mr. Gorton, and Mr. Lott.

Committee on Energy and Natural Resources: Mr. Wallop, Mr. Hatfield, Mr. Domenici, Mr. Murkowski, Mr. Nickles, Mr. Burns, Mr. Craig, Mr. Seymour, and Mr. Garn.

Committee on Environment and Public Works: Mr. Chafee, Mr. Simpson, Mr. Symms, Mr. Durenberger, Mr. Warner, Mr. Jeffords, and Mr. Smith.

Committee on Finance: Mr. Packwood, Mr. Dole, Mr. Roth, Mr. Danforth, Mr. Chafee, Mr. Heinz, Mr. Durenberger, Mr. Symms, and Mr. Grassley.

Committee on Foreign Relations: Mr. Helms, Mr. Lugar, Mrs. Kassebaum, Mr. Pressler, Mr. Murkowski, Mr. McConnell, Mr. Brown, and Mr. Hatch.

Committee on Governmental Affairs: Mr. Roth, Mr. Stevens, Mr. Cohen, Mr. Rudman, Mr. Heinz, and Mr. Seymour.

Committee on the Judiciary: Mr. Thurmond, Mr. Hatch, Mr. Simpson, Mr. Grassley, Mr. Specter, and Mr. Brown.

Committee on Labor and Human Resources: Mr. Hatch, Mrs. Kassebaum, Mr. Jeffords, Mr. Coats, Mr. Thurmond, Mr. Durenberger, and Mr. Cochran.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Senate Resolution 4, 95th Congress, Senate Resolution 448, 96th Congress, and Senate Resolution 127, 98th Congress, as amended by Senate Resolution 100, 101st Congress, appoints the following Senators to the Select Committee on Indian Affairs: the Senator from Illinois [Mr. SIMON], the Senator from Hawaii [Mr. AKAKA], and the Senator from Minnesota [Mr. WELLSTONE].

The Chair, on behalf of the Vice President, pursuant to Senate Resolution 4, 95th Congress, Senate Resolution 448, 96th Congress, and Senate Resolution 127, 98th Congress, as amended by Senate Resolution 100, 101st Congress, appoints the following Senators to the Select Committee on Indian Affairs: the Senator from New Mexico [Mr. DOMENICI], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Oklahoma [Mr. NICKLES].

The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the Senator from Delaware [Mr. ROTH] as vice chairman of the Senate delegation to the North Atlantic Assembly during the 102d Congress.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

THE PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Senate Resolution 400, 94th Congress, and Senate Resolution 4, 95th Congress, appoints the following Senators to the Select Committee on Intelligence: the Senator from Oklahoma [Mr. BOREN], chairman, the Senator from Georgia [Mr. NUNN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New Jersey [Mr. BRADLEY], the Senator from Arizona [Mr. DECONCINI], the Senator from California [Mr. CRANSTON], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Ohio [Mr. GLENN].

The Chair, on behalf of the President pro tempore, pursuant to Senate Resolution 400, 94th Congress, and Senate Resolution 4, 95th Congress, appoints the following Senators to the Select Committee on Intelligence: the Senator from Alaska [Mr. MURKOWSKI], vice chairman, the Senator from Virginia [Mr. WARNER], the Senator from New York [Mr. D'AMATO], the Senator from Missouri [Mr. DANFORTH], the

Senator from New Hampshire [Mr. RUDMAN], the Senator from Washington [Mr. GORTON], and the Senator from Rhode Island [Mr. CHAFEE].

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 1 p.m. on Wednesday, February 6; that, following the time for the two leaders, there be a period for morning business not to extend beyond 1:30 p.m. with Senators permitted to speak therein for up to 5 minutes each; that at 1:30 p.m. there be up to 1 hour of morning business with Senators permitted to speak therein, and that that time be under the control of the Republican leader.

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

RECESS UNTIL 1 P.M. TOMORROW

Mr. MITCHELL. Mr. President, if the Republican leader has no further business, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess as under the previous order until 1 p.m. on Wednesday, February 6.

There being no objection, the Senate, at 5:30 p.m., recessed until Wednesday, February 6, 1991, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate February 5, 1991:

DEPARTMENT OF STATE

CHARLES R. BAQUET III, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF DJIBOUTI.

INTERSTATE COMMERCE COMMISSION

J.J. SIMMONS III, OF OKLAHOMA, TO BE A MEMBER OF THE INTERSTATE COMMERCE COMMISSION FOR A TERM EXPIRING DECEMBER 31, 1995. (REAPPOINTMENT)

PEACE CORPS NATIONAL ADVISORY COUNCIL

MYRON A. WICK III, OF CALIFORNIA, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM EXPIRING OCTOBER 6, 1992, VICE MAUREEN O'HARA.

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be permanent major general

BRIG. GEN. ROLAND LAJOIE xxx-xx-x... U.S. ARMY.
BRIG. GEN. WILLIAM A. STOFFT xxx-xx-x... U.S. ARMY.
BRIG. GEN. WILLIAM W. CROUCH xxx-xx-x... U.S. ARMY.
BRIG. GEN. EDISON E. SCHOLES xxx-xx-x... U.S. ARMY.
BRIG. GEN. ARTHUR E. WILLIAMS xxx-xx-xx... U.S. ARMY.
BRIG. GEN. THEODORE G. STROUP, JR., xxx-xx-x... U.S. ARMY.
BRIG. GEN. JAMES A. MUSSELMAN xxx-xx-xx... U.S. ARMY.
BRIG. GEN. JAMES B. TAYLOR xxx-xx-x... U.S. ARMY.
BRIG. GEN. PETER T. BERRY xxx-xx-x... U.S. ARMY.
BRIG. GEN. WALTER J. BRYDE, JR. xxx-xx-xx... U.S. ARMY.
BRIG. GEN. JAMES T. SCOTT xxx-xx-x... U.S. ARMY.
BRIG. GEN. DENNIS V. CRUMLEY xxx-xx-x... U.S. ARMY.
BRIG. GEN. JERRY R. RUTHERFORD xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. JAY M. GARNER xxx-xx-x... U.S. ARMY.
BRIG. GEN. EUGENE L. DANIEL xxx-xx-x... U.S. ARMY.
BRIG. GEN. ALFRED J. MALLETTE xxx-xx-xx... U.S. ARMY.
BRIG. GEN. JOSEPH RAFFIANI, JR. xxx-xx-xx... U.S. ARMY.
BRIG. GEN. THOMAS W. ROBISON xxx-xx-x... U.S. ARMY.
BRIG. GEN. JOHN H. TILELLI, JR. xxx-xx-xx... U.S. ARMY.
BRIG. GEN. PAUL J. VANDERPLOEG xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. JOHN P. OTJEN xxx-xx-x... U.S. ARMY.
BRIG. GEN. HENRY H. SHELTON xxx-xx-x... U.S. ARMY.
BRIG. GEN. MARVIN L. COVAULT xxx-xx-x... U.S. ARMY.
BRIG. GEN. WILLIAM M. BOICE xxx-xx-x... U.S. ARMY.
BRIG. GEN. STEVEN L. ARNOLD xxx-xx-x... U.S. ARMY.
BRIG. GEN. DENNIS P. MALCOR xxx-xx-x... U.S. ARMY.
BRIG. GEN. JOHN R. LANDRY xxx-xx-x... U.S. ARMY.
BRIG. GEN. ROBERT S. FRIX xxx-xx-x... U.S. ARMY.
BRIG. GEN. WILLIAM M. MATZ, JR. xxx-xx-xx... U.S. ARMY.
BRIG. GEN. DENNIS L. BENCHOFF xxx-xx-x... U.S. ARMY.
BRIG. GEN. JOHN F. STEWART, JR. xxx-xx-xx... U.S. ARMY.
BRIG. GEN. RICHARD S. SIEGFRIED xxx-xx-xx... U.S. ARMY.
BRIG. GEN. WILLIAM W. HARTZOG xxx-xx-xx... U.S. ARMY.
BRIG. GEN. DAVID J. BARATTO xxx-xx-x... U.S. ARMY.

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 611(A) AND 624:

To be permanent brigadier general

COL. ROBERT F. FOLEY xxx-xx-x... U.S. ARMY.
COL. WILLIAM A. WEST xxx-xx-x... U.S. ARMY.
COL. ALBERT J. GENETTI, JR. xxx-xx-xx... U.S. ARMY.
COL. JAN A. VANPROOYEN xxx-xx-x... U.S. ARMY.
COL. WILLIAM J. BOLT xxx-xx-x... U.S. ARMY.
COL. DAVID L. BENTON, III xxx-xx-x... U.S. ARMY.
COL. CARL F. ERNST xxx-xx-x... U.S. ARMY.
COL. JAMES J. CRAVENS, JR. xxx-xx-xx... U.S. ARMY.
COL. FRANK H. AKERS, JR. xxx-xx-x... U.S. ARMY.
COL. THOMAS J. KONITZER xxx-xx-x... U.S. ARMY.
COL. STEPHEN M. BLISS xxx-xx-x... U.S. ARMY.
COL. EDWARD G. ANDERSON, III xxx-xx-x... U.S. ARMY.
COL. DAVID R.E. HALE xxx-xx-x... U.S. ARMY.
COL. ANTHONY C. TRIFILETTI xxx-xx-x... U.S. ARMY.
COL. CHARLES H. BAUMANN xxx-xx-x... U.S. ARMY.
COL. NORMAN E. WILLIAMS xxx-xx-x... U.S. ARMY.
COL. TRENT N. THOMAS xxx-xx-x... U.S. ARMY.
COL. JOHN A. DUBIA xxx-xx-xx... U.S. ARMY.
COL. ORLIN L. MULLEN xxx-xx-x... U.S. ARMY.
COL. ROBERT H. SCALES, JR. xxx-xx-x... U.S. ARMY.
COL. HAROLD E. BURCH xxx-xx-x... U.S. ARMY.
COL. JOE N. BALLARD xxx-xx-x... U.S. ARMY.
COL. JOHN E. LONGHOUSER xxx-xx-x... U.S. ARMY.
COL. JOSEPH E. DEFRANCISCO xxx-xx-x... U.S. ARMY.
COL. LEONARD D. HOLDER, JR. xxx-xx-x... U.S. ARMY.
COL. GEORGE A. CROCKER xxx-xx-x... U.S. ARMY.
COL. ROBERT W. ROPER, JR. xxx-xx-x... U.S. ARMY.
COL. RANDOLPH T. POORE xxx-xx-x... U.S. ARMY.
COL. THOMAS A. SCHWARTZ xxx-xx-x... U.S. ARMY.
COL. JOHN G. ZIERDT, JR. xxx-xx-x... U.S. ARMY.
COL. DOUGLAS D. BUCHHOLZ xxx-xx-x... U.S. ARMY.
COL. PATRICIA R. P. HICKERSON xxx-xx-x... U.S. ARMY.
COL. PATRICK M. HUGHES xxx-xx-x... U.S. ARMY.
COL. WALTER E. MATHER, JR. xxx-xx-x... U.S. ARMY.
COL. LARRY R. JORDAN xxx-xx-x... U.S. ARMY.
COL. WILLIAM F. KERNAN xxx-xx-x... U.S. ARMY.
COL. DAVID A. WHALEY xxx-xx-x... U.S. ARMY.
COL. JOSEPH K. KELLOGG, JR. xxx-xx-xx... U.S. ARMY.
COL. WILLIAM L. NASH xxx-xx-x... U.S. ARMY.

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

ARMY

To be lieutenant colonels

BENJAMIN M. ADAMS xxx-xx-x...
RANDAL R. JONES xxx-xx-x...
GEORGE L. KECKEISEN, JR. xxx-xx-x...
THOMAS E. PARDUE, SR. xxx-xx-x...
ANTHONY R. STRICKLER xxx-xx-x...

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO RECOMMENDED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE.

MEDICAL SERVICE CORPS

To be lieutenant colonel

RAYMOND P. ORWIG xxx-xx-x...

ARMY

To be majors

*MARK R. CARRINGTON xxx-xx-x...
MARTIN M. MORATZ xxx-xx-x...

DENTAL CORPS

To be major

*RANDAL C. KUMM xxx-xx-x...

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THEIR ACTIVE DUTY GRADE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, 532, AND 533:

To be major

JOSEPH H. STRIBRNY xxx-xx-x...

To be captains

ANGEL L. ACEVEDO xxx-xx-x...
ROBERT AGUILERA xxx-xx-x...
CAMPBELL D. ALLISON xxx-xx-x...
NATALIA ARMSTRONG xxx-xx-x...
MARGARET L. BACA xxx-xx-x...
JEFFREY L. BAILEY xxx-xx-xx...
JOHN C. BAKER xxx-xx-x...
JOHN W. BAKER xxx-xx-x...
SCOTT R. BAKER xxx-xx-x...
WAYLAND P. BARBER xxx-xx-x...
MARK S. BARNES xxx-xx-x...
NELSON G. BARTLEY xxx-xx-x...
STEPHEN H. BAYER xxx-xx-x...
BRIAN R. BELLI xxx-xx-x...
PETER E. BLABER xxx-xx-x...
ALLAN R. BOCKRATH xxx-xx-x...
WILLIAM L. BOOKS xxx-xx-x...
ALLAN S. BOYCE xxx-xx-x...
CURTIS D. BOYD xxx-xx-x...
PETER E. BRADY xxx-xx-x...
WILLIAM W. BRALEY xxx-xx-x...
MICHEAL W. BRAY xxx-xx-x...
HARALD C. BUCHHOLZ xxx-xx-x...
JOHN C. BUCKLEY xxx-xx-x...
WILLIAM C. BUHROW xxx-xx-x...
SCOTT S. BURGESS xxx-xx-x...
MICHAEL R. BURT xxx-xx-x...
VICTOR R. BUTERA xxx-xx-x...
JAMES M. CAMPBELL xxx-xx-x...
RICHARD A. CARLSON xxx-xx-x...
CEDRIC O. CARROLL xxx-xx-x...
LARRY CARTER xxx-xx-x...
JAMES H. CASPER xxx-xx-x...
DAVID P. CAVALERI xxx-xx-x...
ROSA L. CEDILLO xxx-xx-x...
RAFAEL A. CHECA xxx-xx-x...
DALE M. CHIK xxx-xx-x...
ROBERT E. CHOPPA xxx-xx-x...
DAVID J. CLARK xxx-xx-x...
GARRY M. COLBERT xxx-xx-x...
MARY L. COLE xxx-xx-x...
CAROLYN COLOMBO xxx-xx-x...
DEBORAH R. COPE xxx-xx-x...
MICHAEL A. COSS xxx-xx-x...
MARK A. COSTELLO xxx-xx-x...
REGINALD L. CRAY xxx-xx-x...
MARK A. DAGOSTINO xxx-xx-x...
GLENN J. DANIELSON xxx-xx-x...
PATRICK B. DAY xxx-xx-x...
JEFFREY S. DAVIES xxx-xx-xx...
WAYNE K. DAVIS xxx-xx-x...
CRAIG A. DEDECKER xxx-xx-x...
MICHAEL P. DEPUGLIO xxx-xx-x...
WILLIAM C. DICKEY xxx-xx-x...
DOUGLAS G. DINY xxx-xx-x...
JOHN C. DIRENZO xxx-xx-x...
MARK E. DRAKE xxx-xx-x...
JEFFERY G. DUNN xxx-xx-x...
ROBERT C. EFFINGER xxx-xx-x...
VICTOR C. ELLIOTT xxx-xx-x...
MARK W. ERWIN xxx-xx-x...
BOYCE H. EVANS xxx-xx-x...
FLORENCE A. EVANS xxx-xx-x...
DANIEL J. FAGUNDES xxx-xx-x...
SCOTT K. FEHNEL xxx-xx-x...
SANDRA M. FICHTER xxx-xx-x...
GREGORY M. FIELDS xxx-xx-x...
MICHAEL E. FIRLIE xxx-xx-x...
ANDREW R. FISCHER xxx-xx-x...
FRANKLIN D. FORD xxx-xx-x...
ANDREW J. FRANK xxx-xx-x...
MARY L. FRANKLIN xxx-xx-x...
KENNETH L. GAINOUS xxx-xx-x...
MARCUS A. GARDNER xxx-xx-x...
WILBUR S. GARY xxx-xx-x...
STEVEN W. GAY xxx-xx-x...
ALLEN J. GILL xxx-xx-x...
JOSE M. GIROT xxx-xx-x...
EDWARD V. GOLDEN xxx-xx-x...
SAUL A. GRANDINETTI xxx-xx-x...
JOHN R. GREENE xxx-xx-x...
EDWARD P. GRZYBOWSKI xxx-xx-x...
WILLIAM F. HAASE xxx-xx-x...
CAROLYN M. HAMILTON xxx-xx-x...
GLENN W. HARP xxx-xx-x...
MICHAEL A. HARRIS xxx-xx-x...
PAMELA O. HART xxx-xx-x...
PHILIP HARTSFIELD xxx-xx-x...
DEWITT HATHCOCK, JR. xxx-xx-x...
THOMAS M. HERMAN xxx-xx-x...
JAMES W. HICKS xxx-xx-x...
MATTHEW HIGGINBOTHAM xxx-xx-x...
NEIL A. HIGGINS xxx-xx-x...
LAURA L. HILL xxx-xx-x...
JERI M. HOLLAND xxx-xx-x...
ERIC E. HUNGERFORD xxx-xx-x...
RONALD W. HUTHER xxx-xx-x...
DARREN L. IRVINE xxx-xx-x...
MICHAEL E. JACKSON xxx-xx-x...
MICHAEL S. JAJE xxx-xx-x...
NIKKI L. JAMES xxx-xx-x...
THOMAS E. JENKINS xxx-xx-x...
GORDON L. JOHNSON xxx-xx-x...
RUSSELL P. JOHNSON xxx-xx-x...
GARY R. JONES xxx-xx-x...
ROBERT R. JONES xxx-xx-x...
JOSEPH H. JUPITER xxx-xx-xx...
DOUGLAS M. KEEPER xxx-xx-x...
JEFFREY A. KELLY xxx-xx-x...
CARLA D. KENDRICK xxx-xx-x...
EDRIC A. KIRKMAN xxx-xx-x...
JOHN A. KIZLER xxx-xx-x...
THOMAS G. KNIGHT xxx-xx-x...
KAREN A. KOMAR xxx-xx-x...

CRAIG A. KRACHT xxx-xx-x...
DOUGLAS D. KUEHL xxx-xx-x...
TOMMY L. LANCASTER xxx-xx-x...
CURTIS A. LAPHAM xxx-xx-x...
STEPHEN A. LAWRENCE xxx-xx-x...
SUNG H. LEE xxx-xx-x...
JOHN C. LEGGETT xxx-xx-x...
MICHAEL K. LEMM xxx-xx-x...
STEPHEN G. LIKEVICH xxx-xx-x...
STEPHEN D. LINDAHL xxx-xx-x...
KENDALL E. LINSON xxx-xx-x...
ANDRE K. LITTLE xxx-xx-x...
MICHAEL H. LOVITT xxx-xx-x...
ALAN L. LUNDSTROM xxx-xx-x...
PATRICK J. MACAREVEY xxx-xx-x...
CHARLES F. MASKELL xxx-xx-x...
STEPHEN J. MAYHEW xxx-xx-x...
WILLIAM A. MAYO xxx-xx-x...
ROCKY L. MCELWAIN xxx-xx-x...
FLOSSIE P. MCGEE xxx-xx-x...
JOHN J. MEGNIA xxx-xx-x...
ROBERT S. MIKALOFF xxx-xx-x...
WILLIAM MELENDEZ xxx-xx-x...
RONALD T. MILLIS xxx-xx-x...
DANIEL MORGAN xxx-xx-x...
PETER W. MUELLER xxx-xx-x...
SAMUEL H. MURRAY xxx-xx-x...
RICHARD A. MUSE xxx-xx-x...
ROGER E. MYERS xxx-xx-x...
RALPH F. NAPLES xxx-xx-x...
MATTHEW J. OBERLE xxx-xx-x...
JOSEPH K. OGLE xxx-xx-x...
DAVID C. OSBORNE xxx-xx-x...
KATRINA M. PARSHLEY xxx-xx-x...
TERRY J. PAYNE xxx-xx-x...
DAMON C. PENN xxx-xx-x...
RICHARD G. PISCAL xxx-xx-x...
ROOSEVELT PITTS, JR xxx-xx-xx...
TIMOTHY B. PLATT xxx-xx-x...
JAMES C. POLLMAN xxx-xx-x...
ROGER A. PRETSCH xxx-xx-x...
NANCY L. PRICE xxx-xx-x...
CHARLES D. PRUETT xxx-xx-x...
CHARLES A. PRYDE xxx-xx-x...
TANYA A. PUCHALSKI xxx-xx-x...
RONALD J. PULIGNANI xxx-xx-x...
PETER T. QUINN xxx-xx-x...
ERIC F. RAFOTH xxx-xx-x...
FRANK RANDON xxx-xx-x...
ROBERT L. REESE xxx-xx-x...
PATRICIA E. REID xxx-xx-x...
ISRAEL REYES xxx-xx-x...
ANGELO RIDDICK xxx-xx-x...
WILLIAM M. RIERSON xxx-xx-x...
LARNCE L. ROBINSON xxx-xx-x...
RANDY R. ROSENBERG xxx-xx-x...
MATTHEW J. ROTHLISBERGER xxx-xx-x...
JOHN A. RUTT xxx-xx-x...
RICHARD H. SADDLER xxx-xx-x...
JOHN E. SALENIUS xxx-xx-x...
DAVID S. SANDERS xxx-xx-x...
JEFFREY SANDERSON xxx-xx-x...
SEAN M. SCALLY xxx-xx-x...
MARTIN SCHWEITZER xxx-xx-x...
TIMOTHY R. SEEHAFER xxx-xx-x...
HEIDI H. SEWARD xxx-xx-x...
BRUCE D. SHALON xxx-xx-x...
MICHAEL H. SHIELDS xxx-xx-x...
RICHARD A. SHORE xxx-xx-x...
VIRGINIA SIMONSON xxx-xx-x...
RICHARD S. SMARR xxx-xx-x...
ANTHONY L. SMITH xxx-xx-x...
STEPHEN V. SMITH xxx-xx-x...
BERNARD STANSBURY xxx-xx-x...
RONALD T. STAVER xxx-xx-x...
FRANK D. STEARNS xxx-xx-x...
ROBERT M. STICKNEY xxx-xx-x...
HENRY M. STPIERRE xxx-xx-x...
TIMOTHY S. SULLIVAN xxx-xx-x...
DAVID W. SUTHERLAND xxx-xx-x...
DOUGLAS A. TAMILIO xxx-xx-x...
CLARENCE L. TAYLOR xxx-xx-x...
HUGH G. TESTER xxx-xx-x...
GARY L. THOMSON xxx-xx-x...
ZANE K. TOLLIVER xxx-xx-x...
JERRY B. TONEY xxx-xx-x...
WAYNE TUCK xxx-xx-x...
ROBERT W. TURR xxx-xx-x...
JAMES P. ULAND xxx-xx-x...
JEFFREY F. VICTOR xxx-xx-x...
ALBERT L. VIVIAN xxx-xx-x...
TIMOTHY A. VUONO xxx-xx-x...
SHERRY A. WALL xxx-xx-x...
TIMOTHY J. WALTERS xxx-xx-x...
JONATHAN T. WARREN xxx-xx-x...
GWENDOLYN WEBSTER xxx-xx-x...
DARRELL K. WILLIAMS xxx-xx-x...
SANDER J. WILLIAMS xxx-xx-x...
RACHELLE M. WILPAN xxx-xx-x...
DOUGLAS A. WOJCIK xxx-xx-x...
KEVIN M. WOODS xxx-xx-x...
LESLIE WRIGLESWORTH xxx-xx-x...
MICHAEL YAMASHIRO xxx-xx-x...
CHARLES S. YOUNG xxx-xx-x...
x...
x...
x...

To be first lieutenants

YVONNE L. BAREFOOT xxx-xx-x...
BEVAN BENJAMIN xxx-xx-x...
BOBBY F. BLACKWELL xxx-xx-x...
THOMAS BROUILLETTE xxx-xx-x...
GERALD V. BURTON xxx-xx-x...
RONALD D. CASILLAS xxx-xx-x...
ROBERT P. CERJAN xxx-xx-x...
KYLE D. CRAWFORD xxx-xx-x...
JUAN A. CUADRADO xxx-xx-x...
JOSEPH J. DICHAIRO xxx-xx-x...
WILLIAM E. EVANS xxx-xx-x...
KELLY D. FEASEL xxx-xx-x...
BRIAN J. FROST xxx-xx-x...
CHRISTOPHER GIBSON xxx-xx-x...
MICHAEL E. HAMILET xxx-xx-x...
KRISTINA D. HATTON xxx-xx-x...
PHILIP P. HENDERSON xxx-xx-x...
ERIC D. HUDSON xxx-xx-x...
ROBERT G. JOHNSON xxx-xx-x...
MICHAEL J. JONES xxx-xx-x...
JEFFREY P. KELLEY xxx-xx-x...
PHILLIP L. KESLER xxx-xx-x...
WILLIAM P. KEYES xxx-xx-x...
HOWARD D. KIBBLE xxx-xx-x...
BARBARA F. KILLIAN xxx-xx-x...
JAMES E. KNUTSON xxx-xx-x...
DONALD P. LAUZON xxx-xx-x...
TIMOTHY R. LEMONS xxx-xx-x...
CLAY M. MARSHALL xxx-xx-x...
TONY MARTIN xxx-xx-x...
WILLIAM B. MASON xxx-xx-x...
STEVEN D. MATHIAS xxx-xx-x...
JOHN R. MILLS xxx-xx-x...
MICHAEL R. MULLINS xxx-xx-x...
RICARDO NIEVES xxx-xx-x...
JOANNE P. NOWAK xxx-xx-x...
SCOTT M. PADGETT xxx-xx-x...
RANDALL C. PAGE xxx-xx-x...
ERIC M. PETERSON xxx-xx-x...
GREGORY A. PLATT xxx-xx-x...
GROVER W. PRICE xxx-xx-x...
VINCENT V. QUARLES xxx-xx-x...
MICHELE R. ROBERTS xxx-xx-x...
DAVID RODDENBERRY xxx-xx-x...
TANYA F. RODGERS xxx-xx-x...
VINCE D. ROSS xxx-xx-x...
MICHAEL G. SEIDEL xxx-xx-x...
MARK R. SLAVIK xxx-xx-x...
RICHARD C. TRIEBEL xxx-xx-x...
PHILLIP A. VIERSEN xxx-xx-x...
RONALD M. WALLACE xxx-xx-x...
JAMES E. WOODARD xxx-xx-x...
JULIE A. WRIGHT xxx-xx-x...

To be second lieutenants

CHARLES A. FISH xxx-xx-x...
TIMOTHY J. HOLTAN xxx-xx-x...
MICHAEL P. SLATTERY xxx-xx-x...

MEDICAL CORPS

To be colonel

NICHOLAS E. CASSIMATIS xxx-xx-x...

To be lieutenant colonels

ALAN G. MUENCH xxx-xx-x...
WALTER NEWTON xxx-xx-x...
ROMEO P. PEREZ xxx-xx-x...
WILLIAM A. STECHER xxx-xx-x...

To be majors

DAVID ELLIS xxx-xx-x...
ROYCE E. LOVERN xxx-xx-x...

MEDICAL SERVICE CORPS

To be second lieutenants

VINCENT ANTUNEZ xxx-xx-x...
DAMON G. BAINE xxx-xx-x...
KEVIN J. BELANGER xxx-xx-x...
ANDREA C. BERCEAU xxx-xx-x...
WALTER CONNERY xxx-xx-x...
GREGORY FIX xxx-xx-x...
LORY M. GURR xxx-xx-x...
PHILIP L. HANSEN xxx-xx-x...
DAVID J. PARRAMORE xxx-xx-x...
BENJAMIN L. POORE xxx-xx-x...

DENTAL CORPS

To be colonel

ARTHUR M. KRAKOW xxx-xx-x...

To be lieutenant colonels

ELADIO J. DELEON xxx-xx-x...
ADRIAN PATTERSON xxx-xx-x...

To be majors

WILLIAM BEYERS xxx-xx-x...
EUGENE M. BUTEL xxx-xx-x...
CARLOS O. DELEON xxx-xx-x...
ROGER T. ELLIS xxx-xx-x...
CHRIS FINLAYSON xxx-xx-x...
JOHN HELLSTEIN xxx-xx-x...
PETER I. JUVE xxx-xx-x...
JOEL C. KNUTSON xxx-xx-x...
EDWARD J. MISTAK xxx-xx-x...
DONALD A. MOORE xxx-xx-x...
STANLEY MORRIS xxx-xx-x...
DANIEL E. PURVIS xxx-xx-x...
JAMES K. SCHMITT xxx-xx-x...
MING T. WONG xxx-xx-x...

To be captains

ANN L. BAGLEY xxx-xx-x...
DOUGLAS BAUMGARDNER xxx-xx-x...
MICHAEL L. BRACE xxx-xx-x...
DAVID BURNETT xxx-xx-x...
BENJAMIN T. COOK xxx-xx-x...
KATHRYN CRIPPS xxx-xx-x...
DALE L. GIEBANK xxx-xx-x...
JEFFREY GRASSER xxx-xx-x...
STEPHEN KOMYATI xxx-xx-x...
JAMES J. LIN xxx-xx-x...
NATHAN METHVIN xxx-xx-x...
JAMES E. PARKER xxx-xx-x...
DAVID R. REEVES xxx-xx-x...
LARRY ROTHFUSS xxx-xx-x...
JOHN R. ROYAL xxx-xx-x...
LOIS S. SCOTT xxx-xx-x...
GREGORY SHIPMAN xxx-xx-x...

JUDGE ADVOCATE GENERAL'S CORPS

To be captains

GARY J. BROCKINGTON xxx-xx-x...
GRAHAM A. CASTILLO xxx-xx-x...
ELDWOOD A. CHANDLER xxx-xx-x...
WILLIAM F. CONDRON xxx-xx-x...
MICHAEL J. DAVIDSON xxx-xx-x...
JONATHAN M. HARRISON xxx-xx-x...
STEPHEN R. HENLEY xxx-xx-x...
RUSSELL S. JOKINEN xxx-xx-x...
DARYLE A. JORDAN xxx-xx-x...
MICHAEL P. KELLY xxx-xx-x...
KEVIN LACHANCE xxx-xx-x...
STEVEN A. LAMB xxx-xx-x...
JAMES E. MACKLIN xxx-xx-x...
EDITH MEYERS xxx-xx-x...
MICHELE M. MILLER xxx-xx-x...
MARITZA S. RYAN xxx-xx-x...
KATHRYN STONE xxx-xx-x...
RENALDO L. STOWERS xxx-xx-x...
MATTHEW E. WINTER xxx-xx-x...

THE FOLLOWING NAMED DISTINGUISHED HONOR GRADUATE OF OFFICER CANDIDATE SCHOOL FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, 532, AND 533:

To be second lieutenant

ROCKY L. MCELWAIN xxx-xx-x...