United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, SECOND SESSION

SENATE—*Wednesday, February 5, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

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

Let us pray:

*To every thing there is a season, and a time to every purpose under the heaven * * *.*—Ecclesiastes 3:1.

Eternal Father, help us appreciate the invaluable resource of time—a Senator has no more time than a child—to waste time is murder, and the only way to save time is to spend it wisely. Delay for its own sake is not virtuous, but dilatory, "Haste makes waste." Forgive us for complaining that we do not have enough time; forgive us for killing time. Save us from the abuse of this precious commodity.

God of eternity, recalling the story of the Vermont farmer who, when asked why he did not hurry, said, "I figure that I pass up more than I catch up with." Or the cliche, "The hurrier I go, the behinder I get"; help us make time our servant rather than our master.

In the name of Jesus who was never in a hurry, yet finished the work he had entered history to do. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 5, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished majority leader.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning the time for morning business will run until 11 a.m., during which time a number of Senators will be recognized to speak for specific time periods. When morning business closes at 11, there will then be 1 hour of debate remaining on the motion to proceed to the energy bill with that time equally controlled between Senators JOHNSTON and MURKOWSKI. Once the hour is used or yielded back, the Senate, by prior order, is scheduled to vote on the motion to proceed to the bill.

Late last evening, the distinguished Republican leader offered to vitiate the vote and proceed to the bill, and I indicated that I would review that with Senator JOHNSTON and our colleagues before making a decision on that, and I will do that at the earliest opportunity this morning, and prior to the time when the vote would otherwise occur and will make an announcement in that regard at that time.

Once the Senate gets to the bill, Senator JEFFORDS is to be recognized to offer an amendment regarding alternative fuels. There is expected to be debate and a vote on that amendment today. I am advised by staff that the managers have been working with several Senators who have amendments which will be offered and debated, with possible rollcall votes occurring during the day to dispose of those amendments.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all the leader time of the distinguished Republican leader.

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein.

The Senator from Pennsylvania is recognized for up to 10 minutes.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 2188 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Four minutes and seventeen seconds.

EXTRADITION OF JOSEPH PATRICK DOHERTY

Mr. SPECTER. Mr. President, I now wish to utilize the remainder of my time to talk about the proposed extradition of Joseph Patrick Doherty, which I think is fundamentally unfair. In May 1980, Joseph Patrick Doherty, a member of the provisional Irish Republican Army, and others were charged with ambushing a car carrying members of the English Army which resulted in a killing.

Before the court returned a verdict, Mr. Doherty fled, and he was convicted in absentia for murder and sentenced to life in prison. He entered this country in 1982 and was found by INS in June 1983 and arrested, and INS commenced deportation proceedings.

He petitioned for political asylum under the Refugee Act of 1980. That petition started a very long proceeding, Mr. President, where at this juncture Mr. Doherty has been ordered deported

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after a complex series of litigation proceedings resulting in a decision by the U.S. Supreme Court. But as of this time he has never received a hearing on his request for political asylum, and he has been imprisoned in this country since 1983.

Mr. President, the intricacies of this matter are not such that anyone can speak with absolute authority on what has happened, but I think it is plain on this state of the record that he is entitled to a hearing which he has never had. I have written to the Attorney General on January 29 and to the President on February 4 urging that as a matter of executive discretion, a hearing be held.

I ask unanimous consent that the text of those letters be printed in the RECORD at the conclusion of this statement.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, the fact that there is substantial merit in Mr. Doherty's position is illustrated by the fact that a Federal judge at one stage denied extradition, holding that Joseph Patrick Doherty was not extraditable because his crime fell within the political crimes exception to the extradition treaty.

At another stage in these complex proceedings, the Board of Immigration Appeals granted Joseph Patrick Doherty's request to withhold deportation and to reopen his asylum petition. The Immigration and Naturalization Service appealed this decision, and the Attorney General reversed, and then the Court of Appeals for the Second Circuit in a 2-to-1 decision reversed the Attorney General's order and permitted Joseph Patrick Doherty to have his deportation proceedings reopened.

The Supreme Court then took jurisdiction of the case, granting a petition for writ of certiorari. It attracted enormous attention, with 132 Members of Congress joining in a brief amicus curiae in support of Joseph Patrick Doherty's position.

A few weeks ago, on January 15, 1992, the Supreme Court, in a split 5-to-3 decision, reversed the Second Circuit and upheld the deportation without a hearing and declined to reopen the asylum proceedings in an opinion where there was no majority rationale.

Mr. President, we cannot decide in a congressional context the intricacies of this kind of a case, but I submit that it is just fundamentally unfair for a man to be deported in the context of this case without having a hearing, and I urge my colleagues to join me and the other 141 Members of Congress who have spoken out on the subject to carry this message to the President—I know it is not easy to ask the President to overrule his Attorney General—to direct the Attorney General to reconsider this matter. I know it is not easy for him to do so in the context of the Supreme Court decision. But fundamental fairness and plain justice cry out, Mr. President, that there should be a hearing in this matter.

I see the gavel poised. I know my time has expired. I thank tne Chair for its indulgence and yield the floor.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, January 29, 1992.

Hon. WILLIAM P. BARR,
Attorney General, Department of Justice, Washington, DC.

DEAR BILL: As you know, the Supreme Court recently upheld the authority of the Department of Justice to deport Joseph Patrick Doherty to the United Kingdom. *Immigration and Naturalization Service* v. *Doherty*, No. 90-925. The Court, in a decision that failed to garner a majority rationale, upheld the exercise of discretion by your predecessors in office to refuse to reopen Mr. Doherty's withdrawn petition for withholding deportation and asylum. As you may be aware, I was one of the Members of Congress who filed an amicus curiae brief in support of Mr. Doherty.

While the federal government now holds the legal authority to deport Mr. Doherty without a hearing, I hope that you will withhold deportation and grant Mr. Doherty's request to reopen his asylum petition. While I take no position on the merits of Mr. Doherty's claim, I believe that he is entitled to present his evidence and attempt to make his case in the manner prescribed for the adjudication of asylum claims. To deny Mr. Doherty the opportunity to make out his case in a hearing is to deny one of the pillars of American justice: that no one may be harmed through official process without an opportunity to be heard.

Although the Constitution does not require a hearing for Mr. Doherty, and the Court has now decided that the Refugee Act of 1980 and applicable regulations do not mandate a hearing, I hope that you will invoke the spirit of justice behind the due process clause and grant Mr. Doherty a withholding of deportation and an opportunity to present evidence in support of his asylum claim.

Thank you for your consideration of this important matter.

My best.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, February 4, 1992.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I write about a matter of great urgency. The Supreme Court recently upheld the authority of the Attorney General to deport Joseph Patrick Doherty without a hearing. Mr. Doherty is now subject to deportation to the United Kingdom. I urge you to intercede with Attorney General Barr on this matter to direct that Mr. Doherty receive a hearing on his petition for asylum.

Mr. Doherty was convicted in absentia before a British court of the murder of an English Army captain. He was arrested in this country and has spent over eight years in prison here without a hearing. Mr. Doherty petitioned for political asylum, but withdrew his petition. He then sought to reopen his petition for asylum. Although the immigration judge approved the reopening, previous Attorneys General, exercising their statutory discretion, refused to permit the reopening. The federal courts reversed the refusal to reopen, but the Supreme Court upheld the Attorney General's exercise of discretion.

I believe that Mr. Doherty should be granted an opportunity to present evidence to the Immigration and Naturalization Service that would enable it to render a considered adjudication of his petition for political asylum. Anything short of a hearing would be an unwarranted compromise of the requirements of due process and would improperly allow foreign policy considerations to impinge on a political asylum decision.

Therefore, I urge you to direct General Barr to grant a withholding of deportation to Mr. Doherty and to reopen his asylum petition to allow him to present evidence in support of his claim for asylum.

Thank you for attention to this important matter.

Respectfully,

ARLEN SPECTER.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished Chair for recognizing me.

Mr. President, how much time am I allowed?

The ACTING PRESIDENT pro tempore. The Senator from Arkansas [Mr. PRYOR] is recognized to speak for up to 15 minutes.

Mr. PRYOR. Mr. President, I thank the Chair very much.

SKYROCKETING COST OF HEALTH CARE

Mr. PRYOR. Mr. President, our health care system is hemorrhaging from out-of-control costs. These costs are driving the ever-increasing calls for health care reform. It is driving the demand that we do something about these costs and access to the system, which is not present for some 34 million Americans.

Mr. President, it remains very unclear whether we are going to adequately and comprehensively respond to these calls this year. We can take an important step by enacting legislation that will bring down the costs of pharmaceuticals or prescription drugs.

Mr. President, legislation of this type is long overdue. The prescription drug pricing problem has reached a crisis proportion in America today. For the 12th year in a row, prescription drug price inflation has been the leader of the pack in pushing up the cost of medical care in our country. New data released recently by the Bureau of Labor Statistics shows that prescription drug manufacturers continue to dangerously ignore bipartisan calls to show pricing restraint.

Mr. President, in my opinion, this is raw arrogance on the part of the pharmaceutical manufacturers. While the Consumer Price Index increased just 3.1 percent in 1991, Mr. President, the drug manufacturers' inflation was three

times this at 9.4 percent—these figures are just in from 1991.

According to the Congressional Research Service, during the 10-year period between January 1982 and December 1991, while the overall general inflation rate increased by 46 percent, the prescription drug inflation index increased 3 times that amount—143 percent.

These data, while stark, eye opening, and pretty awesome, also fail to tell the whole story. Recent studies and surveys of elderly Americans in our country put the impact of these shameful and unrelenting price increases into human terms.

One, prescription drugs represent the highest out-of-pocket medical expenditure for three out of four elderly people. According to an August 1991 CBO study, 60 percent of the elderly people in America are today at risk for catastrophic out-of-pocket prescription drug prices.

Two, because of skyrocketing prescription drug inflation, many private health insurance plans for the elderly today offer absolutely no prescription drug coverage. Today, over one-half of all Americans over the age of 65—16 million elderly people—have no insurance protection whatsoever against the cost of and the inflation on their prescription drugs.

Three, over 5 million people over 55 now say they are having to make choices between food and their prescription drugs—between fuel for their home for heat or paying for prescription drugs. If that is the case, what kind of a country have we become?

After almost 3 years of continuous congressional pressure on the drug industry to be responsible players in the health care system, one manufacturer has said, and a few have implied, that each year they will keep their prescription drug price increases on drugs to the general inflation rate.

I applaud this. While there is a step forward in this, Mr. President, this policy absolutely does nothing to assure us that new drugs coming into the market for which research and development grants are given, and the taxpayers are paying for, will be priced responsibly. Earlier this month two drug companies announced a voluntary program to lower their drug prices to certain Federal Government drug purchases. These voluntary efforts are welcome, and they are long overdue. But, unfortunately, it is unlikely that other drug manufacturers will voluntarily follow suit.

In that case, we have no guarantee whatsoever that the drug companies making these voluntary gestures or any other drug company whatsoever, that comes forward in the future, will continue to moderate their pricing policies.

For these reasons, Mr. President, I believe that it will take nothing short of Federal legislation in this session of Congress, this session of Congress this year, 1992, to ensure that all Federal purchasers have protection against skyrocketing pharmaceutical prices. While the American public is staggering under the weight of triple-digit restriction drug price inflation, the pharmaceutical manufacturers continue to give us plenty of examples of why they have earned the distinct honor today of being America's most recession-proof industry.

For example, in the first quarter of 1991, Mr. President, American Home Products, the parent company of A.H. Robins, and Wyeth-Ayerst, posted a 14-percent increase in its profits. Johnson & Johnson, which is the parent company of Ortho and Janssen Pharmaceuticals, boasted an 18-percent increase in its profits in the last quarter of 1991. Bristol-Myers Squibb posted a 20-percent increase in profits, setting records for both the quarter and the entire year.

One drug industry analyst has predicted that, in 1992, drug companies will increase their profits by 17 percent over 1991.

There is little doubt today why drug stocks remain the little darlings of investors even in times of economic doom and gloom. In fact, Mr. President, given the current situation and the current conditions, if I were an investor today, I would look very carefully at some of these drug companies because they have made such a tremendous profit in the past several years.

I think that we should examine these prices to see why they are so high. For the third quarter of 1991, while average Americans just tried to keep their heads above water and pay the bills for health care, education, and rent, the pharmaceutical industry's skyrocketing price increases helped to give the shareholders a 32.4-percent return on equity, more than 3 times the Fortune 500 industry average of 9.8 percent.

So what is the most profitable industry in America, Mr. President? Without question, it is the manufacturing of pharmaceuticals. And who pays the most for those drugs, Mr. President? Those who can least afford to do so.

The drug companies CEO's do not appear to be feeling the effects of the recession. While the median income of the average elderly household in America was $8,781 in 1990, the median salary of the Nation's top 14 drug companies was $1.56 million in 1990. That was not all. This figure pales in comparison to the median value of their long-term golden parachutes of stocks, bonds, and stock options, which for these 14 CEO's, is an average of $3.65 million.

The drug companies have responded to these well-established facts by saying that their exorbitant drug price increases are needed for research; and that any cost control measures will kill research and development, that goose that laid the golden egg.

I say this argument amounts to nothing more than a big goose egg. They are spending more money today on marketing, they are spending more money today on advertising, than they are on research to find the cure for cancer, AIDS, Parkinson's disease, Alzheimer's, and those diseases of our time and generation for which we must find a cure.

Recently, Mr. President, a physician in Texas sent me a cardboard box full of drug manufacturing promotional gimmicks that this doctor had received over the past several months.

As I went through this box recently, I examined more and more of these useless gimmicks. You think about the number of hard-earned American health dollars that went to pay for this incredible waste and extravagance in their promotion and advertising schemes, all to promote drugs already on the market, and not to research and find a cure for the diseases of our times.

To add insult to injury, the Pharmaceutical Manufacturers Association, the PMA, recently announced than it found another way to convince us that it has more money than it knows what to do with. It has just hired a major public relations firm to help it improve its image among the general public. The reports are that this campaign will cost the pharmaceutical manufacturers $7 million in 1992.

Expenditures like this are a mere drop in the bucket for the most profitable industry in the United States. Makes no mistake that the drug industry is not going to pay for this slick PR campaign, but it will be the sick, it will be the poor, the elderly, and the taxpayers of this country who are footing the bill.

Mr. President, I ask unanimous consent to proceed for 2 additional minutes.

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

Mr. PRYOR. Mr. President, in this upcoming session of Congress, I want to renew my commitment to ensuring that all Federal Government health care programs pay fair and uniform prices for pharmaceuticals.

In addition, let me say that the disturbing 1991 prescription drug inflation data, the continued posting of record profits by the drug industry, and the continuing evidence of the excessive and unnecessary promotional activities renews my commitment to enacting S. 2000, the Prescription Drug Inflation Containment Act of 1991.

I am proud to have the cosponsorship of the distinguished Senator from Maine, Senator BILL COHEN, and many others of my colleagues.

This Congress can no longer ignore the burden that prescription drugs are placing on Americans of all ages. I encourage my colleagues to join with me in being a cosponsor of this legislation.

Finally, Mr. President, if we are going to allow prescription drug costs to go at the rate they have been going in the past decade, where we are spending $67 billion in 1990, we are going to be spending $145 billion for prescription drugs in the year 2000, just 8 years from now.

Finally, Mr. President, on tomorrow at noon our President is going to unveil his long-awaited health care reform legislation. I am willing to bet, Mr. President, and I am not Jeane Dixon. I am going to make a prediction. You just watch and see. He is not going to talk about the cost of prescription drugs. He is going to ignore the fastest rising component in the health care system that we have today, the cost of prescription drugs, the cost of pharmaceuticals.

Why? I think that we will find out eventually. But I do know this: prescription drug costs is the No. 1 health care cost for three out of four elderly. And I am hopeful that our President will change his mind and talk tomorrow about what this administration plans to do in containing the exorbitant prices and the unwarranted, unjustified profits of the pharmaceutical manufacturers of America.

Mr. President, I thank the Chair.

I yield the floor.

Mr. BROWN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

EXTENSION OF MORNING BUSINESS

Mr. BROWN. Mr. President, I ask unanimous consent to extend morning business for 10 minutes, such time to be equally divided between the distinguished Senator from Rhode Island and myself.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

WELFARE REFORM

Mr. BROWN. Mr. President, one of the things that was included in President Bush's plan that did not receive a great deal of attention, but has a great deal of importance for every American, I believe, is reform with regard to the welfare system.

The President has pledged to help States get waivers to experiment with welfare reform initiatives. This is critical, because our States have proven their ability to develop positive proposals that can turn people's lives around. There is nothing sadder in our society than those who are truly in need and receive public assistance and, yet, find that public assistance, rather than enriching their lives, sentences them to a lifetime of poverty.

The facts are these: We spend an enormous amount of money as a nation and as a people both at the Federal and the State level to assist those in need and, yet, all too often the programs that we have allowed to go forward have not truly helped people out of poverty. As a matter of fact, there is mounting evidence that indicates that the very programs themselves keep people in poverty.

The answer is pretty simple and straightforward: We need to design assistance programs, welfare programs, to help people out of poverty, to find a way up and out, not to keep them in it.

One such idea will be included in the Economic Opportunity Act of 1992, which I will introduce tomorrow. The bill is focused on the Work Supplement Program. I believe it is a positive program. It is a positive bill that will help all involved. It will help the welfare recipient, because it will give them an ability to increase their take-home income. It will help the Federal Government, because it will provide additional funding for them.

How is this possible? Well, from some simple basic reforms. First of all, the bill speaks to the reason why only 17 States use this program, why it is underutilized.

Right now, the Work Supplement Program is restricted so that an employer may not hire a welfare recipient unless he can show they will be put into a brandnew job. This bill would allow work supplement programs to use jobs that are vacant. In other words, you cannot take away someone's job to provide it, but you can give a welfare recipient a job that comes open. That makes a big difference, because it provides opportunity for welfare recipients.

Second, this bill would allow States to use food stamps as part of the Work Supplement Program. This will significantly expand the benefits available to provide incentive in this area. It will open up a whole range of new jobs, because you can only get a part-time job sometimes with the AFDC money that is involved. If food stamp money is involved as well, not only is more money coming to the welfare recipient, but far more jobs are opened up.

The third basic reform involves an incentive program for the States. As they experience savings from the Federal share, from the reduction of people on welfare, part of that money is shared with the State, so they have an incentive to participate. The savings help reduce the higher costs, because it takes workers to place people in these jobs.

Fourth, and I think importantly, this guarantees that the welfare recipient is better off. The bill requires that they have to get at least 125 percent or more when they work than they did when they were on welfare.

Let's face it, if we want people to work, we have to reward them for doing it. This bill can make a positive difference, because it not only gets more money to the welfare recipients at a lower cost, but more important, it prepares them for a meaningful job. It gives them the skills that will help them earn their own way. It is a start in changing our welfare program from one that has kept people in poverty to one that provides a way out.

Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the consideration of S. 2166, the energy bill, no later than 12 noon today.

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

Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I might have 7 minutes to proceed in lieu of the 5 that I believe I now have.

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

FOUR CHEERS FOR ENVIRONMENTALISTS

Mr. CHAFEE. Mr. President, there is a strange and dangerous phenomenon sweeping across this country. During hard economic times such as those we are facing today, it seems to make some people feel good to berate, belittle, and ridicule those who are urging action to protect the environment. Phrases like "regulatory zealots" and "no growth advocates" are used with greater and greater frequency.

The danger—and the folly—of such an attitude can be found in the page 1 headline of yesterday's Washington Post: "Ozone-Hole Conditions Spreading; High Concentrations of Key Pollutants Discovered Over U.S." I ask unanimous consent that a copy of the article be printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. CHAFEE. Mr. President, it appears that the annual hole in the sky over Antarctica may soon have a companion. Not the hole over the Arctic that we heard about last year but a hole over the United States—over heavily populated areas of the entire Northern Hemisphere.

Manmade chemicals such as chlorofluorocarbons [CFC's] are destroying the fragile stratospheric ozone layer—the atmospheric shield that protects us from the Sun's harmful ultraviolet radiation. A damaged ozone layer means increased ultraviolet radiation. Increased ultraviolet radiation means more cases of skin cancer and cataracts as well as damage to plant life, including the crops we grow to feed people all over the world.

Mr. President, since 1974, scientists and environmentalists have been warning us that chemicals such as CFC's would destroy the ozone layer.

What was the response? Proponents of the status quo argued about the scientific uncertainties. They spoke about the lack of proof. They told us how these chemicals were indispensible to our way of life.

Those who ridiculed the environmentalists' warnings managed to hold the line for a few years but finally, in 1987, thanks to the extraordinary efforts to the U.N. Environment Programme [UNEP], under the leadership of UNEP's Executive Director, Dr. Mostafa Tolba, multinational negotiations produced the historic Montreal protocol—an international agreement to reduce CFC production by 50 percent over the ensuing 10 years.

Fortunately for all of us, the Senate Committee on Environment and Public Works—that well-known bastion of tree hugging liberals and source of crazed, extremist environmental proposals—recognized that a 50-percent cut in CFC's was not enough. During consideration of the Clean Air Act amendments, the committee accepted my proposal to phase out—to ban—CFC's and related ozone destroying chemicals. Included in my amendment, which is now part of the law, was a directive that EPA accelerate the phaseout schedule when data such as that reported yesterday suggests the need to do so.

Mr. President, there is a point to this brief historical review. In fact, there are at least three points.

First, the next time anyone starts to berate environmentalists for sounding the alarm, stop and think about the ozone layer. This latest news is serious but stop and think about how much worse it would be if we did not respond when we did with the Montreal protocol and the Clean Air Act.

Second, what about the predictions of economic hardship and technical barriers to a CFC phaseout?

When I first introduced my bill to ban ozone destroying chemicals in 1987, it was criticized by Members of this body as excessively oppressive and regulatory in nature. In 1990, against some opposition, the Senate approved an amendment to strengthen the ozone protection portion of the Clean Air Act. Opponents argued that the amendment "threatens American jobs and American competitiveness." It was said that the amendment would "greatly impact the competitiveness of American industry."

What has happened? Lo and behold, some of our most innovative companies are finding that eliminating ozone destructive chemicals is far easier than predicted and, rather than being an economic burden, is turning out to be an economic boon. By eliminating CFC's and methyl chloroform, a number of industries are actually saving money. One company has reported that for every dollar they spent to eliminate these chemicals they will save four times that amount in future costs avoided. I say four cheers for companies like Northern Telecom, IBM, Hewlett Packard, AT&T.

Finally, Mr. President, there is an important lesson here that can and should be applied to the threat of global climate change. All of the arguments we heard against proposals to protect the ozone layer are being used again. Cries of "scientific uncertainty," "economic burdens," and "technical barriers" ring through these Halls. Sure, we need to be cognizant of these factors but we must not be paralyzed by them.

These environmental challenges are not burdens that undermine American competitiveness. They are opportunities. The future of American industry is in new, clean technologies. When countries such as India, China, or Brazil go shopping for industrial processes, what are they going to buy? Old, worn out, polluting technologies or new, clean, state-of-the-art technologies? Our chief competitors in the world market, Japan and Germany, have already figured this out. It doesn't take a rocket scientist to see that we are about to miss the boat.

Later this month, in New York City, there will be a crucial meeting of governments that have been negotiating a climate convention. For months, the United States has been an obstacle to progress at these negotiating sessions. That is most unfortunate and it is unnecessary. It is my understanding that the administration is trying to decide whether and when to make a constructive offer at these negotiations. My advice, Mr. President, is do it and do it now. The sooner the better.

To those who like to kick around environmentalists, those who like to ridicule our environmental laws, I say "remember the ozone hole." To those who continue to sound the alarm and warn us of environmental problems, I say "keep up the good work." And finally, to those who develop the solutions to these problems, those who find better, cleaner ways to make things, I say "four cheers."

EXHIBIT 1

[From the Washington Post, Feb. 4, 1992]

OZONE-HOLE CONDITIONS SPREADING

(By Kathy Sawyer)

The danger that a new ozone "hole" could open over densely settled areas of the Northern Hemisphere, exposing the population to increased amounts of harmful radiation, is greater than previously suspected, scientists reported yesterday.

New indications of ozone depletion by NASA satellite and multiagency airborne instruments are so alarming, the scientists said, that they decided to release them before completion of the data analysis in late March.

Two weeks ago, detectors aboard a converted spy plane flying over New England and eastern Canada recorded the highest level of the ozone-destroying chemical chlorine monoxide ever measured anywhere around the globe. The level—1.5 parts per billion—was approximately 50 percent greater than any previously seen over Antarctica, the site of the infamous ozone hole first discovered in the early 1980s.

Chlorine monoxide, which results from the presence of man-made chlorofluorocarbons (CFCs), is a potent ozone-destroyer by itself. And when combined with small amounts of its chemical cousin, bromine monoxide—which the NASA researchers also found at elevated levels—the effect is enough to destroy ozone at a rate of about 1 or 2 percent per day for brief periods in late winter, said Michael Kurylo, NASA's program manager for the airborne studies.

Ozone in the stratosphere protects the Earth's surface by absorbing much of the ultraviolet radiation that causes skin cancer, cataracts and immune-system damage in humans and devastates many microscopic marine organisms.

Weather conditions permitting, ozone over parts of the Northern Hemisphere could be depleted by 30 to 40 percent, the scientists said. By comparison, about 50 percent of the ozone has been depleted from the ozone hole over Antarctica.

To emphasize how ozone-destroying chemicals have become widespread over populated areas, Kurylo described the experience of the science investigators' flights out of Maine. "There were some flights directly out of Bangor where the aircraft encouraged these parcels [of chlorine gas] before it ever got to operating altitudes."

In addition, researchers found evidence of reduced concentrations of nitrogen oxides in the lower stratosphere. Nitrogen oxides help preserve ozone by reacting with chlorine and bromine compounds before they can damage the ozone layer.

"Our conclusion is that the 'immune system' of the atmosphere"—its nitrogen-mediated ability to fight ozone-destroying chemicals—"is weaker than we had suspected before," said James G. Anderson of Harvard University, lead scientist for the airborne observations program. "None of the news is good."

Ozone-depleting compounds in the stratosphere from the Arctic as far south as the central Caribbean were found to be much more abundant than computer analyses had predicted. Part of this is a result of the eruption of Mount Pinatubo in the Philippines last June, the scientists said.

The new observations, including some from NASA's new Upper Atmosphere Research Satellite (UARS), suggest that the chemical processes that apparently work to deplete ozone throughout the atmosphere are not confined to the polar areas, where conditions are more conducive to ozone destruction.

The Antarctic hole was discovered in 1985. Concern has grown since then that Earth's ozone shield is being destroyed by human industry, primarily by the release into the atmosphere of CFCs used as refrigerants, thermal insulators and in cleaning solvents. These break down into chlorine atoms or compounds, which interact with and destroy ozone.

Ozone is a form of oxygen whose molecules contain three oxygen atoms instead of the usual two—a configuration that gives ozone its peculiar ability to filter ultraviolet rays from sunlight. But highly reactive chlorine or bromine compounds, atmospheric scientists believe, snatch one of the oxygen atoms away. The remaining two-atom molecules of ordinary oxygen cannot block ultraviolet radiation.

How severely the ozone is depleted depends on weather conditions, especially the size

and duration of the so-called polar vortex—a supercold mass of air penned in by high winds swirling around it. When the air is cold enough inside the vortex, ice particles form. These, along with liquid droplets, provide platforms for the ozone-destroying chemical reactions, which are triggered by sunlight.

The vortex over the Arctic is more broken, because of turbulence caused by surrounding mountains, than is the one over Antarctica, scientists noted. The greatest danger of high ozone loss—a "hole"—over the Arctic will occur when the vortex there remains intact until late February, according to Kurylo.

Based on an estimated 10 percent ozone loss in mid-latitudes during the 1990s, a panel of the United Nations Environment Program reported in November that increased ultraviolet radiation leaking through the ozone layer by the turn of the century could cause 1.6 million additional cases of cataracts and 300,000 additional skin cancers a year worldwide.

Most nations have agreed to phase out CFCs by the year 2000, but some potential replacements also involve ozone destroyers.

The new findings yesterday moved Sen. Albert Gore Jr. (D-Tenn.) to introduce new legislation that would speed the phase-out of ozone-depleting chemicals.

A NASA official compared the decades of buildup of ozone-destroying chemicals to the way a head of foam forms on a glass of beer. The chemicals rise through the lower atmosphere and bubble into the stratosphere.

Scientists noted that, once in the atmosphere, the ozone destroyers are very persistent. Even if CFCs were phased out at once, said Kurylo, to restore the ozone layer to its former health "would take until 2060 or 2070. . . . This legacy will be with us for a long time."

TRIBUTE TO BEATRICE LERNER

Mr. LAUTENBERG. Mr. President, last week the State of New Jersey lost one of our most devoted public persons, Beatrice Lerner of South Orange. She was a dear friend and it is an honor for me to place in the RECORD the life and activities of this remarkable woman.

A native New Jerseyan, Beatrice Hirshman was born and raised in Newark. Upon her graduation from Barringer High School, Bea went on to New York University where she studied under noted playwright Morton Wishengrad.

After her marriage to Joseph H. Lerner, the couple settled in New Jersey and began their lives together. Joe Lerner's own impressive record of public service includes service as a Newark Municipal Court judge and a New Jersey State Alcoholic Control director.

Bea's devotion to her faith and to Jewish life was always in evidence. Her religion served Bea as both a source of strength and a call to service. She believed that people have an obligation to one another. To serve cheerfully when called upon was always a personal hallmark of Bea Lerner.

An active member of the Zionist Organization of America, Bea served as that group's New Jersey chapter president for 16 years and was a member of its national executive committee.

She and Joe chaired for many years the organization's annual Justice Louis D. Brandeis Awards dinner which recognized outstanding political, educational, religious, and communications leaders for their work and humanism. Among those honored was Nobel Peace Prize winner, Elie Wiesel.

In the early 1980's, Bea herself was recognized by the Zionist organization with a Brandeis Award which recognized her for her "love and sympathetic understanding of all people, her dynamic personality and her creative gifts of heart and mind."

Bea was also a life member of Hadassah and served as its Newark chapter president. She was the author of a number of plays, including "Ticket to Israel" which is used by Hadassah organizations throughout the Nation.

However, Bea's dedication to the community was not restricted to her dedication to her religion or Jewish heritage. Bea Lerner was, in all things, a multifaceted personality and a humanist.

She served as president of the Garden State Ballet for 10 years and as president of the New Jersey Ballet for 1. She was intimately involved in the Northern New Jersey Multiple Sclerosis Society and active in Democratic politics on both a State and national level.

As John F. Kennedy's New Jersey special events chairwoman during the 1960 campaign, and later as assistant campaign chairwoman to former New Jersey Gov. Richard Hughes, Bea organized numerous events at the old Newark Armory drawing performers such as Frank Sinatra and Nat King Cole.

And Bea's political house parties were legend in the State. Her guests included: Israeli Prime Minister David Ben Gurion, United States Supreme Court Justice Byron White, President Harry Truman, Adlai Stevenson, BILL BRADLEY, Mrs. Walter Mondale, and members of the families of John F. Kennedy and Vice President Hubert Humphrey. I, myself, am proud to say that I was often a guest of Bea's and was always grateful to her for her friendship and support. She actively worked on behalf of candidates for office in whom she believed and I was privileged to enjoy her considerable skill and effort in my quest for the Senate.

She also served as an administrative assistant to former New Jersey Govs. Robert Meyner and Brendan Byrne.

Mr. President, Bea was a woman who sought to highlight not the differences that separate people, but the common bonds that unite us all. She believed in the inherent goodness of people and strove to be a catalyst for understanding in an often intolerant world.

Community leader, social and political activist, devoted wife, mother of Trish Vradenburg and Michael Lerner, grandmother to Akiba, Alissa, and Tyler Vradenburg, sister to Irving Hirshman, Bea Lerner will be missed by many. Her passing leaves a void that will not easily be filled. And to her family, I express my deepest sympathy.

I hope they will derive some comfort from knowing that our world is a better place for having had Bea Lerner in it.

RURAL HEALTH CARE

Mr. CONRAD. Mr. President, I would like to draw the attention of the Senate to an article in this week's People magazine entitled "Too Tough to Die."

This article describes the ordeal of North Dakota high school student John Thompson, whose arms were severed in a farm accident. This is a heartwrenching story about a young man with more courage and stamina that anyone I know.

John Thompson was able to run 400 yards to the house, call for help, assist the volunteer ambulance crew in locating materials in which to pack his arms for surgery, and keep everyone calm through it all. John's story has captured the heart of anyone who hears it. His courage is an example to all of us.

I recommend this article to my colleagues and will ask unanimous consent that the article be printed in full.

But Mr. President, there is another lesson to be learned from John's ordeal. His story demonstrates the critical need for a network of quality health care in rural America. At each and every step of John's terrible journey, trained health volunteers and professionals made it possible for him to survive—the volunteer ambulance crew first on the scene, the rural emergency room 20 minutes away, the air-ambulance plane that took John to Minneapolis for his surgery and the surgeon who reattached his arms.

Mr. President, I would draw the Senate's attention to another story. This is the story of the health care providers involved in John Thompson's case, and the role of the University of North Dakota in training and establishing a health network across my State. I ask unanimous consent that the article from the January 1992 issue of the Review, "Alumni Play Critical Roles, Brighten Health Prospects, Rural to Urban," be included in the RECORD.

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

[From People magazine, Feb. 3, 1992]

TOO TOUGH TO DIE

(By Margaret Nelson)

The morning was cold and bright as John Thompson, an 18-year-old high school senior, went about his chores on his family's 1,600-acre farm near Hurdsfield, N. Dak. After a leisurely breakfast alone that Saturday, Jan. 11, John went out to use an auger powered by a tractor to move barley into the pigfeeding bins. And then it happened. John remembers

a slip on the ice, a tug on his shirt—and in a terrifying split second, both of his arms were ripped off by the spinning machinery.

Now, propped up in bed at North Memorial Medical Center near Minneapolis a week after microsurgery to reattach his arms, John may be the only person who doesn't marvel at the courage and coolness he showed in the aftermath of the terrible accident. Though wincing at pain that "feels like a nail's being pounded into me," he seems almost matter-of-fact in describing for the first time the ordeal that made news around the nation. "I'm grateful for everyone's prayers and everything, but anyone would have done what I did," he says with a shy smile and easy good manners. "You do what you have to do."

But what John Thompson did was nothing less than incredible. Like keeping his wits and running 400 feet uphill to his house with blood oozing from the stumps of his arms; like using the bone that dangled from his left shoulder to open the door; like phoning for help by using a pen clenched in his teeth to peck out the number on the touch-tone dial; like waiting for some 30 minutes alone, huddled in the bathtub so he wouldn't get blood on his mother's carpet; like helping the volunteer ambulance crew locate plastic garbage bags and ice to pack his severed arms; and finally, enduring six hours of surgery, which required 30 units of blood, making his one of a few successful double-arm reattachments ever performed in the U.S. For John's surgeon Dr. Allen Van Beek, 48 a Vietnam veteran and microsurgery specialist, it is hard to talk of the episode without voicing a sense of awe—or without tearing up when he thinks of John waiting alone for help. "John is the epitome of courage," says Van Beek. "The only other place I saw courage like this was in war. At first he thought he was going to die. That's when supernatural strength comes in. It's there in everybody. But he used it when it was needed."

Perhaps the hardships of growing up on a farm had toughened John more than most. In recent years his parents, Larry, 45, and Karen, 44, have suffered the financial difficulties of many farmers, forcing them to sell 600 acres of their land. A music enthusiast whose favorite performers are Whitney Houston, Bette Midler and Guns N' Roses, John hoped to go to college and possibly become a professional singer. One of three children—his sister, Kim Blotter, 23, lives in Fargo, and his brother, Mick, 22, is a truck driver living at home—John took special pride in handling things when his folks were away. "He's always been a quiet kid, never said much, but now you see what he's got," says Larry. "He's really something."

Still piecing together the events of that Saturday, John says it helps to talk about what happened. His parents were visiting a relative at a hospital in Bismarck, 90 miles away, leaving John home alone. It was about 11:30 A.M. when John went to unload barley from a Ford two-ton truck. He turned on the device known as a power takeoff (PTO), a small but powerful spinning shaft that in turn operates the auger, a common farm implement used to move grain. He remembers jumping down from the truck, but not much more of the actual accident. "I must have slipped," he says. "The front of my shirt got caught in the PTO. I pulled the shirt out, but my arm got caught." As best he can figure, the PTO, which was mounted on the tractor about two feet off the ground, spun him around about five times. "I was lying on the ground," he says. "I couldn't feel my left arm. "I couldn't see my right arm. I thought it was bent back, but I went to pick myself up, and my arms were gone. I thought I was going to die."

In that sickening instant, he doesn't remember feeling pain or panic. "I got up, I don't know how, and sort of ran to the house," he says. "I had a bone sticking out of my left arm, and I was gonna try and open the sliding door. I got the bone into the lock, but I couldn't get it open. I went to the front, used my bone to open the screen door, then my mouth to turn the knob." Rushing into the office, he jostled the phone off the hook and tried to dial the first number that came to mind—that of his uncle, Lynn Thompson, who lives a few miles away. Three times he attempted to punch the seven digits out by using his nose, without success.

Finally he got hold of a pen with his mouth and used that to dial. On the other end, his cousin Tammy, 17, picked up. "When Tammy answered, I spit out the pen. I told her, 'This is John. Call an ambulance immediately because I'm bleeding very bad and I don't have any arms.' I kept saying that. Then I pushed the button down until I heard a dial tone. I knew Tammy wouldn't be able to call an ambulance unless I broke the connection." With the family's toy poodle, Tinker, barking all around him, John went to the bathroom, kicked open the shower curtain, crouched down in the tub to avoid staining his mom's carpet and waited for help.

Meanwhile, Tammy, panicked and in tears, first called her stepmother, Sharon Thompson, a waitress at Hurdsfield's only restaurant, and told her to call an ambulance. Next she phoned her mother, Renee Thompson, who runs a nearby gas station, and pleaded with her to come quick. "I raced out of the station and jumped into the car," says Renee. After picking up Tammy, she arrived at the Thompson farm in about five minutes. Inside the simple, ranch-style house they were greeted by splattered blood and the sound of John crying in the bathroom. As Renee hustled in to comfort him, he implored her to keep Tammy away. "It's real bad, Aunt Renee," he said.

It took a moment for Renee to realize how bad. "He was in the bathtub with the shower curtain covering most of him. I could just see his head," Renee recalls. "He kept repeating, 'I have no arms. I have no arms.'" For the next 20 or 30 minutes, she tried to keep his spirits up by holding and talking to him. John appeared oddly concerned with how others in his family would react to his accident. "He'd say, 'I know Dad's gonna blame himself for leaving me alone,'" says Renee. "He was very rational, very alert, didn't seem to be in pain." Nor had he lost his sense of humor. After Renee told him the ambulance would be there in a second, he promptly counted "1,001" and announced, "Well, it's not here."

When the ambulance got to the house, the crew of two women and a man had trouble concealing their shock at what they saw. "They walked into the bathroom, and their eyes kind of rolled back in their heads—just for a second," says Renee. "They were stunned. They're farm people, volunteers." John reminded the crew to retrieve his arms and directed them to the garbage bags in the kitchen, so the limbs could be packed in ice. "Mostly we get heart attacks, stroke victims," says Joan Rodacker, a four-year veteran of the Bowdon ambulance service. "If John hadn't kept his head, the outcome would have been different."

After strapping John to the stretcher and packing his arms in ice, the crew sped to St. Aloisius Medical Center, about 20 minutes away, in the town of Harvey. In the ambulance, John began complaining that his now severed hands were hurting. "It was real weird,' he says. "The doctors say it was phantom pain."

By that time John had lost roughly half his blood. What apparently prevented him from bleeding to death was the fact that the arteries had quickly closed off naturally, as if a tourniquet had been applied. The attending physician, Dr. Curt Nyhus, immediately phoned Van Beek, who was on call at North Memorial hospital, a regional trauma center that has six microsurgeons skilled in limb reattachment. at 3:30 p.m. John, accompanied by a doctor, lifted off from Harvey aboard an air-ambulance plane for the two-hour flight to Minneapolis.

As in all limb-reattachment procedures, speed was critical to repairing the damage. Soon after John arrived at North Memorial, he was prepared for the operation, and then a surgical team led by Van Beek began working on his left arm, which had been severed above the elbow, while another worked simultaneously on the right, which had been torn off at the shoulder. Experts say that while the operation is not technically difficult, it is a major trauma for the body. "Fortunately, John is tremendously healthy—his lungs, kidneys, heart," says Van Beek. Since the initial operation, John has been in surgery three more times to remove dead skin and check the reattached blood vessels.

Back at home, John's medical progress is, not surprisingly, the principal topic of conversation. "In a small town," says John's friend LeAnna Opp, 17, "you get really close to your classmates." An average student, John is the photographer for the school yearbook and a star singer of the school's music program. "John's gotten more outgoing in the last few years," says LeAnna. "It's real hard to have him gone. We're making him a video and writing him letters.

At this point John's prognosis is still unclear, though every day Dr. Van Beek is more optimistic that the reattachment will be permanent. "I'll consider it a home run if he gets use of his elbows," says Van Beek. "If he gets some hand function, I'll be elated." Whatever the case, John faces another month in the hospital and at least five years of grueling physical therapy. Given what he's already experienced, it seems a safe bet that John will be up to the task. "I'm trying to figure out what I'll be able to do with my hands, how I'll finish high school, if I can drive again," says John. Himself a former North Dakota farm boy, Van Beek can especially empathize. "He's going to need a lot of support," says Van Beek. "Fortunately he has the whole world pulling for him."

[From the Review, January 1992]

ALUMNI PLAY CRITICAL ROLES, BRIGHTEN HEALTH PROSPECTS, RURAL TO URBAN

The case of the young man from rural Hurdsfield, N.D., who tragically lost his arms in an accident on his parents' farm earlier this month, has struck a sensitive chord with people throughout the nation. John Thompson, a high school senior, was working alone the day of the tragedy but managed to keep control and call for help that ultimately lead to his survival and, possibly, restoration of some use of his arms.

Almost daily, some note of update on the progress of this courageous teenager has been reported through various media. What hasn't been highlighted in this dramatic story of rescue, emergency treatment and

subsequent surgeries is the role of the UND School of Medicine through members of our alumni family who helped to assure that this young man will attain the highest possible level of recovery and restoration of physical ability.

The team of surgeons who reattached Thompsons' arms was led by a graduate of the UND School of Medicine, Allen Van Beck, M.D. (88 Med. '66), at North Memorial Hospital in Minneapolis. Dr. Van Beck, who has returned on occasion to share his work and ideas with other alumni and faculty at the annual UND Homecoming scientific session hosted by the School of Medicine, completed the first half of his medical education at a time when UNDSM only offered a two-year, bachelor of science in medicine degree. He then completed his medical degree at the University of Minneapolis Medical School.

The weekend of the accident, another physician alumnus of the UND School of Medicine, Curtis Nyhus, M.D. '77, a family physician in Jamestown, was covering the emergency room at St. Aloisius Hospital in his hometown of Harvey. He and his team of professionals provided Thompson with the care he needed for the next step in his journey to recovery, air transport to Minneapolis. Nyhus was late to learn, from a follow-up conversation, that his health care team's work in preparing the extremities was the best Van Beck had ever seen.

It is important to note that the potentially optimistic surgical outcome is linked to the care and treatment this young patient was given shortly after his accident. The emergency medical technicians who first arrived on the accident scene Jan. 11 had received an instructional session, only a couple of weeks before, on appropriate measures of care for victims of this type of trauma. Without this kind of knowledge, provided to volunteer workers on the front line in the most rural setting, the chances are remote that this incident would evolve to what some describe as a series of miracles.

The instruction noted above was provided by Cory Jones, a 1979 graduate of the UNDSM Family Nurse Practitioner Program who has worked at Harvey, N.D., since his graduation from the FNP Program. In a broadcast news segment aired the day after the accident, he said he felt he hadn't done "anything so extraordinary," emphasizing that teamwork of many people was critical to what is now viewed as a most extraordinary medical accomplishment.

The Family Nurse Practitioner (FNP) Program, featured in this issue of The Review, has at its very core the belief that rural health care need not be inferior health care, and that rural residents deserve levels of care comparable to that provided to city dwellers. In North Dakota, around the region and, indeed, the nation, this program is held in high regard because it reaches out to rural citizens and underprivileged citizens with an improved quality of health care delivery.

The FNP Program, which this month granted certificates to its 20th—and largest—class, educates nurses to assume some of the responsibilities for health care usually provided by the physician. These students are dedicated to provision of primary health care in areas, in many cases, where care has been substandard both in access and quality; they serve the rural, the indigent, those with low incomes, and those who need it on an emergency basis.

Co-director of the FNP Program, Mickey Knutson, says, "In the case of John Thompson, one of our FNP graduates had an important impact on a very emotional case. It is gratifying to see how everything came together."

There are many inspiring and thought-provoking aspects to this event, but perhaps one of the most gripping is the evidence of this young man's desire to live and his demand for life. By all accounts, he has to possess the psychological stamina required to maximize the effects of those health professionals who have brought him this far.

Those who are connected to the UND School of medicine, and the mission to which we are committed, can take pride in the fact that the people we have trained have gone on, and will continue to go on, to assume greater roles of service—often in routine, less publicized but no less meaningful ways.

EXTENSION OF UNEMPLOYMENT BENEFITS

Mr. BENTSEN. Mr. President, I am pleased that yesterday the Senate was able to pass an additional extension of unemployment benefits in this Chamber by an overwhelming vote of 94 to 4.

I want to recognize at this time Senators BREAUX, CHAFEE, and MITCHELL who have been diligent in bringing to the attention of the Senate the devastating impact on middle income workers—those that work in the boat building industry—of the luxury tax on boats. Last week, Senators BREAUX and CHAFEE had planned to offer an amendment to repeal this tax during the committee markup of this bill, but have agreed to withhold for now and offer it on the next appropriate tax bill so that we can get this unemployment bill passed today.

Let me repeat again what I stated during full committee markup of this bill last Thursday, January 30. I stated then that I cannot commit as to what the Congress as a whole will do, or what the Senate is going to do. But I can tell you what the chairman of the Finance Committee will do. I stated then that I will support January 1, 1992, as a retroactive date for repeal of the luxury tax on boats and airplanes when we have a tax bill.

Mr. MITCHELL. I would like to express my thanks to the Senator from Texas for his support of repealing the luxury tax on boats. As the Senators from Louisiana and Rhode Island are aware, I am a cosponsor of their legislation and strongly support repeal of this tax on boats. In addition, I would like to add my support for repealing the boat luxury tax retroactive to January 1, 1992, in order to provide the American boat manufacturers with a better opportunity to sell boats during this important boat show season.

Mr. BREAUX. I thank the chairman and the Senate majority leader for their support for the January 1, 1992, effective date for repeal of the tax. The luxury tax on boats has been devastating to the boat building industry. The President's announcement that he will support the effective date of the boat tax repeal of February 1, 1992, is simply not adequate. Since that announcement, many individuals that ordered boats during the New York boat show a couple of weeks ago have threatened to cancel their orders. Your announcement will help bolster the sales of boats in the coming months and will hopefully reassure those that ordered boats in January.

Mr. CHAFEE. I, too, would like to thank the Senator from Texas and the Senator from Maine for their support of efforts to remove the onerous tax. The luxury tax was enacted by Congress as a symbolic tax the rich gesture. Unfortunately it has turned out to be a policy disaster—instead of soaking the rich, it is devastating the workers who build these boats. I am hopeful that their support will encourage the Senate to repeal this tax as of January 1, 1992, thereby salvaging the boat show selling season for those American boat manufacturers who are still in business.

Mr. BENTSEN. I thank my distinguished colleagues for their cooperation on this issue.

THE NAFTA AND THE ENVIRONMENT

Mr. BAUCUS. Mr. President, I rise today to discuss the environmental implications of the proposed North American Free-Trade Agreement or NAFTA.

The NAFTA talks—which are aimed at creating a free trade area between the United States, Mexico, and Canada—are moving along at a fast pace.

The negotiations began formally in June of 1991. But a preliminary draft of the agreement has already been completed. Next week, the United States, Canada, and Mexico have scheduled high-level meetings to discuss remaining issues.

The final agreement could be completed as early as March. This means that the NAFTA could be sent to Congress for approval under the fast track process as early as this spring.

THE ENVIRONMENT AND THE FAST TRACK

I am concerned about the pace of the NAFTA talks. The administration has spent several years discussing the key issues in the Uruguay round of GATT negotiations with the Congress and the private sector.

But many of the issues in the NAFTA talks are just now emerging. And, because the administration has closely controlled the flow of information on the talks, much of the needed public discussion on the NAFTA has simply not occurred. From the beginning, the administration and Congress have both recognized that negotiating the NAFTA is an enormous task. A free trade agreement has never before been negotiated between a developing country and a developed country. The wide development gap complicates traditional trade issues like tariffs, quotas, and import licenses, and raises a whole new set of issues that must be addressed.

In the NAFTA talks, it is simply not possible to confine the negotiations to traditional trade issues. To ensure a truly level playing field between the United States and Mexico, a much broader range of issues must be considered.

For example, Mexico does not enforce environmental standards as vigorously as the United States. Thus, in a free trade agreement, an economic incentive could be created for United States businesses to move to Mexico to take advantage of the lax environmental standards.

Obviously, both in the interest of creating a level playing field and in protecting the environment, environmental issues must be addressed in the NAFTA.

Unfortunately, both the United States and Mexico have been slow to address environmental issues. Unless action is taken, Congress could turn down the NAFTA because of its inattention to environmental concerns.

Environmental concerns were greatly heightened recently when Mexico successfully challenged United States dolphin protection laws as a violation of an international trade treaty. This challenge created the strong impression that Mexico was quite willing to sacrifice the environment to make trade gains—setting a disturbing precedent for the NAFTA.

AN ENVIRONMENTAL PLAN FOR THE NAFTA

In fairness to the administrations in the United States and Mexico, all news on environmental issues is not bad.

Mexico has made plans to step up enforcement of environmental laws. Though I am not satisfied with the current document, progress has been made toward developing a border environmental protection plan.

Further, the Bush administration did include funds in its recent budget to address border environmental concerns. And leading environmentalists have been appointed to the President's trade advisory panels.

But much more remains to be done. Before a NAFTA is sent to Congress for approval, three additional steps must be taken.

First, the United States and Mexico must agree to an explicit linkage between trade and environmental issues in the NAFTA. The Bush administration has agreed to complete understandings with Mexico on the environment before submitting a NAFTA. But it has refused to include any linkage in the agreement that would allow the United States to enforce those environmental commitments once the NAFTA is approved.

This is simply inadequate. Commitments on the environment are meaningless if they cannot be enforced. I have argued that the United States should retain the right to place duties on products that are produced in an environmentally unsound way. At a minimum, the United States must retain the right of withdrawing trade benefits if environmental commitments are not fulfilled.

Second, the NAFTA must in no way undermine U.S. environmental or consumer protection laws. The Bush administration made a strong commitment on this issue before the NAFTA talks began. But Mexico's challenge of United States dolphin protection laws has called this commitment into question.

The United States must retain the right to protect the environment. Trade negotiations cannot be allowed to become a back-door approach to diluting environmental protections.

Third, both the United States and Mexico must make an adequate financial commitment to addressing the pollution problems that may result from free trade. As I said, both governments have promised funds and resources. But it is not clear that the commitments made thus far are sufficient to address the problem.

The $201 million that the Bush administration included in its budget for pollution control on the border is a first step. But the administration must work with Congress and the environmental community to ensure that funds are available to completely address environmental clean up needs in the border area.

CONCLUSION

Both the Salinas administration and the Bush administration have made a rhetorical commitment to addressing the environment in the NAFTA.

But the words must be backed with deeds if the NAFTA is to become a reality.

I hope that both administration will follow up on the initial steps they have made. I stand ready to work with them to address environmental issues in the NAFTA.

We must ensure that the NAFTA is a positive force for the North American environment as well as for the North American economy.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL ENERGY SECURITY ACT

MOTION TO PROCEED

The PRESIDING OFFICER (Mr. FORD). Under the previous order, the debate on the motion to proceed to S. 2166 is to be equally divided and controlled by the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Alaska [Mr. MURKOWSKI].

The Senate resumed consideration of the motion to proceed.

The PRESIDING OFFICER. The pending question is the motion to proceed on S. 2166.

Who yields time on the motion?

The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I have conferred with the manager of the bill, Senator JOHNSTON, and I am led to believe that he is not requesting time. So I ask unanimous consent that I may yield as much time as I may need prior to the 12 o'clock commitment to take up the bill.

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

Mr. MURKOWSKI. Mr. President, I thank the Chair. I wish the Presiding Officer a good morning.

Last week a decision was made to remove the ANWR and CAFE titles from S. 1220 creating a narrow national energy strategy. That is the bill we have before us today.

I compliment my friend and colleague, the senior Senator from Louisiana and chairman of the Energy Committee, who has continually advocated that a balanced energy strategy for this Nation include ANWR. He has been steadfast in that regard. Unfortunately, there has not been enough support in this body to maintain ANWR in the bill.

I further compliment the ranking Republican Member from Wyoming, Senator MALCOLM WALLOP, for his steadfast commitment toward ANWR.

I strenuously objected to taking ANWR out of the energy bill because I think it undermined the committee process and basically gutted the heart out of a bill that was reported from the Energy Committee by a vote of 17 to 3.

Mr. President, this issue is not new before this body. It has been around a long time. As a matter of fact, it has been around for at least 7 years. And the question is what is the right time to have an up-or-down vote on ANWR. Clearly the effort yesterday, which was objected to by Members on the other side, indicates that we are to lose the opportunity for an up-or-down vote.

Now, as the junior Senator from Alaska, we obviously have an interest to protect our State and to bring this issue before this body for a clean vote. We offered a time agreement yesterday that proposed 4 hours equally divided by both sides. We felt this was reasonable, to debate ANWR on its merits—followed by an up-or-down vote. As I indicated we did not have an objection in proceeding from our side. But, unfortunately, the Senator from Montana felt otherwise and decided that the Senate should not have a fair up-or-down vote on ANWR.

Now, make no mistake about it, Mr. President. ANWR has become a very partisan political issue and, of course, in the Presidential year that is not necessarily a surprise.

We maintain that ANWR is the largest single jobs issue, identifiable, before the Nation today.

The Wharton econometric model study indicated there would be some

755,000 jobs created in 47 States if there is oil under the coastal plain of ANWR. However, the only way we are going to know, Mr. President, is to initiate a responsible exploration program, and to suggest that we cannot do it safely I think belittles American ingenuity and technology.

Mr. President, as we look at the Presidential candidates we find the five identified major candidates on the other side have indicated that ANWR is too hot to handle. I think it is fair to say that we can expect them to be in opposition to developing the coastal plain of ANWR, and I would suspect that the Democratic platform will also oppose ANWR development.

Mr. President, jobs are very important to the men and women of our Nation.

At this time, I ask unanimous consent to print in the RECORD a specific ranking of jobs that are anticipated to be created by opening the coastal plain of Alaska's North Slope.

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

States ranked by jobs created by opening the coastal plain of Alaska's North Slope

State:	Jobs[1]
1. California	80,000
2. Texas	60,000
3. New York	48,000
4. Alaska	38,300
5. Pennsylvania	34,300
6. Florida	34,000
7. Illinois	33,000
8. Ohio	31,900
9. Michigan	25,000
10. New Jersey	22,000
11. Massachusetts	20,000
12. North Carolina	19,300
13. Virginia	19,000
14. Georgia	18,000
15. Indiana	15,500
16. Louisiana	14,800
17. Missouri	14,100
18. Maryland	14,000
19. Wisconsin	14,000
20. Minnesota	13,400
21. Tennessee	13,000
22. Kentucky	12,200
23. Washington	12,000
24. Oklahoma	11,300
25. Connecticut	11,000
26. Alabama	10,000
27. Arizona	10,000
28. Colorado	10,000
29. South Carolina	9,400
30. Kansas	7,100
31. Oregon	7,000
32. West Virginia	7,000
33. Iowa	6,600
34. Mississippi	6,000
35. Arkansas	5,500
36. New Mexico	5,000
37. Nevada	5,000
38. Utah	4,600
39. Nebraska	4,000
40. New Hampshire	4,000
41. Maine	3,400
42. Rhode Island	3,000
43. Wyoming	3,000
44. Hawaii	2,700
45. District of Columbia	2,500
46. Idaho	2,400
47. Montana	2,100
48. Delaware	2,000
49. North Dakota	1,800
50. South Dakota	1,800
51. Vermont	1,700
Total	755,700

[1] Job numbers come from a study prepared in May 1990 by Wharton Econometrics Forecasting Associates entitled "The Economic Impact of ANWR Development." The Wharton study is based upon the Department of the Interior's high estimate of 9.2 billion barrels of oil being produced on the Coastal Plain area of the Arctic National Wildlife Refuge.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, to give you some idea, in the State of Montana, we are talking about an estimate of 2,100 jobs; State of California, 80,000; State of Texas, 60,000; State of Pennsylvania, 34,000; Virginia, 19,000; Maryland, 14,000.

I could go on and on here, Mr. President, but I think it is self-evident. Looking at the historical contribution of Prudhoe Bay, we recognize that there has been employment throughout all States, whether you are making valves, pipe, insulation, or what have you, that affects the national economy.

So as a consequence, Mr. President, we feel that this in itself constitutes a very, very major jobs issue. And I ask my colleagues from time to time how they would feel about 20,000 new jobs being created in Ohio. I happen to think the voters of Ohio would feel very, very strongly that that is in their interests.

The legitimate question that comes to mind is can the coastal plain be opened up safely? A sound way to answer this question is to examine the arguments that were used 20 years ago on whether Prudhoe Bay could be opened up safely. In spite of its critics Prudhoe Bay has been found to be one of the best oil fields in the world.

As we address the issues even further—the question of jobs, the economy, the balance of payments, concerns of the average working men and women—that is a challenge before this body, and it is a challenge that should be examined by each Member.

We talk a lot around here about the balance of payments. If you look at the balance of payments, one half is the cost of imported oil. In the United States today, we are importing about 8 million barrels a day out of the 16 million that we consume. Where do we import most of it from? The Middle East. What is the Middle East doing? They are keeping the price of oil low, so it would be very difficult economically to bring on alternative sources. This is not by accident. This is by design. They specifically want us to become more and more beholden.

One of these days, Mr. President, they are going to raise the price, maybe when we are 70 percent dependent on imported oil, and my colleagues and the American public are going to be saying: Where was our energy policy; where was our domestic planning?

The facts are that we have lost more jobs in the domestic energy industry than we have in the automobile industry or the steel industry. We are exporting jobs. We are exporting our dollars that could go into stimulating the economy, stimulating domestic exploration. And where is the most logical place to look for oil in the United States? Where the geologists tell us we are most likely to find a major discovery, and that is, of course, in the ANWR area.

We are talking about a contribution to the gross national product of this country of about $50.4 billion. Imported oil is over 50 percent of our trade deficit. With $54.7 billion in 1990, we are spending twice as much on imported oil as we are on importing Japanese cars into the United States. Yet, this body is prepared to take up an energy bill without the largest single contributor to reducing our dependence on imported oil and stimulating our economy.

Well, from the standpoint of the Senator from Alaska and several other Senators, that simply does not make sense. As I have said before, in the comparison of States, of the 755,000 jobs, which has been entered into the RECORD, direct purchases of supplies and services are estimated to be at $47 billion, and the total contribution over the life of the field to the gross national product is $300 billion.

We have people in this country unemployed, factories shutting down. ANWR should be a jobs issue, unfortunately it has become a political issue.

The administration supports exploration and development of the Coastal Plain. I have a letter from President Bush, dated February 3, which I ask unanimous consent to have printed in the RECORD.

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

THE WHITE HOUSE,
Washington, February 3, 1992.

Hon. FRANK H. MURKOWSKI,
U.S. Senate, Washington, DC.

DEAR FRANK: As I stated in my State of the Union address, I am continuing to call on Congress to act on my National Energy Strategy. Opening access to a discrete portion of the Arctic National Wildlife Refuge coastal plain, with environmental safeguards, to oil development is a critical component of my energy strategy. Congress' failure to act on this vital legislation, thus far, is at the expense of the American jobs and energy security. This is why I have repeatedly called on Congress to take action.

ANWR development will provide additional domestic oil resources to reduce our dangerous dependence on imported oil. The coastal plain offers our best prospect for a major oil discovery. It will provide hundreds of thousands of desperately needed jobs spread throughout nearly every State in the Nation. It will add $50 billion to our gross national product. The environmentally responsible development of this area potentially could save $250 billion in payments to foreign oil producers and governments while providing $125 billion in revenues for Federal and State governments.

When the Senate once again deliberates legislation to implement the National En-

ergy Strategy, it is my strong hope that the ANWR provision will be included in the final bill. The development of a small portion of ANWR as a potential source for oil is simply too important to leave out of any comprehensive energy plan.

Sincerely,

GEORGE BUSH.

Mr. MURKOWSKI. Mr. President, this letter specifically states:

The development of a small portion of ANWR as a potential source for oil is simply too important to leave out of any comprehensive energy plan.

Mr. President, other matters that I think bear consideration are the manner in which this body has treated this issue from the standpoint of procedure. I recall it was not too long ago there was an extended debate on the merits of taking up and proceeding to the bill.

There was a cloture vote on a motion to proceed. Imagine that set of circumstances, Mr. President. We have an energy bill; we have CAFE; we have ANWR. And we are debating in this body, at a time when unemployment is higher than ever before, the question of a motion to proceed to debate.

Well, you and I, Mr. President, know the result of that vote. We needed 60 votes in order to bring cloture to a close and proceed to debate the energy bill. Because of opposition by the environmental community—we got 50 votes. We needed 60 votes. So, as a consequence, we could not proceed to the bill. And that is the background on where the particular status of Senate bill 1220 rested until it was reintroduced as a separate bill by the chairman.

I might add that there is much in that energy bill that is worthwhile. But the underpinnings, the revenue to do all the things that were going to be done—reclamation projects, new technology, alternative energy—the funding was going to come from ANWR. No ANWR, no funding.

Everybody wants to save energy in this country. They want new technology. How are you going to pay for it? That was in this bill. It is gone.

Further, Mr. President, the position of the Secretary of Energy regarding ANWR has been brought up from time to time. I ask unanimous consent that a letter dated February 4 be printed in the RECORD.

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

THE SECRETARY OF ENERGY,
Washington, DC, February 4, 1992.

Hon. MALCOLM WALLOP,
Ranking Minority Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: As the Senate moves toward floor consideration of S. 2166, I would like to take the opportunity to share with you the Administration's position on several key issues, including oil and gas development in the Arctic National Wildlife Refuge (ANWR), global climate change, alternative fuels (the Jeffords amendment), nuclear licensing reform and reform of the Public Utility Holding Company Act (PUHCA).

ARCTIC NATIONAL WILDLIFE REFUGE (ANWR)

The Administration remains committed to the environmentally responsible development of a small portion of the Arctic National Wildlife Refuge (ANWR). We vigorously support efforts to add to S. 2166 the ANWR provisions in S. 1220.

GLOBAL CLIMATE CHANGE

S. 2166 addresses issues related to possible global climate change in a manner consistent with S. 324, which the Senate passed unanimously in the last Congress. Events since passage of S. 324 would not justify a radical departure in approach. In fact, the 1992 Update of the 1990 IPCC Scientific Assessment notes that baseline climate model projections of potential future Northern Hemisphere warming have been significantly reduced.

I understand that climate change language from a House energy subcommittee bill that would establish a voluntary certification and registry scheme for greenhouse gas reductions may be offered as an amendment to S. 2166. We strongly oppose these provisions for several reasons. First and foremost, such a program would work directly against our economic interests by rewarding firms that reduce production or shift to foreign sources of supply with potentially valuable "credits". Second, the House subcommittee language would enshrine outdated science in certified credits. The 1992 IPCC update, for example, reflects a changing understanding of the relative role of CFCs, sulfur dioxide, nitrous oxides and carbon dioxide as influences on the climate system. Third, the system itself would be an administrative nightmare and a target for extensive litigation.

Basic and energy industries (and regions where they are concentrated) would be particularly hard hit by policies spurred by this program. For example, in the "climate policy scenario" in America's Energy Choices issued last year by a coalition of environmental and other groups, coal use (and presumably coal employment) in 2030 is reduced to only 15 percent of its projected level under Administration policies. On a more general level, the same analysis suggests that limiting carbon emissions is easy—if a scenario combining slow economic growth and a continuing shift away from manufacturing is assumed. This is certainly not the policy of the Administration for the U.S. economy.

For these reasons, the House subcommittee approach is not an appropriate way to reflect concerns over the need to reduce greenhouse emissions. A far more effective approach to reducing greenhouse gas emissions in the energy sector is to support the current provisions of S. 2166 related to climate, nuclear licensing and other related subjects.

ALTERNATIVE FUELS

We strongly oppose the Jeffords amendment. This amendment would *mandate* that 10% of America's fuel supply be alternative or replacement fuels, and would require that DOE establish an extensive regulatory apparatus to enforce this requirement. This burdensome apparatus is counterproductive to meeting alternative fuel use objectives that are almost certain to be achieved given other provisions of S. 2166 and the Clean Air Act Amendments of 1990.

We are especially concerned that, by establishing an artificial distinction between oil from stripper operations and oil from other sources, the amendment will require allocation regulations reminiscent of the costly and disruptive price and allocation controls used during the 1970s. In addition, artificial distinctions based on the origin of fungible products, such as oil and MTBE, mean that refiners would be required to track both the sources and the makeup of refinery feedstocks, increasing consumer cost and reducing consumer choice. This provision will also establish massive and unproductive new paperwork requirements.

This amendment will increase gasoline prices, increase unemployment, and retard economic growth. The Administration strongly opposes it.

NUCLEAR LICENSING REFORM

The Administration believes that the provisions of Title IX are essential to inspire investment in new nuclear powerplants. The provisions of title IX fully protect the public's interest and the Nuclear Regulatory Commission's authority to make safety determinations, but have also been carefully selected to provide prospective nuclear plant owners and investors with definition of the new licensing process to make it sufficiently predictable.

The Administration will oppose any changes in the language of Title IX that might lessen the predictability of the new process, particularly any changes in the post-construction safety determination and hearing provisions that are of fundamental importance in reducing the uncertainty associated with 10 CFR Part 52.

PUBLIC UTILITY HOLDING COMPANY ACT REFORM

I would urge you to support the S. 2166 title amending the Public Utility Holding Company Act (PUHCA). PUHCA reform is a vital part of the President's National Energy Strategy. It will stimulate economic growth, create jobs, encourage innovation, and save consumers billions of dollars.

It is good for the economy and good for consumers because it permits utilities to buy electricity from the lowest cost suppliers. Twenty six out of fifty states now encourage competition in electric power generation, but PUHCA discourages the most promising companies from competing. S. 2166 would end these restrictions and allow the most competitive suppliers to build and operate power plants in as many service areas as state utility commissions permit. The net result of PUHCA reform will be lower cost power and stronger incentives for innovation in the multibillion dollar electric power industry.

PUHCA reform, as proposed in S. 2166, does not force anyone to do anything. It does not deregulate the electric utility business and it does not restructure the industry. It merely permits utilities and state regulators to invite the best builders of power plants to do business in a new area without running afoul of a 57-year old law whose framers did not foresee today's competitive opportunities. It also would allow American power suppliers to compete in a huge electric power market around the globe.

Opponents of competition in electric generation argue that, if there must be PUHCA reform, the bill should be amended to include provisions such as a restriction on debt of competing power producers. You should see opposition to PUHCA reform for what it is—an attempt to straightjacket competitors if they cannot be kept out of the market altogether. The Administration will likewise oppose other PUHCA amendments which would seriously weaken the PUHCA title in S. 2166.

We appreciate your consideration of the concerns outlined above and look forward to

working with you to enact comprehensive energy legislation.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

Mr. MURKOWSKI. Mr. President, the specifics relative to that are here, and I will just give this one sentence:

The administration remains committed to the environmentally responsible development of a small portion of the Arctic National Wildlife Refuge (ANWR). We vigorously support efforts to add to S. 2166 the ANWR provisions in S. 1220.

So that is the official position of the Department of Energy. Clearly, I am inclined to believe they support the current pending bill, as well; but not by any means to suggest that ANWR should not be a part of that bill.

In the few remaining minutes I have, I think it is important to reflect on why this body did not consider an ANWR leasing proposal.

The difficulty with Alaska today is that what we are attempting to do was done by all the other States 100 to 110 years ago.

We are reaching out, trying to learn from the mistakes made in the lower 48, we are trying to set a responsible economy so that our people can have jobs. We are trying to develop our natural resources in an environmentally responsible and sensitive manner. We set aside 56 million acres in wilderness in our State in perpetuity; 56 million acres is equal to the 11th largest State in the Union. We have State parks and National Wildlife Refuges. We have the best public lands in the United States. But to suggest we cannot open up ANWR safely has no foundation whatsoever.

I will tell you why, Mr. President, this body refused to consider ANWR leasing. It is because the American elite, extreme environmentalist groups, want ANWR as their exclusive playground. Last year 154 affluent visitors make a trip to ANWR. Does that outweight 755,000 jobs in this country?

Who can afford to go to ANWR? It is about a $5,000 ticket. You have to fly to Fairbanks, charter out of there, go up in a small plane. It is an extraordinary experience. But what the setting does not describe is the magnitude of the area. We have 19 million acres in ANWR—that is bigger than the State of Massachusetts.

What have we done with that 19 million acres, Mr. President? We have been responsible. We set aside 8 million acres in wilderness and put the rest in a refuge. So we have 1.5 million acres that we are proposing to lease, on a competitive lease sale. We do not know if the oil is there. If the oil is there and produced, when it is gone, everything will be removed.

The point I want to make is let us take that 1.5 million acres, that is less than 8 percent of the area, and lease it. The footprint will be about 12,500 acres, or about the size of the Dulles International Airport complex.

What we are proposing here is leasing 1.5 million acres out of 19 million acres, and because of technology, the footprint will be very small.

And the proof—just like the proof of the caribou—is very real. We opened up, approximately 2 years ago, a field called Endicott. It came on as an extension of Prudhoe Bay, the 10th largest producing field in the United States, about 100,000 barrels a day. Today it is the sixth largest producing field in the United States. The footprint is only 24 acres.

So this is the setting that is not portrayed by those who are in opposition to us, that we can meet the technology. Good heavens, if we can put a man on the Moon, we ought to be able to open up ANWR safely. It is a challenge to technology. It is a challenge to the American spirit.

Another topic I would like to address is the distortions of the truth and in some cases outright lies. Let me give a few specific examples that strike close to home.

The propaganda pictures of the Arctic wilderness, the exact location, very seldom identifies what the coastal plain really looks like.

We all look at this tabloid called Roll Call. Here it is, this picture accompanying a supposedly nonbiased article on ANWR. Roll Call requested my views on the coastal plain, then topped off the editorial, my comments, with a picture of the Grand Tetons. There it is. That is not a picture of the coastal plain.

Where is the connection? We called Roll Call, and their response: "Well, we did not print a picture of the ANWR coastal plain because the picture is too boring." Mr. President, the picture is too boring, so she featured a photo of a drill rig in the Grand Tetons National Park. Mr. President, the American people deserve the truth. I would like to submit the picture for the RECORD; the problem is the RECORD cannot print it.

I wonder if this reflects a bias.

What does the coastal plain of ANWR look like? That is it, Mr. President. That is the coastal plain of ANWR. I agree with the editor, it is a boring picture. It is ANWR in the wintertime. It is a harsh, hostile environment. It has a unique beauty, but it is a tough piece of real estate. If you showed that, they would say, "Wow, maybe that is not too bad a place. It all looks the same."

I had one of my colleagues up on the North Slope—I will not mention who it was—who got off the airplane, looked around, and his first question was, "Where is the wilderness?" I said, "This is all we have." The person expected something, a big sign "wilderness, this way" or "this is the real wilderness." I think there was a tremendous disappointment on behalf of my colleague.

This is not the only distortion, Mr. President. We have another distortion, and it is concerning our native people. There is a group on both the Canadian side and Alaska side called the Gwich'in, and they are very responsible citizens. They have a unique sensitivity to the land because they depend on a subsistence lifestyle. To a large degree, out of choice and necessity, that is the porcupine caribou herd.

The slick PR folks, working with them on behalf of the extreme environmental community, are portraying that this society is in jeopardy caused by drilling, which would take place some 150 miles to the north of their general area on the coastal plain. But the question is, What is the truth? The truth is that the Gwich'in have actually already proposed for lease or offered for lease much of their land for oil and gas exploration. This display is dated March 21, 1984. The native village of Venetie, sovereign entity, federally chartered for the Venetie Indian Reservation.

This letter authorizes one person to act as consultant:

to negative with any interested persons or company for the purpose of oil or gas exploration and production of the Venetie Indian Reservation.

Nothing wrong with that.

But let us not be two-faced about it. The only thing wrong with it was there was not any oil there and the oil companies were not interested in buying the leases. The proposed lease sale covered 1.8 million acres in the caribou migratory route.

In the two-page lease documents the Gwich'in devoted only two sentences to the protection of the caribou. Now the preservation advocates claim the caribou will be destroyed.

Mr. President, that simply is not the case.

I think it is important to make no mistake about the fact that Canada is a competitor for energy with the United States. The Canadians are very much opposed to exploration in ANWR. The reason is, Canada sells oil, Canada sells gas to the United States, and they look on us as simply that—a competitor. It is unfortunate, Mr. President, but we have a chart which shows a very interesting reality, and that is in an area just over the Canadian border of Alaska in the area of the Gwich'in Nation as it encompasses both sides of the border, there were over 80 wells drilled over a 10-year period, by Canada, right in the migratory path of the porcupine caribou herd. The only difference is the wells, for the most part, were dry so after that they decided to make a park out of it.

Neither do they acknowledge that the porcupine caribou herd crosses a highway, the Dempster Highway. It is a north-south highway. They do not close the highway when the caribou cross. There is no need to. The caribou simply cross going over and cross going back and they get along fine.

To suggest that the caribou somehow are threatened or endangered, there is no scientific evidence whatsoever to suggest that is a reality. What endangers the caribou is the Gwich'ins, as they appropriately should; they take 7,000 of them for their subsistence. How do they take them? They get on a snow machine that is gas fired and go up and shoot them. That is a traditional lifestyle I respect. That is the danger of the caribou.

Mr. President, for what it is worth, there are more caribou in Alaska than there are people.

To suggest that this herd is threatened, that ANWR should not be opened because of it. It is interesting, because the environmental community is not willing to compromise and say let us tell you how we can do it better; we will not allow any exploration during caribou calving season; we will not do this, do that; we can work together and do this responsibly. But I tell you, Mr. President, they are not taking any prisoners on this one. They know they have a national issue 5,000 miles away that the American public cannot look at, cannot reason with it, cannot understand. They use it for generating membership, for revenues and for lobbying you and me. And that is a reality because they do not address a fair evaluation that America needs domestic energy production as domestic energy production declines.

I remind the Chair one more time that we are currently experiencing more unemployment in the energy industry than any other industry in the United States, yet we have tremendous reserves of energy in this country. Make no mistake about it, Mr. President, OPEC is sitting there watching us become more and more dependent on their cheap oil.

The reality of opening ANWR up safely, the consequences of the jobs are very real. While we are certainly sensitive to the caribou, there is no evidence to suggest that this could not be accommodated in a responsible manner as it has been in Prudhoe Bay.

I think, Mr. President, if the concept of drilling in a wildlife refuge is troublesome in its general terms, think about a reality, and this is not something that is very often brought out. There is already environmentally sound petroleum drilling in several national wildlife refuges.

There is even oil drilling on the national Audubon Society wildlife sanctuaries in Louisiana, Florida, and Michigan. These are Audubon Society wildlife sanctuaries. They took these areas, put them in a sanctuary, gave them to the Audubon Society with the provision they be allowed to drill. But no, the Audubon Society won't allow exploration on the coastal plain of ANWR.

Mr. President, the hardworking men and women of our Nation deserve more and they deserve the truth. That is why the Senator from Alaska has been on the floor. They deserve a Congress that will make some tough decisions for tough times and not been to the self-serving interests of a few affluent who do not care to even fairly evaluate the record. They distort the record, as I have indicated today.

I think Mr. President, we deserve the benefits of this employment, stimulation of our economy, balance of trade, national debt and to our Nation's energy security that opening the potential vast oil reserves on the ANWR coastal plain could provide, if this body would give it the opportunity.

Last, Mr. President, I was terribly troubled by an article in the New York Times. It appeared in the February 4 edition. It is entitled "Japan Premier Joins Critics of Americans' Work Habits."

We do not like to hear this, Mr. President. It bothers us. This is Prime Minister Kiichi Miyazawa, who I know. He is quoted as saying that America "may lack a work ethic" and that some of the country's economic ills came about because too many American college graduates headed to Wall Street in the 1980's rather than "producing things of value."

That leaves us with a little food for thought, Mr. President, but let us go one step further.

In the same article:

As if in summary, Mr. Miyazawa paused and said, "I have thought for some time that they may lack a work ethic," and obliquely suggested that some Americans had forgotten how "to live by the sweat of their brow."

I think that applies to the U.S. Senate. We have forgotten how to live by the sweat of our brow. We have forgotten the reality that what made this country great was our resources and the responsible manner to provide jobs, and the challenge to America's ingenuity and technology to be able to open up an ANWR safely. We are casting it aside and saying no.

I just hope some of the folks out there are reviewing it, responding and listening to the facts. I challenge my colleagues, I challenge the press, I challenge our critics to dispute the facts that I have submitted for the RECORD today.

Finally, Mr. President, I would like to put my colleagues on notice that the Senators from Alaska have every intention of pursuing ANWR on legislation at a time that is most advantageous. Opponents of ANWR should not underestimate our resolve. We are no strangers to adversity. We fought a long, hard battle before to protect what belongs to us. Our statehood, Mr. President, was a terrible battle. I was a young man not involved in it at the time, not involved in the political structure, but I was involved as a citizen.

It did not come the first time, the second time, the third time, the fourth time, but it finally came. What we had was taxation without representation. We paid a Federal income tax, and we had no representation in this body. We were treated like second or third-class citizens, which is not much different than where we are today.

It was a long, hard battle, and ANWR will be a long, hard battle. But make no mistake about it, Mr. President, exploration and development of ANWR will happen. Congress cannot turn its back on the largest single potential onshore field in North America, the largest single jobs project identified in America and the largest single challenge to American ingenuity to do it safely.

We put a man on the Moon. We can open up ANWR safely. Whether it happens on this bill, on an economic growth bill or another bill, the Senate will have to give the people of Alaska what they demand and that is a clean up-or-down vote on ANWR. I thank the Chair, and I thank my colleague who has been patiently waiting.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, the manager of the bill, Senator JOHNSTON of Louisiana, asked me to control the time for him. May I ask the Chair how much time does the Senator from Louisiana have remaining?

The PRESIDING OFFICER. The Senator has 11 minutes and 3 seconds remaining.

Mr. DECONCINI. Mr. President, I ask unanimous consent that as much time as needed between the Senator from Arizona and the Senator from Florida be yielded out of that 11 minutes, as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I yield to the Senator from Florida for a statement he cares to make on an introduction of a bill.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

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

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. I thank the Chair.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 2189 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVILEGE OF THE FLOOR

Mr. DECONCINI. Mr. President, I ask unanimous consent that John Shay, a legislative fellow working in my office be allowed privileges of the floor during the session today.

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

Is there any further debate on the motion? If not, the question is on agreeing to the motion.

The motion was agreed to.

NATIONAL ENERGY SECURITY ACT

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2166) to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I would like to suppose that the absence of Senators means we could go directly to third reading, but I know that that is not so. I see my friend from Vermont here to offer his amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

AMENDMENT NO. 1530

(Purpose: To establish supply requirements for replacement and alternative fuels)

Mr. JEFFORDS. Mr. President, I have an amendment at the desk and I ask it be offered at this time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] for himself, Mr. GRASSLEY, Mr. GLENN, and Mr. EXON, proposes an amendment numbered 1530.

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

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

The amendment is as follows:

On page 57, line 11, strike "and".

On page 57, line 14, strike the period and insert "; and".

On page 57, between lines 14 and 15, insert the following new paragraph:

(7) such program should provide long-term stability to industries producing replacement and alternative fuels.

On page 57, line 18, insert "and improve environmental quality" after "pollution".

On page 58, line 13, strike "including stripper wells" and insert "excluding domestic petroleum recovered from stripper wells".

On page 58, line 16, strike "or Canada" and insert "Canada, or any country in the Western Hemisphere with which the United States has a free trade agreement".

On page 59, line 2, after "gasoline," insert the following: "not manufactured from conventional petroleum,".

On page 59, line 3, before the semicolon, insert the following: ", liquid fuels derived from coal, oil shale, tar sands, natural gas (including natural gas liquids), and biomass and waste products".

On page 59, line 11, strike "and".

On page 59, strike lines 12 through 23 and insert the following new paragraphs:

(9) the term "provider" means—

(A) a person engaged in the production of replacement or alternative fuels, for sale and use as a motor fuel; or

(B) a person who recovers domestic petroleum from stripper wells;

(10) the term "refiner" means a person engaged in the refining of crude oil to produce motor fuel, an importer of motor fuel, or an affiliate of the person or importer;

(11) the term "prohibitive cost" means an expense that would result in a refiner's product being economically nonviable; and

(12) the term "stripper well" has the same meaning as is provided for "stripper well property" in section 613A(c)(6)(E) of the Internal Revenue Code of 1986.

On page 60, line 11, insert "(1) IN GENERAL.—" before "Under".

On page 60, line 17, strike "(1)" and insert "(A)".

On page 60, line 21, strike "(2)" and insert "(B)".

On page 61, line 3, strike "(3)" and insert "(C)".

On page 61, strike line 7 and insert the following: "(D) assess the suitability, cost-effectiveness, and environmental impact".

On page 61, line 10, strike "; and" and insert a semicolon.

On page 61, line 11, strike "(5)" and insert "(E)".

On page 61, line 15, strike the period and insert "; and".

On page 61, between lines 15 and 16, insert the following new subparagraph:

(F) establish a goal of achieving, by the year 2000, utilization of domestic renewable resources for at least 5 percent of annual gasoline consumption.

(2) SUBSTITUTE PERCENTAGE GOAL.—The Secretary shall prescribe, by rule, a substitute percentage goal for the purpose of paragraph (1)(B), if the Secretary determines that 30 percent is unachievable because of technological or cost constraints, or because of environmental considerations analyzed in the report required under section 4307(b)(5)(B).

Beginning on page 62, strike line 11, and all that follows through page 64, line 2, and insert the following new sections:

Sec. 4307. REPLACEMENT AND ALTERNATIVE FUELS SUPPLY.—(a) TIMETABLE FOR REFINERS.—(1) IN GENERAL.—Of the total quantity of gasoline, alternative fuels, and replacement fuels sold in commerce during each of the 1996 and subsequent calendar years by a refiner (including sales to the Federal Government), domestic-produced replacement and alternative fuels shall constitute, at a minimum, the percentages as determined in accordance with the following table:

In each of the calendar years:	The minimum percentage that replacement fuels and alternative fuels constitute, shall be—
1996 through 2000	Determined by the Secretary under paragraph (2)(A).
2001 through 2009	10 percent, subject to paragraph (2)(B).
2010 and each year thereafter.	The percentage determined feasible under paragraph (2)(B).

(2) ESTABLISHMENT OF PERCENTAGES BY SECRETARY.—

(A) CALENDAR YEARS 1996 THROUGH 2000.—

(i) IN GENERAL.—Not later than October 1, 1994, the Secretary shall, by rule, prescribe the minimum percentage (on an energy equivalent basis) of the total quantity of gasoline, alternative fuels, and replacement fuels sold in commerce during each of the 1996 through 2000 calendar years by a refiner for use as motor fuel (including sales to the Federal Government), that must be domestic-produced replacement and alternative fuels.

(ii) FACTORS.—In establishing the percentages, the Secretary shall—

(I) take into account the demand for and the availability of reliable sources of replacement and alternative fuels; and

(II) establish the percentages at a level that is consistent with a goal for domestic production of replacement and alternative fuels for calendar year 2001 and thereafter of not less than 10 percent on an energy equivalent basis of the projected consumption of gasoline, alternative fuels, and replacement fuels in the United States for each year.

(B) CALENDAR YEARS 2001 AND THEREAFTER.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii) and the development plan required under section 4305(b), the Secretary shall, by rule, prescribe the minimum percentage (on an energy equivalent basis) of the total quantity of gasoline, alternative fuels, and replacement fuels sold in commerce during calendar year 2001 and each of the subsequent calendar years by a refiner for use as motor fuel (including sales to the Federal Government), that must be domestic-produced replacement and alternative fuels.

(ii) MINIMUM PERCENTAGE.—Subject to clause (iii), the minimum percentage established under this subparagraph shall be 10 percent.

(iii) INCREASED PERCENTAGE.—In the case of calendar year 2001 and each of the subsequent calendar years, the Secretary may increase the minimum percentage established under this subparagraph if the Secretary determines that the increase is feasible based on findings made under sections 4305, 4306, and subsection (b)(5).

(3) CREDITS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations allowing the sale, other exchange, banking, carry-forward, and carry-back of marketable credits, in order to satisfy the requirements of this section, among—

(i) refiners;

(ii) providers;

(iii) manufacturers of dedicated alternative-fuel vehicles; and

(iv) owners of public and private refueling stations (who may obtain credits for the installation of the equipment and facilities needed to sell or dispense alternative fuels).

(B) DEDICATED ALTERNATIVE-FUEL VEHICLES.—The Secretary shall determine the value of credits for dedicated alternative-fuel vehicles that shall be available to manufacturers of the vehicles based on a reasonable estimate of the quantity of gasoline or diesel motor fuel that would otherwise be consumed, over the life cycle of each dedicated alternative-fuel vehicle, in a comparable conventionally fueled vehicle achieving the average fuel economy for the current model year for vehicles in the conventionally fueled vehicle's size and utility class.

(C) PUBLIC AND PRIVATE REFUELING STATIONS.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary shall determine the value of credits for alternative fuel refueling facilities at public and private refueling stations that shall be available to owners of the facilities based on a reasonable estimate of the quantity of gasoline or diesel motor fuel that would have been sold at a similar gasoline or

diesel motor fuel refueling facility in a calendar year.

(ii) LIMITATION.—Credits under this subparagraph shall be available only for the installation of the facilities described in clause (i) and shall not be available on a continuing basis.

(4) EXEMPTIONS.—

(A) SMALL REFINERS.—In the case of a domestic refiner of domestic crude oil that (on the date of enactment of this Act) has a capacity per calendar day of less than 20,000 barrels, the requirements of this subsection shall become effective 3 years after the date of enactment of this Act.

(B) HARDSHIP.—On the application of a person and based on prohibitive costs or an inability to obtain raw materials, sufficient replacement or alternative fuels, or marketable credits, the Secretary may make an adjustment to reduce the minimum percentage requirement as it applies to that person.

(b) REPORTING REQUIREMENTS.—(1) REFINERS.—Each refiner shall report annually to the Secretary on—

(A) the percentage of domestic-produced replacement fuels, on an energy equivalent basis, contained in the total quantity of gasoline that the refiner sold during the preceding calendar year; and

(B) the quantity of replacement and alternative fuels sold by or credited to the refiner during the year.

(2) DISTRIBUTORS.—Each distributor of alternative fuels, and each manufacturer of dedicated alternative fuel vehicles, shall report annually to the Secretary on—

(A) the quantity of alternative fuels or the number of dedicated alternative fuel vehicles sold into commerce for transportation purposes; and

(B) the quantity of credits that the distributor or manufacturer sold to refiners during the year.

(3) PUBLIC AND PRIVATE REFUELING STATIONS.—Each owner of a public or private refueling station who sells credits for the installation of equipment and facilities needed to sell or dispense alternative fuels shall report annually to the Secretary on the quantity of credits sold to refiners during the year.

(4) SECRETARY OF TRANSPORTATION.—The Secretary of Transportation shall cooperate with the Secretary on developing a reporting system for the number of dual fuel and dedicated alternative fuel vehicles manufactured and sold into commerce by each manufacturer during the year.

(5) ADMINISTRATOR.—

(A) IN GENERAL.—The Administrator shall report to Congress not later than 2 years after the date of enactment of this Act, and at least every 4 years thereafter, on the potential environmental impact of developing replacement and alternative fuels.

(B) ANALYSIS.—The report shall analyze the existing and potential—

(i) benefits and detriments to air and water quality (including climate change);

(ii) ramifications for solid and hazardous waste management;

(iii) implications for public land management; and

(iv) other environmental effects as identified by the Administrator.

(c) COORDINATION WITH OTHER ACTS.—This section shall be administered and enforced in coordination with the administration and enforcement of the Energy Security Act (42 U.S.C. 8701 et seq.) and the Clean Air Act (42 U.S.C. 7401 et seq.).

Sec. 4308. ENFORCEMENT BY THE SECRETARY.—(a) VIOLATION.—(1) IN GENERAL.—

(A) IN GENERAL.—A person who violates a requirement imposed under section 4307(a) shall be subject to a civil penalty, assessed by the Secretary, which shall be based on the product obtained by multiplying—

(i) a monetary per gallon penalty determined in accordance with subparagraph (B); by

(ii) the difference between—

(I) the number of gallons of alternative and replacement fuels required under section 4307(a); and

(II) the number of gallons of replacement and alternative fuels sold and credited.

(B) DETERMINATION OF MONETARY PENALTY.—

(i) IN GENERAL.—The Secretary shall issue regulations establishing a monetary per gallon penalty system that—

(I) encourages compliance with this Act;

(II) provides stability and growth in the production of replacement and alternative fuels; and

(III) allows for the recovery of administrative costs incurred by the Secretary in enforcing the requirements of this Act.

(ii) AMOUNT OF PENALTY.—The Secretary shall—

(I) consider linking the penalty system to the market price of nonqualifying petroleum or motor vehicle fuels; and

(II) ensure that the penalty system establishes a penalty for each violation calculated to—

(aa) approximate the minimum monetary expenditure that the violator would have made to obtain sufficient credits to comply with the requirements of section 4307; and

(bb) include the administrative costs incurred by the Secretary in enforcing the requirements of this Act.

(iii) REVISIONS.—The Secretary may revise the penalty system, by rule, as is necessary to reflect changing market conditions.

(2) FAILURE TO REPORT.—Failure to meet the reporting requirements of section 4307(b) shall be punishable by a civil penalty of not more than $25,000 per day.

(b) AUDITS.—The Secretary, and authorized representatives of the Department of Energy, shall have access for the purpose of audit and examination to any books, documents, papers, and records, of refiners, providers, manufacturers of dedicated alternative-fuel vehicles, and owners of public and private refueling stations, that are pertinent to the requirements of section 4307.

(c) JUDICIAL REVIEW.—(1) IN GENERAL.—A person against whom a penalty is assessed under this section may, not later than 60 days after the date of the order of the Secretary assessing the penalty, institute an action in the United States Court of Appeals for the appropriate judicial circuit for review of the order in accordance with chapter 7 of title 5, United States Code.

(2) JURISDICTION.—The court shall have jurisdiction to—

(A) enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary; or

(B) remand the proceeding to the Secretary for such further action as the court may direct.

Sec. 4309. AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Mr. JEFFORDS. Mr. President, I am offering an amendment which is a very serious one. It is one to which I hope and I know the Members will pay very careful attention. I offer this in hopes that this energy bill, which I happen to believe does make some important improvements in our system, can be improved upon.

What it tries to do—and it is important to keep in mind the critical question here is with this bill, with our country—and, that is, should we design a program that will place us in the position where we will have the option of becoming energy independent?

I have spent the last couple of days defining the bill in some respects. However, I think it is important to review where we are and what we are doing at this time.

First of all, the question again as to whether or not we should place ourselves in the position of being energy independent is a critical one.

In a moment, I will be referring to many charts which will try to make it very clear to our Members exactly what the bill and what my amendment is about, and I would say that the critical aspect of the situation is basically this: The energy program that we have before us—I do not think that there is anyone who will say otherwise—leads us to more energy dependence rather than energy independence. This is especially true now that we have the situation where ANWR has been eliminated.

But I would point out that my amendment would place us in the position of being energy independent, with or without ANWR with or without CAFE standards, and with or without any other provisions of the bill. It does not interfere with anybody. It does not interfere with anything that is in this bill. It helps. It gives the bill some substance to reach independent energy. It helps and assists the Clean Air Act to be brought to fruition quicker. It will extend and expand the ability, for instance, of natural gas to be able to go across this country rather than just in certain clean air areas.

We do a multitude of things to bring this country into a position where it can protect itself from OPEC. That is the basic question we have here; that is, How do we protect ourselves from OPEC?

Where is the basic problem that is created? Why are alternative fuels not coming along rapidly or replacement fuels, as we refer to them? It is because, very simply, OPEC controls the market. It is a monopoly. It has in the areas where it is dominant, the Middle East, two-thirds of the oil in this world.

We have seen most recently in the desert war experience the impact that the problems in the Middle East can have and how they can put us in the position where the price of oil jumps up. It is something to keep in mind as we go through the bill; that is, that for every penny that a gallon of oil goes up, that is $1 billion on our economy.

So it is very critical that we get ourselves in the position where we are not dominated by OPEC.

The ramifications of someone who says let us try to provide an alternative fuel so that our country will be able to use something other than what comes from OPEC is that you cannot get any banker or any financing or something where OPEC can immediately cut the price and drop the price so that you do not have any ability to be able to compete.

We saw that during the energy problems of the seventies. The price of oil jumped radically from some $8 a barrel, up to $50 a barrel. At that time, we came forward with all sorts of programs. We were roaring to a solution by developing alternative fuels.

Then what happened, of course, when it peaked at $50 a barrel, and OPEC looked at this Nation, and they said, "Wow, they are getting ready to do something, to build an alternative fuel supply." So what they did was they dropped it from $50 a barrel to less than $20 a barrel.

At that time, I remember very well, I was in the House. I looked at the synfuels bill at that time, the program that the administration at that time was outlining. I raised concerns about it. I said there are better ways to do it; that you are going to get killed if they reduced the price.

Sure enough, when OPEC cut the price of oil from $50 down to $15, what happened is we had placed ourselves in a situation where we were trying to subsidize the differential between the price of producing a gasoline substitute from coal, and all of a sudden, something which looked like it would be cost effective turned out to be a boondoggle.

At that time, I offered an amendment and had some success in developing a program at that time in the House which said let us go at it the other way. Let us see if we can build a system which will keep the pressures of OPEC away from our market, build a free market free from OPEC control.

At that time—this was in 1979—I did not have a lot of support. I was able to get it through two committees, Agriculture, based upon what it would do for agriculture—and the same is true now, today—and also the Education and Labor Committee. Why? Because it would create jobs, and this bill will do the same thing today. I had a lot of support.

We were able to also convince the Energy Committee to make it a part of the omnibus energy bill that was coming forth. However, at that time, of course, right after that, OPEC cut the price, dropped the floor, and everybody lost interest in trying to develop an energy strategy that would place us in the position where we would be energy independent.

So I would like to now turn to some charts to better explain where we are. I know some of those that will be assisting me—Senator GRASSLEY, in particular—will be here shortly.

Before I do that, I would like to point out for those that always wonder about these things, and I think it dramatizes parts and aspects of the bill and amendment, that is, we are cleared by CBO. This amendment is dramatic and expansive as it has no adverse effect on the budget.

So we are not in any kind of a budget problem.

I would point out the significance of that, as we will demonstrate later on, is this bill will not only not have a cost to the Federal Government, but actually will put us in the position where we can substantially reduce the drain on our Treasury from tax expenditures in respect to oil interests later on; second, more immediately, by the increase in the use of ethanol in the shortrun from corn, that it will also reduce the cost on the Treasury with respect to our farm programs.

Let me take a look now to show exactly where the bill is and where our problems are.

First of all, the first chart I will show you is where the bill was with respect to the energy as it came out of committee. What this shows is where we will be under current policy. That is where we will go in the sense of becoming energy dependent, increasing dependence.

This bill which the committee has approved will result in a savings. There is no question about that. But you will see, this is at the time when ANWR was in, that we have a blip here, going down somewhat—and leveling off, very substantially, of the curves, but it ends up by shooting back up again to become more energy dependent.

This lower part, the green part, as you look at it, called RAFA—that is, the Replacement and Alternate Fuels Act, as we refer to it—that is what this amendment will do out to the year just 2010; that is, it will decrease our oil usage by 2.7 million barrels a day. You will notice that, therefore, we start on a downward trend, and thus have less energy dependence.

If you have to take a look, as we should at this point, at where the bill is now without ANWR, you will see that we had a situation where the benefits of the bill are reduced. But our bill actually has a more dramatic effect on decreasing the consumption of imported oil.

So I think it is important to keep that in mind throughout the debate that this is the only way we are going to effectively put the Nation in a position to become energy independent in the future.

It is hard, I know, for Members to get their attention on things that are going to take effect 10 or 20 years away. But if this body does not act, then we are all going to have to explain to the public later on as to why we did not pass something which would place us in a position of being not dependent on imported oil.

I want to go through a bit of the history about how we got to where we are today. I thank the committee for the attention they gave to the proposal. At one point early last year, we had a majority of the members of the Energy Committee as consponsors of this legislation, and they worked hard in the committee. The battle was a rather lengthy one. And a substantial part of the words of the amendment that I had, or the proposal we had at that time, were and are in the bill. I would say that they have adopted the skeleton of this proposal, but they removed the heart and the muscle of it. In other words, they converted what was a well-designed program—we believe with some problems, which I will mention later—from an action program to reduce our dependence upon oil to a program where it says here are the goals; the goals are right; we should be 30 percent less dependent upon imported oil in the year 2010. However, we will try to see if we can get people to volunteer to do it.

So it changed it basically from a plan of action to a voluntary plan to see if people would voluntarily do what is really impossible, because of the fact that OPEC can cut the price lower. How low can they go? Well, the cost of production right now in Saudi Arabia and those areas is anywhere from $2 to $10 a barrel. So, at $20 a barrel, they can go down a long way before they have a problem of losing money. Of course, we are dependent upon it, and that reduces that influence somewhat.

At that time and earlier into 1990 and through the middle of January 1991, the Department of Energy was preparing a similar program to mine. It was a program which DOE felt would also bring us into the position of being energy independent. And it, too, relied upon the fact that we had to create a market separate from OPEC in order to attract the capital necessary, and to bring on board the private enterprise system, which I fully support, to be able to bring forth the alternatives that we need in order to make this program work.

So I remind people that until that proposal was shot down in January of 1991 by the White House, that said, in their mind—this is the most ridiculous explanation I can understand—it interferes too much with the free market system. How you can have a free market with a monopoly like OPEC and say you are interfering with that by saying you shield yourself off from the monopoly, that does not make any sense at all. I am sure the opponents of my amendment will explain the rational of that one, because I cannot.

So the aftermath of that is that by working with DOE, the facts and figures I used to basically support the amendment and to demonstrate its effectiveness are those of DOE. Thus, many of the charts that I use will be

DOE charts. Many of the facts that I will give you will be DOE facts. Thus, I would hope you would understand that this is not just JIM JEFFORDS off on some wild scheme here making up facts. They came from the Department of Energy.

So let us again take a look at where we are. Incidentally, if anybody would like to know about the dispute that went on in the administration, a new fuel report of January 1991 refers to it and lets it be known that it was a program which unfortunately did not get consideration.

I want to go on and take a little time. First of all, I want to go on further with the amendment. What happened in the committee is they took the amendment up, and the oil companies came stampeding in and basically said this is worse than ANWR and CAFE put together; you have to kill this.

To the credit of the committee, they left a substantial part of the amendment in—the words, anyway. In fact, we probably got half of the words in our amendment adopted. But it is the impact that counts.

Some problems were raised with the amendment. So, at this point, I perhaps would like to alert you, as we will do later on, to the various changes that were made in order for us to take care of the problems that were created in the amendment, according to the administration and according to the committee.

One of those changes we have made was—although I think it probably was a defensive one, defensible from our perspective—with respect to the penalties that would fail to apply. We modified that and adjusted it to make it an economic base penalty, in a sense, so that it would just be a little bit more than you would have paid if you had complied, except in the exceptionally bad situations. So we think we have effectively taken care of that.

This is the most important one, and we believe with some merit, because we have changed it. In fact, after the motion to proceed failed previously, we met with the President, and he talked with us and then suggested that DOE ought to meet with me and try to reach a compromise in order to get the motion to proceed passed. I had a suggestion from DOE, one of the higher-ups, that in order to make our amendment acceptable, we ought to take into consideration domestic oil production.

Thus, as a result of that, we did add to our bill the stripper well provision. This is a substantial change, one which I first was adverse to; but in examining the facts, I recognized that it would help our bill, both from the perspective of imported oil, and more essentially upon the fact that it would decrease the amount of oil which we would have to import.

How does it work? It places stripper oil in competition with alternative sources and replacement sources. What will the impact of this be? First of all, with respect to the goals, obviously, since it is about 10 percent of our production right up at the goal.

Second, and more importantly, for the stripper well owners, what it does is puts a floor under the price where you will not be competing with OPEC, but you will be competing with those that would replace OPEC, and thus, as time goes by, you would be competing with higher priced options, and also you would be above the OPEC price.

What this does, of course, is increase, obviously, the revenues to the people owning stripper wells. But more importantly, it will allow them to continue into production, for with a stripper well, once you cap it, it is gone. It is too expensive to ever bring it back in, so if you keep the price up, you will find that that stripper well production will increase. And we will go into that a little bit more later. So those were the basic changes that we made in the bill in order to accommodate the serious concerns.

Also, another change. I am sorry; I did leave a couple out. First of all, we reduced the impact of the bill only to motor fuels for cars; that is, gasoline, rather than all motor fuels. This, of course, makes it, in a sense, easier for the goals, because it is harder to change the engines and the use of fuels in trucks, et cetera.

We also expanded the market credits—and I will get into more detail in the market credit provisions later—for vehicles, electric vehicles in particular. And Senator GLENN will be over supporting the bill and letting you know how important this one is to bringing along electric cars.

And also, a very important one for better utilization of alternative fuels nationwide, and bringing on the Clean Air Act provisions, and that is allowing a market credit with respect to infrastructure, and that is fuel stations that want to sell alternative fuels.

In addition, service stations, where they were affected in the original bill, are no longer affected. No demands or anything are put upon them. And also we had some changes with respect to the Sharp-Rockefeller provisions and CAFE provisions, which we left out in view of that. Primarily, CAFE is no longer in the bill.

So I am hopeful that the committee will recognize that these changes have pretty much met their opposition, and hopefully they may even support my amendment at some time in the future.

All right. Now let me proceed further, and take a look at some of the problems with respect to why we are here, seriously recognizing and hoping you will recognize that the chances for interference in our oil supply is dramatic because of where the oil is located.

Let me just give you a couple of discussions that I have had with people who are concerned about this, and from reading some literature. And you will see from this chart where the oil will come from for our children and ourselves in the future. The red is the cumulative production, which has gone—that is in billions of barrels; where it used to be and where it has gone.

And you will notice that we have almost drained ourself dry by our policy, and we will also talk a little about that later.

This black here is what is left. And you will notice on the chart that there is not much left in our country, very little. If you will take a look, though, over in the Middle East, where oil is, right here, and you will see that they have two-thirds of the remaining oil in this country. And it is allocated in those very sensitive areas involving Iraq, Iran, Kuwait, the Emirates, and Saudi Arabia, with most of it being in Saudi Arabia.

So that is where it is now. The question we have to ask ourselves, especially in view of what happened in Desert Storm, is, Is it a good idea to put ourself in the hands of the sheiks and the leaders of the Middle East?

I would suggest that it probably is not. And let me just, for you, go through some of the trouble that we have had in those areas, and just first of all start with the comments made by some of the people that we worked with. For instance, I know some of us had a meeting with Admiral Crowe, former Chairman of the Joint Chiefs of Staff, and he said to us: It is so critical for us to become energy independent that it would be wise even if it required us substantial cost and even reduction in our own standard of living.

I would also bring up an answer to a question you may have, and that is, well, if you are going to bring alternatives along, as we will point out later, why coal and natural gas, which would be winners under this bill, are not here supporting it.

I remember we had former General Lawson who came in, head of the Oil-Coal Association, and when he met with us, he said: Yes, we have to do this. It is important. However, when we later found out, of course, that coal is controlled by oil and foreign corporations, thus that support, which we had anticipated, turned into nonopposition.

The same was true from the natural gas industry. American Gas Association was very enthusiastic at the start. However, of course, they are also owned by oil, and they moved into a neutral position.

So again—I point also back to our chart—this is a list right here for the world's supply, disruption from world consumption, from 1951 through 1989. It shows you all of the various disruptions, primarily over in the Middle East.

But if you look toward the future, also, and recognize that the popu-

lation—and, according to President Nixon's latest book, for my Republican colleagues, he said that since the population is going to double in the Middle East by the year 2010, that the opportunity and the expectation for wars and problems in the Middle East is going to intensify dramatically. Because if you will remember the previous chart, you saw that all that oil is located in that little area, basically, around Saudi Arabia. And you have the rest of the Arab and Muslim nations in poverty. And if they have doubled, then, the opportunities and the expectation for disruptions in the Middle East has and will increase dramatically.

So, I think it is important that you keep that in mind, because it may not be years away; it may be very quickly. As you know, Saddam Hussein is still there, and we have not cured those problems. So not only are we going to get it from two ways: one is fights among the various nations there, and more importantly, probably, in the long run, fights among the haves and have nots for control of the oil and what price they would charge; but if it got suddenly in hands different from where they are now, if we have no ability and no option to put ourselves in a position to protect ourselves from that, I do not think we want to be in that place.

Next, I think we would like to take a look at the trends in the oil import bill.

This is what we will see if we do not do anything along those lines; what we are trying to impress upon you is that the billions of dollars—and these are in 1988 dollars—that we will be spending for imported oil will be up to around $170 billion, where as right now, it is down at about $50 billion. So it is going to be triple or more than that we are going to be spending if we do not do something about getting our production in this Nation going with respect to replacement and alternative fuels.

So I would hope that, really, all of my colleagues will very seriously look at our provisions in our bill and understands that what we are trying to do is to put ourselves in a position where we will not face these very serious economic problems of the future.

Now, let me also go and take a look and demonstrate again, and remind those that may have forgotten, about what happened during the period of the 1970's. Many of my colleagues were here; some were not. But let us go back and take a look over here. In 1970, we had, in effect—and this is important to remember as we go forward—we had, in effect, a program which in the sense of design is very similar to what I am offering, but for a different purpose. We had in effect at that time a program which ensured our domestic oil producers that they could get at least $8 and $10 a barrel.

I come from New England, and we in New England, without that provision, which was in effect in the late thirties, could be buying $2 oil from the Saudis; $2 instead of $8. So we had to pay, in our area of the country, 4 times what we might have had to pay had the Nation not had a policy to protect the domestic supply of oil. That worked very well for the domestic oil interests.

It also—if you remember the previous chart—helped drain us down so that almost all of our oil is now gone, whereas if we had imported it at that time, we would have much, much left. We did not do that. But we did protect our domestic oil interests from the lower price of OPEC oil.

When did we do away with that? We did away with it when OPEC began, and OPEC took care of the problems of our domestic oil industry. Because what they did was to raise the price such that it was no longer necessary.

And here is what you saw with respect from 1949 right on through, on this chart, which shows you where the price controls were, in effect. And then, of course, OPEC took over at that point.

Then the price controls by OPEC, you will see, ended up here, and then we had the collapse, and it bounced off, and they settled out at a price. But compare that to where it is now with respect to the cost of production, and that is with OPEC right now, the Saudis, for instance, their cost of production is $2 to $10 a barrel, so they are well above that. And what does that mean? That means that we are so vulnerable for them to cut it if they want to do that.

All right, let us take a look now at what the impact was with respect to the loss of American jobs with respect to when OPEC got in the business here and then cut the oil prices. Because one of the big issues here is jobs, and I think that, at least, ought to get Members' attention. They know that is what is on everybody's mind right now.

But I am looking toward the future. I think one of the greatest problems we are having right now with this recession and with appealing to people is that now is bad, but what about the future? Things do not seem to be going well. Our standard of living does not seem to be increasing; we do not seem to be doing as well. And that is as much a problem of concern to the people of this Nation as the normal sort of things we have in recessions. So when you compare it with the 1982 recession, we are not near as bad, but the concern of people is much worse because they have not seen their standard of living rising.

Well, what is going to happen? Look at the jobs we lost just by the impact of OPEC increasing the prices and then dropping them. So we have lost hundreds of thousands of jobs by OPEC's impact at this time.

We have sort of gone through the preliminaries here, and now I would like to explicitly explain the program that we are talking about. But I hope that the attention of my colleagues has been gained by the potential of loss of jobs in the future as our oil industry goes down and winds down as we are running out of oil, the impact it could have on our economy by price increases, whether designed or by problems in the Middle East and all of those matters. Keep that in mind and take a look at what our program would do and would accomplish.

First of all, it targets a 10-percent replacement or alternative fuel replacement of imported oil by the year 2001. I also point out, so people do not think we are jumping off into something which is going to immediately pounce on the industry, it is several years, under our provision, before the impact would occur and several years, therefore, for the industry to be able to get its act together to be able to comply.

The important goal, though, is the 30-percent goal by the year 2010. We have every reason to believe from studies—I have traveled around the country visiting options, coal and ethanol and others—that by the year 2010, if our program is put in, it would be possible to attract the capital necessary to build the kinds of plants that are necessary in order to produce the kind of fuels that are necessary to put us in that position where we become energy independent.

Second, credit trading. This is a controversial part and one that the oil companies will pick up on and say, "Hey, this is going to be very cumbersome. We cannot do it." On the other hand, if we are going to attract options, if we are going to open it up to a free market with a level playing field for all of those that want to come in and say, "We can help, we can help you become energy independent," we have to create a market credit system.

Well, what is a market credit system? Nothing alien to my colleagues. We developed a market credit system in the clean air bill. It is being implemented. We had a market credit system when we phased out lead in gasoline where the companies could trade around. If you had more than your share out, then you could trade that in terms of money or whatever with another refinery. So we had those programs. That is another one. Right now, one that is going on with the trading credits is in the oxygenation aspects of the clean air bill. That is, if the total increase in oxygen in an area comes about, some high some low, they could trade among themselves in order to ensure that things work flexibly and no greater onus is put on one refiner than is necessary with the capacities that they could shift it around.

There are also market trading concepts being discussed now among utili-

ties for trading various aspects, especially in the clean air bill, where there are trading credits for reduction in sulfur dioxide. And, also, I have talked and met with experts in the market credit aspects, and they are pretty enthusiastic about the possibility for using market credits here as long as we establish that the price of oil would be at a definable value so that everything would revolve around the cost, basically, of imported oil.

OK, now let us look at the various options you would have for credit trading.

First, let me discuss what the replacement fuels are and alternative fuels at this point. We can do the other later on. In the replacement fuels, basically we recognize that automobiles are going to be around here for a long time, that we are not going to have a plan that is going to run existing gasoline engines off the road. Our cars, depending on the area of the country in which you live, in my area they do not last very long, other areas they last 10, 20 years. In fact, I even just this year junked a 1974 Skylark that I used on my property. So, this also makes it very flexible for refiners to be able to comply because we are talking about things in replacement fuels that can be mixed with gasoline. The most obvious one right now is ethanol. That is being used, and quite successfully, and, in fact, 8 percent right now of the U.S. gasoline sales are of a gasohol nature. So they are well on their way to be available to the refiner to be able to comply. If you add to that also that stripper oil wells would be a replacement fuel, then there is no question but the goal can be reached easily by refiners.

In fact, I would point out that the small refiners that primarily refine stripper oil will be in a better economic position because they can have trading credits with those that utilize imported oil. So it would be an economic advantage to the small refiner.

And I hope that is an important message for those who come from States that have small refineries, because, generally, all they have to have by the year 2001 is 10 percent and they are in compliance. Well, most of them are probably 40, 50, or maybe 100 percent right now. Then they would be able to trade those credits with those that are importing oil. So it should be a very, very helpful provision for the small refiners in this country, and, in fact, we have already had contact from some independents in some areas in support of our bill. The alternative fuels, basically, are those that are designed not to be used in a gasoline car, but, rather, dedicated fuels include everything from electricity to a methanol car to an ethanol car or hydrogen or natural gas and propane.

I again underline, there is a lot of misinformation provided. In fairness, a lot of that was based upon our old bill. But one of them is that we have not mandated anywhere as to what is going to be the winner here, what fuels must be used or what cars must be used.

We believe—I believe—in a free market system to do those things. That is why I am supporting a free market for alternative or replacement fuels to be compared with the OPEC-dominated market is prevalent in our society now. Also, we use market credits to take care of the chicken and egg problem.

The problem we have right now, especially with the clean air bill, is that you can tell the automobile makers to make all the cars you want, flexifuel vehicles in particular. But if nobody puts flexifuel in them, methanol or whatever it is, what good does it do? There is no infrastructure out there to deliver the fuel, so if you do not get the infrastructure out there to deliver the fuels, how can you expect them to buy the fuel? It is a chicken or egg problem.

We go after that by allowing, on the initial time when the infrastructure is built, to sell a market credit equal to the amount of displacement which would occur from the utilization of that when it goes into effect.

Another argument that has been used against us by the refiners and the big oil companies is that the burden that will be placed upon refiners is too difficult, that their options are bad and you are going to force them to do things. We give them options. Let us take a look very carefully at what options a refiner of oil would have.

First of all, is the option of blending in a replacement fuel. Let us take a look at those things that would qualify: Reformulated gasoline, ethanol, gasohol, gasoline from natural gas liquids, tar sands, oil shale, coal, domestic oils and, of course, as I mentioned earlier, stripper well oil. There are all sorts of options just on the replacement fuel side itself. But it goes beyond that.

It says that perhaps as the clean air bill goes, there will be demands and needs for ethanol in particular and others. We allow them through the competitive market system to get credit for the alternative fuels that are sold. Thus, this puts in the hands of the alternative fuel producer an economic advantage where they can go to the refiner and say you do not have to put anything in your fuel, we will give you credit for what you are selling on the market.

The same would be true of electric cars, for instance. The electric car could get a credit for the amount of gasoline that it would displace, by operating upon electricity over the reasonable life of the car. This should be a substantial benefit, as the program unfolds, to the manufacturers of electric cars, trying to even out that additional cost and inconvenience that may be in the electric cars.

Also, they can themselves produce or sell alternative fuels. In other words, if they opened up pumps at their stations, they can get credit if they are a vertically integrated business in particular. They could get credit for what they sell in natural gas or neat alcohols or electric vehicles with hydrogen and others.

So they have a choice in meeting the demands. But this bill is going to take several years to go into effect and so during that time these things can be worked out.

Another thing which we will mention a little bit later, all the arguments about all the paperwork and all this stuff—there is no change in the present situation. The clean air bill took care of all that. They are all there. Stripper well legislation, or provisions under the tax laws, make all of that information available. Every stripper well because it has various advantages, tax advantages and royalty advantages and all that, they are all required to file all the information necessary for compliance with the bill. Reformulated gasoline, they have to trace what they have in, where it went and all that. That is all taken care of.

Those arguments that we have created this horrendous bureaucracy and problems is really—I remind you again—they had market credits with lead and now with oxygen. So that is a real bogus argument.

Now the big one. OK, OK, Jeffords, that is fine. But what is it going to cost? What is it going to cost me as a consumer?

First of all, there are so many hidden costs right now on our dependence upon foreign oil. The real cost of a barrel of oil is $200 a barrel. If you want to compare alternatives at $25 or $30 a barrel with $200 a barrel, you will see that, obviously, if we can get out from under the hammer of OPEC we can save a lot of bucks in this country.

Getting away from that, let us take the situation as it is. I remind my colleagues, the Department of Energy was working on a similar program. The figures we are using now on what it will cost the consumer are the figures from the Department of Energy. This is their analysis which we agree with. That is what we are using.

So when we run into the arguments which have all been distributed to our offices by the oil companies about the horrendous impact of the prices, keep in mind what happened last time with Desert Storm, how much the gallon of oil went up—how much the cost of gasoline went up. Take a look at what the DOE would say would happen on worst-case/best-case scenarios here. Basically the worst case scenario is—how much? Two point five cents a gallon, that is the worst case scenario.

What is the best case scenario? Maybe a half a cent a gallon. But in all likehood, a decrease in the price. There

will be a decrease in the price to consumers.

At this point, in order to relax my voice a little bit and because I have been joined on the floor by a supporter and friend, I yield the floor.

VISIT TO THE SENATE BY MEMBERS OF THE GLOBE GENERAL ASSEMBLY

Mr. GORE. Mr. President, I appreciate my colleague from Vermont yielding.

Mr. President, I would like to introduce some visiting parliamentarians. For the last 3 days the members of an organization called Globe International have had intensive meetings here in Washington. Most of the members left on a plane this morning. But the hard core is still here.

I would like to introduce to my colleagues members of the Globe organization from the European Parliament: Hemmo Muntingh, Carlos Pimenta, Jan Bertens, and Maria Santos. Member of Globe from the Japanese Diet: Senator Wakako Hironaka. Members from the former Soviet Union: from Russia, Alexy Yablokov and Valery Menshikov; from the Ukraine, Yuriy Kostenko; and from Moldova, Pavel Gusac.

These discussions, along with Members from the U.S. Senate and the U.S. Congress, have been focusing on issues relating to the global environment.

A number of action agenda items were raised, and I will provide a summary of these items in the weeks and months following to my colleagues here. But I wish to take advantage of the provision in our Constitution which allows the courtesy of floor privileges to visiting parliamentarians. I appreciate my colleagues' indulgence in allowing me to introduce them.

For purposes of welcoming them, Mr. President, I suggest the absence of a quorum and then my colleague will take the floor as he wishes.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

NATIONAL ENERGY SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, has the Senator from Vermont finished his presentation in chief?

Mr. JEFFORDS. I have not at this point. I am trying to notify those who desire to speak that I am available for them to do so. I intend to go forward myself in a moment and finish my presentation, but at this point I am waiting just to hear their intentions. I expect Senator GRASSLEY will be here shortly, and Senator GLENN is tied up until after 1 o'clock. I hope it will be sometime after that.

Mr. JOHNSTON. Mr. President, I say to my friend that when he has finished his presentation in chief, I would like to ask him some questions and make a brief presentation in chief myself. So perhaps we can speed it along. If the Senator will go ahead then I will be in a position to ask him some questions.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I would like to continue with my presentation. I would like to commence by talking a little bit more about some of the aspects of the bill and where there are problems.

First of all, I think that we have so many things that we agree upon. But there are really not many facts to dispute, I hope Members will recognize. There is only very little, if anything, to dispute as to the facts and as to the effectiveness of the program.

I stopped on consumer cost, but let me point out and explain in a little bit more detail how those consumer cost details come into effect.

First of all, I do not think there is any disagreement on the facts that if you did decrease your demand that you are going to get a decrease in the price. That is a pretty clear observation. I do not think anyone will disagree with it. So one of the reasons you get this kind of a consumer price scenario is the fact that if we decrease, according to the Department of Energy, by 1 million barrels a day the amount that we import, that you will have somewhere around a $2 drop because the United States is such a huge consumer that when we drop our consumption by 1 million barrels a day, which is a little over 10 percent in the motor fuels area, then you will see somewhere around a $2 drop in the price of oil.

This chart demonstrates that; that the more you buy the more it costs, the less you buy the less it costs. So one of the reasons the additional cost of oil can be taken care of is by the fact that we will force a decrease in the OPEC oil.

This is a little bit complicated in the sense that we have to keep a few things in mind with this chart. First of all, this one represents 90 percent and this represents 10 percent of the amount of oil that is in the mix. What it does demonstrate is that this differential part, that is additional marginal cost, when you take into consideration the decrease of $2 a barrel, that alone, we spread the whole thing over your market and we end up with a net benefit of about $10 billion a year just from the impact of being able to displace that million barrels a day. I hope that puts it somewhat in context.

Again, the information to use here and the basics of it are from the Department of Energy. Thus, the benefits we would get by reaching our goal of displacing 30 percent of the oil would be hopefully three times that and, thus, eventually as their charts would show, the actual impact ought to be such that there is a real decrease as to what it would have been with the current policy in effect.

I would also point out that when we increase that production of the alternatives, of course, we are at the same time creating jobs. The estimates of the jobs that we would create by going to 30 percent are in the hundreds of thousands in this country. In addition to that, you would not lose as many from the impact.

So I think if you are thinking about jobs, as all of us must this year, this is a program which is going to help us out of that problem of a reduction in our standard of living by huge trade deficits and all of that, and that the actual impact to the consumer is going to be in the end result, we would believe, positive rather than negative.

Again, this chart is another demonstration of the net savings you get. These are new fuel costs. These are the old savings. But that is 90 percent, which is 10 percent, and you end up with about 1.24 billion per year.

So, overall, this is a no-lose amendment for you. Putting it in sort of a summary form, if you want to really place us in a position where we can be energy independent, where we can make ourselves much less vulnerable to interruptions in the world situation, if you want to decrease the impact upon the deficit, if you want to cut our trade deficit, if you want to create hundreds of thousands of jobs at perhaps even a savings to the consumer, it is an amendment you ought to think very hard about before you defeat.

Now, this is a change we made especially for the committee members because I know many of the supports on the committee were deeply concerned about the impact upon small refiners and stripper wells.

This chart demonstrates how we helped the stripper well. The refiner again buys oil on the market, and at, say, $20 a barrel. Then in order to be able to utilize credit from the stripper well, in order to comply, he buys the market credit from the well owner, and thus a benefit to the well owner is there as well as, of course, the refiner, who would then again be able to sell those credits off or to trade them with refiners that do not have them.

So it is a real help to your stripper wells.

When you consider some of the States, especially those oil States where they have thousands of stripper wells, you want to think carefully about voting against this amendment because the stripper well people know what this amendment will do for them, and we have heard from some.

I do not want to have my colleagues not aware of that, especially in those many States—I think there are 26—that have stripper wells.

Also, to dramatically show you what the impact would be on keeping the oil production up in the stripper well areas, this chart shows what would happen at $25 a barrel. And we could get up there later on because they would be competing maybe with $30 or $40 options. We would have a zero abandonment of stripper wells for many years. On the other hand, if it drops down to in these areas, you will see at even $23 a barrel you are getting a dropoff in the number of wells that would be abandoned annually. It would be like 22,000. If you get down to $20, it is 45; $18, 70; $15, down to 101; and OPEC's top production would be putting out 184,000 stripper wells a year.

So I would hope those that have stripper wells would be very careful about voting against this amendment.

Another argument that is made is one that says, yes, but how are you going to make the goal? And there was some reason to question that before we put in stripper wells.

Our argument—and I think a very sound one was—that the Clean Air Act itself would pull along something like 7 or 8 percent of the 10 percent goal by the year 2001. However, by adding stripper wells, we are already at the goal.

Keep in mind, though, stripper wells are a declining resource and, therefore, what will most likely happen is that after a certain period of time the number of wells will drop off because they have become nonproductive, and then you will find that the competition for the sources will increase. In addition to that, the Secretary has the authority to increase that goal.

Thus, we would expect that if the bill is implemented, there might be an increase. In fact, we would want to see an increase in that goal. We did not do it at this point because we wanted first to explain why it would come about and the fact that the authority is there.

So I hope you can see that the goals we have here are very attainable and probably should be strengthening rather than being troublesome.

Now, where will we be at the year 2010? Near 2010, we will be on our way to energy independence. We will have developed that commercialization—and the emphasis is on commercialization. You cannot attract capital into the market now to produce replacement or alternative fuels as long as OPEC has the ability to reduce that price, and as we have shown, it can go all the way down to $10 a barrel without losing money on their production—in fact, on most of it making money.

Second, and this is an important one about which I have not talked much, we will reduce the greenhouse emissions and improve the environment. Why do we say that?

I have not talked about that aspect. But it is important to remember, for instance, the Sierra Club and other environmental groups see this advantage and back us. That is, that we do have now the technology, for instance, to produce ethanol from cellulose.

Now, what does that mean? Ethanol from cellulose means that waste paper can be converted into ethanol. What we have not developed is the commercial technology for doing that. What we do have in the interim for ethanol, though, is the ability to produce ethanol from corn and other sugar types.

So in the short run, we will have that ethanol. In the long run, in the outyears, we will have ethanol from biomass, and the important thing about that is that the kinds of products you would use to convert to ethanol at that point would be those which would leave you in a situation where you are carbon neutral.

We are worried about the problems of global warming. The problems of global warming are because we are bringing carbon from under the Earth and putting it above the Earth. If you get into ethanol production, from the kinds of techniques that they have for the conversion of cellulose, you are using techniques which do not require other fuels to the greatest extent or if you did, they could be dissimilar fuels, which means you are recycling the carbon above the ground, which means you would have an option at the year 2010 which we estimate from talking to DOE that commercialization is available, you have an ethanol option which would not in any way have an impact upon global warming with additional carbon above the ground.

Third, the Department of Agriculture is excited about the ability of our farmers to increase their options in farming. Thus, they have a joint program going on right now with the Department of Energy which will allow them, hopefully, to build up the kinds of options we would like to have with respect to the production of ethanol.

And finally—and this is an important one—the impact could be dramatic; it will lower the Federal deficit.

Let me run though just a few of the things before I yield to my good friend from Iowa.

First of all, eventually, you would not need all of the tax expenditures we have to assist in many of the areas that we do now assist with respect to oil in particular, and to some extent—probably later on—in the ethanol area.

Second, all that money is going overseas; all the jobs that will be leaving to go overseas will remain in this country and thus we will be creating jobs, creating income, and reducing our trade deficit but, more importantly, increasing our gross national product.

So I say to my colleagues who examine very closely this amendment, I expect in the normal course of business we will probably get a motion to table at some point, and I hope you keep in mind you want to vote no if you support me.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Thank you, Mr. President.

Mr. President, I rise because I want to make some comments on some things that are said about this issue, not necessarily things that have been said here on the Senate floor. I rise to set the record straight on a lot of the propaganda that is going on in this city about this issue that is before us and specifically statements that are said against the Jeffords amendment.

While the big oil companies are sending out their huge armies of lobbyists to attack and destroy the Jeffords amendment, our colleagues should recognize a very important point. As startling as it may sound, in view of all the big oil rhetoric, the Jeffords amendment is really a chip off the old block of big oil legislation which was pushed through Congress in the 1950's.

This is an old skeleton out of big oil's closet that they would obviously like us to conveniently forget. But like they say, what is good for the goose is good for the gander, and I would explain and expound upon that after I have covered some other material.

The oil companies are now mounting one of the most shameful propaganda campaigns against the Jeffords amendment that I have ever seen. The old Soviet Pravda could have only hoped to mount such a barrage of misinformation and distortion.

The oil companies seem to think that if they use all the right buzz words and push all the right hot buttons that they can get enough knee-jerk reaction from Members of this body to kill this very good piece of legislation, the Jeffords amendment.

Unfortunately, I am afraid that a lot of well-meaning colleagues are buying this nonsense that is being spit out by oil company lobbyists.

Mr. President, the oil companies want us to dismiss the Jeffords amendment and dismiss it just right out of hand without giving it any serious attention or consideration.

So I come to the floor in hopes to cut through the buzz words and to keep hands off the hot buttons for a little period of time to get legitimate consideration of this amendment, an amendment that is finally going to have this Senate say to the people of this country we have finally put this country on a road to less dependence on foreign sources of energy.

Oil companies are using buzz words such as "dangerous," such as "ill-conceived," the words "Government mandate"—and I like this one that I have

heard an awful lot. They say the Jeffords amendment is "injecting command and control techniques." That ought to just scare, and it is meant to, the wits out of all us free marketers.

I daresay, however, that there is no one in this body who is more respected for his expertise and understanding of energy policy and the energy industry than the former chairman of the Senate Energy Committee, our former colleague, Senator James McClure of Idaho, now retired.

Senator McClure was the cosponsor of the Jeffords amendment legislation last Congress. If the Jeffords proposal is so outrageous and so radical as the oil companies want us to believe, why do you suppose that the Jeffords amendment drew the support and cosponsorship from the top energy expert in the U.S. Senate, and one, let me tell you, who is respected for the free-market philosophy that he not only spoke for a decade and a half on the floor of the Senate, but voted for as well.

Mr. President, our colleagues have to recognize that big oil is willing to do and to say just about anything to kill the Jeffords amendment. In fact, they have declared all-out war on it. Can you believe it? The oil companies wanted to kill the Jeffords amendment so much that they have said they would rather not have any energy bill at all and that they would rather not drill for oil in ANWR than to have the Jeffords amendment passed.

When you think of the importance to them of ANWR, and they are lobbying on that part of this legislation. Although ANWR is no longer part of this legislation—then that is a pretty far-reaching statement for the oil companies to make about another amendment to this bill, the Jeffords amendment.

The oil companies so much oppose fencing in a small niche in our domestic market to foster the development of domestically produced alternative fuels—and let me emphasize these are domestically produced, not foreign produced—that they are willing to derail the entire National Energy Security Act of 1992.

So to support what I have just said in summarizing the whole campaign of the oil industry against the Jeffords amendment, I want to quote from the September 25, 1991, Journal of Commerce:

> The oil industry claims it would forego Alaskan refuge exploration if it could squelch a proposal that would require it to increase sales of alternative fuels such as compressed natural gas, corn-based ethanol or methanol made from gas. "If the (Jeffords measure) is included in the overall energy bill, we will oppose the bill" said Earl Ross, a spokesman for the American Petroleum Institute.

Then I think it is pretty clear. So much for big oil's concern about something called a national energy strategy or national energy security.

Mr. President, let me take a moment to draw the big picture regarding the Jeffords proposal and describe point by point how big oil is trying to get away with a double standard.

In the broadcast sense, the Jeffords proposal fences in, so to speak, a small market niche in order to foster the development and marketing of alternative fuels, not just any alternative fuels, but all possible alternative fuels produced in the United States.

The Jeffords amendment is based upon the assumption that the primary purpose and justification of the National Security Act should be to take dramatic steps away from our dependency on foreign sources of energy—not just foreign oil, but dependency on all sources of foreign energy.

That does not surprise anybody, whether you are in this body or anywhere in grassroots America; if you are talking about a national energy strategy, it is implicit in that statement that the purpose is to have us less dependent on foreign sources of oil and other foreign sources of energy. One, and most importantly, for our national security; second, because of the economy of America and less unfavorable balance of trade.

So the purpose of this bill, at least implicit in title, is more independence.

The Jeffords amendment is based upon this assumption that that is the primary purpose of this legislation, that we should take very dramatic steps to cut down on our dependency on energy coming into this country, oil or otherwise, from a foreign source that can have an economic grip on America and an economic stranglehold upon jobs in America, and also on our national security, so that we can direct our own future without that consideration.

It is becoming more and more apparent that not everyone embraces that objective, and would rather have us issue hollow declarations of victory, if we do anything at all to expand the use of alternative fuels, even if those alternative fuels are controlled by OPEC.

If our objective here today is to become anything less than energy independent, and not just oil independent, then I say let us just forget it and move on to more important, more meaningful legislation that will revive our economy and produce jobs in America.

In any event, the Jeffords proposal recognizes that unless we fence in a small niche of our motor fuel market, our domestic alternative fuels industry will likely never get off the ground. As long as OPEC, in conjunction with other oil interests, can cut the legs out from under our alternative fuels competition, our efforts seeking independence from foreign sources of energy will be in vain.

The Jeffords amendment does not pick winners, and it does not pick losers, among the many various alternative fuels. Competition will run free. We just say that for the small, fenced-in area, it will be domestic alternative fuel producers and not foreign producers.

What the oil companies do not want us to remember is that in the 1950's, they spearheaded legislation that fenced in the entire United States. America's big oil companies were crying in the 1950's, because we were importing a little over 1 million barrels of foreign oil, which was generally cheaper than our domestically produced oil. These oil companies cried that these imports were jeopardizing our national security, and that Congress and the President should mandate import quotas. Ultimately, they succeeded in passing this mandatory controls legislation, which led to President Eisenhower imposing import quotas in 1959.

I want to compare for my colleagues what the oil companies are saying today with what was said in the 1950's about their mandatory controls. I want to share with my colleagues some excerpts of the CONGRESSIONAL RECORDS of the 1950's. Let us scrutinize those hot buttons and those buzz words that are being used today, because they have been used before, but from a little different perspective.

Let us start with the words "mandates" and "quotas." Today, oil companies attack the Jeffords amendment as a mandate and as a quota bill. In the 1950's, the Independent Petroleum Association of America spearheaded the drive of domestic producers for legislation restricting oil imports, followed by a successful effort to pressure the President to exercise his new powers to impose mandatory import quotas. That is a fact.

Let us look at the second set of buzz words used by the oil companies against the Jeffords amendment. "Dangerous, unprecedented power," they say. Today, oil companies attack the Jeffords amendment because they say it "sets a dangerous precedent" by providing the administration an "unprecedented sweeping grant of power without adequate congressional control and guidance."

In the 1950's, as reported by then-Senator Lyndon Johnson, in an article that he shared with Congress, the oil companies' mandatory import quota legislation granted the President "the authority to take whatever action he deems necessary to adjust imports." Whatever action necessary, the President could take under that legislation proposed by the oil companies in the late 1950's.

The third set of words that I want to call your attention to is "cost to consumers." Today, oil companies attack the Jeffords amendment as costly to consumers. In the 1950's, the consumer was the last thing on big oil's mind. Congressman McDowell, in the 1959 de-

bate, attacked the mandatory oil import program. This is when President Eisenhower followed the mandate of Congress and set up mandatory import controls.

Politics can be the only reason for the President's order. It looks as if there is collusion between certain people in both political parties to protect the oil producers in exchange for their political support.

I, for one, however, will voice my disgust when I see politics played to this extent.

This decision, by annihilating a major source of oil, the lifeblood of our Nation, can do nothing but cause unjust hardship to the consumer, weaken our defenses, and decrease our stature in the field of international relations.

So much for the consumer. So much for the national defense of our country.

The fourth set of words that I want to have my colleagues look at carefully: "command and control techniques." Today, big oil conjures up in our minds all sorts of evils with their "command and control techniques" rhetoric. But in the late 1950's, Government "command and control techniques" is precisely what big oil demanded, precisely what big oil got from the Congress, and precisely what big oil got from the President of the United States.

In a 1959 letter to shareholders, the president of American Petrofina boasted of the great increase in profits that will be derived from "the mandatory import program approved by President Eisenhower," and how the "controls established under mandatory programs should now prevent many of the costly abuses of the past."

Mr. President, I think our colleagues should have a clear picture by now of what the oil companies are trying to pull here. Here is the message from big oil.

Simply put, mandates and quotas are good, if they benefit big oil, but bad if they encourage competition. Granting unlimited authority to the President is good, as long as it is aimed to protect big oil from competition, but granting limited, reasonable, flexible authority, as the Jeffords amendment does, is bad because it might foster competition for big oil or it might foster competition for oil generally as we seek other sources of energy to become independent.

Oil companies think increasing consumer cost is good, as they did in 1958, as long as it is big oil pockets that are being filled, but increased consumer costs are bad if it fosters development of competition against big oil from other sources of energy.

Finally—and this is my favorite—oil companies want us to believe that "command and control" techniques are good, only when it is big oil that "commands and controls."

Mr. President, these characterizations of the Jeffords amendment by big oil are outrageous, but most importantly they are misleading. And I believe that our colleague, the sponsor of this legislation, the sponsor of the Jeffords amendment, Mr. JEFFORDS himself, is prepared to expose the fraud in more detail.

But it is simply and truly ironic that the U.S. Senate is being subjected to such incredible pontification from the oil industry, which hopes for some knee-jerk reaction to all their clever use of buzz words when the oil industry itself, thinks that all these alleged horrors, such as "mandates," "quotas," "command and control" are quite fine, if they benefit the big oil industry.

Unlike the mandatory oil import quotas and controls of the 1950's, promoted by big oil, which it got through Congress and got the President's support, with the imposition of all those mandatory controls, the Jeffords amendment is proposed for no special interest except the interest of the American people.

It is proposed to help all Americans, once and for all, take a serious step toward that energy independence. This is a worthy amendment. I am glad to be a cosponsor, and I strongly urge my colleagues to ignore the shallow attacks from big oil, listen carefully to this thoughtful proposal, and then vote in favor of the Jeffords amendment.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana [Mr. JOHNSTON].

Mr. JOHNSTON. Mr. President, I would like to direct a few questions to the distinguished Senator from Vermont if I may.

Mr. JEFFORDS. I am most happy to answer the questions as best I can.

Mr. JOHNSTON. I thank the Senator. First of all, with respect to the definition of "stripper" contained in the IRS Code, does the Senator recall—I do not—what the qualifications of a stripper well are?

Mr. JEFFORDS. The definition is 15 barrels or less of oil production per day.

Mr. JOHNSTON. Can that be adjusted by the IRS or by the DOE, or is that fixed in law, do you recall?

Mr. JEFFORDS. Fixed in the data. That 15 barrels a day was put in to make sure that it would preclude fooling around with the numbers that were being proposed.

Mr. JOHNSTON. Would the Senator agree with me that the latest figure I have from DOE is 1.05 million barrels a day of stripper oil produced pursuant to that definition?

Mr. JEFFORDS. That is correct. That is our understanding of the production at the present time.

Mr. JOHNSTON. That is up 14 percent, roughly, of total crude oil produced.

Mr. JEFFORDS. Somewhere in that area. I am not sure of the exact figure. I know 12 or 14. I will accept the 14.

Mr. JOHNSTON. All right. Let me get one thing straight from the bill. The amendment states on page 4, subparagraph (f), on lines 11 through 13, that they shall establish a goal of achieving, by the year 2000, utilization of domestic renewable resources for at least 5 percent of annual gasoline consumption.

Mr. JEFFORDS. That is correct I think 2001 now, but that is correct.

Mr. JOHNSTON. Over on page 5, it states that the minimum percentage that replacement fuels and alternative fuels constitute shall be—and it says 2001 through 2009—10 percent.

Mr. JEFFORDS. That is the minimum percentage. The authority is in the Secretary to raise that level, that is correct.

Mr. JOHNSTON. In other words, it is 5 percent by the year 2000 and goes to 10 percent in the year 2001.

Mr. JEFFORDS. No; that is not correct. The 5 percent of renewables carries forward. The 10 percent is the total for replacement and alternative fuels for the year 2001 through the year 2010. That is the minimum percentage for the totality of replacement of alternative fuels.

Mr. JOHNSTON. I see. So the 5 percent relates only to domestic renewable resources.

Mr. JEFFORDS. That is correct, and it is a goal not being mandated.

Mr. JOHNSTON. I see. That is a goal and that is not a mandate. But the 10 percent of replacement and alternatives is a mandate.

Mr. JEFFORDS. Yes. It is a mandate because you have to have such a mandate in order to attract the capital necessary to build additional——

Mr. JOHNSTON. Yes; I understand. I wanted to be sure whether you meant to change the 10 percent to 5 percent.

Would the Senator agree with me that his goal of 10 percent would be met by what is already required in the law plus the 10 percent stripper by the year 2001?

Mr. JEFFORDS. It is our belief that the present would indicate that we have about 7, maybe 8, percent from the Clean Air Act, and that would also presume that the methanol and other elements that will result in the Clean Air Act compliance would be domesticly produced. The difference is basically that right now we are seeing that the methanol production is going offshore, and the money that is being utilized for that, up to $80 a barrel, is now being shipped offshore, and, therefore, there would be changes required in order to make the goal of the Clean Air Act in compliance with the bill here. But, generally speaking, what the Senator is saying is correct, that assuming at least all or some of the methanol production which is presently being sold or contracts are being let to make overseas are even with that in the stripper well, you would be in compliance with the year 2001 with the stripper well plus what would be

coming from the Clean Air Act; that is correct.

Mr. JOHNSTON. Actually, as I understand it, the gasoline alone produced from the stripper well would more than exceed the 10 percent even without respect to methanol, ethanol, MTBE, and butane.

Mr. JEFFORDS. That is correct, if it was credited toward gasoline rather than home heating oil or other products from the stripper well. That may or may not be true because, generally, how I designate it is 50 percent motor fuels and 50 percent other domestic use. Presume it was all—and probably that is a shell game in that regard and you probably could end up with that. We added the stripper oil provisions there because we felt it was important to protect the oil producers. My understanding and hope with that conclusion is we would be able to get agreement from the administration and commitment. I also point out that there is authority, though, in the Secretary to increase that 10 percent goal. We are hearing from the domestic oil industry saying, "We wish you would raise the goal in it because then it will help our stripper oil wells more."

Mr. JOHNSTON. Is the Senator aware that the Department of Energy stated that when his amendment had the requirement of 10 percent and did not contain the stripper well exemption, that the Department of Energy said that, if you met our goals with electricals, it would cost $269 billion or, if you used depressed natural gas, $37 billion, or if you used methanol, it would cost $21.4 billion. The Senator has seen those figures?

Mr. JEFFORDS. I have seen those figures. Let me explain, nothing is required. There is no mandate on any usages.

Mr. JOHNSTON. I am not arguing whether correct or not, but if you have seen those figures.

Mr. JEFFORDS. I do not disagree with that, but if you divide that by the number of gallons that are required by gasoline reduction in order to get that, you come out with pennies a gallon, not those huge figures which are used to distort.

Mr. JOHNSTON. I am not arguing that at this point. But if the Department of Energy is correct, you could have avoided that by buying the stripper well oil and do so for the next decade, at least, perhaps for the next two decades.

Mr. JEFFORDS. If you did not increase the goals; that could be correct. But I suggest as the administration ordered DOE probably to do it—I give you the worse case scenario—presumably that you use only these options. We do not require any options, so that is a very distorting look at that they give you. They say use all electric cars. What would it cost if you use all this? What would be its cost—there are other options, which you point out.

Mr. JOHNSTON. Does the Senator have any idea what the cost of that stripper oil would be? Or, stated separately, what the subsidy for stripper oil would be?

Mr. JEFFORDS. Again, of course, it would not be a tax subsidy or Federal subsidy. If anything, it would be a consumer subsidy, if you want to put it that way.

Mr. JOHNSTON. The refiners would have to buy the credits by buying the stripper oil, and, assuming that they wanted to avoid spending all this other money, they could do so by buying the stripper oil. That would increase the cost of stripper oil. It is like the old entitlement programs where you had oil which was cheap and oil which was more expensive. The fact of the matter is you do not know how much that subsidy might be.

Mr. JEFFORDS. That is correct. I point out there are now present subsidies in the law for stripper wells which would be made unnecessary if the system works such that you would have a decrease in the drain on the revenue to the Treasury if our program works, but you might, might, have a slight increase to the consumer.

But you remember that if we reduce, which we would not from stripper oil, but if we reduce the oil imports, then we should, according to DOE, get a downward push on the price of oil.

Mr. JOHNSTON. Mr. President, first of all, I want to congratulate the distinguished Senator from Vermont for making a very strong case for the need for a national energy policy, for the need to avoid massive imports, for doing everything we can to go to alternative fuels to get this country off the tremendous dependency which we have on foreign oil. He has made that case very well and I endorse everything he said in making that case because it is right on point.

Second, I endorse what he has said about the need to promote, as quickly as possible in this country, an alternative fuels business in which we have not only vehicles available to burn the fuel, but the fuel available for the vehicles. And indeed, in designing a program in the Energy Committee, we drew heavily upon the work of the Senator from Vermont and incorporated a modified form of his idea in our bill.

What we do is direct the Department of Energy to make studies so as to determine what projected amount of fuel will be needed and to recommend to the Congress the amount of particular kinds of fuels that will be needed. In other words, we do not want to have a lot of methanol vehicles out there without the methanol to run the vehicles, or ethanol vehicles without the ethanol to run them, MTBE or ETBE or electric vehicles without the ability to charge those vehicles. We have incorporated that in our bill.

If I might digress just a moment to tell the Senate and our colleagues what we have done in this bill, I think Senators will begin to understand how massive is our program, what an ambitious program it is, what a tremendous requirement it puts on not only public fleets, but private fleets as well.

Our program in this bill is designed to produce 4 million alternatively fueled vehicles on America's roads by the year 2000. We do that by requiring a phase in of the purchase of alternatively fueled vehicles. We define alternatively fueled vehicles as those capable of using electricity, natural gas, ethanol with at least 85 percent ethanol, methanol, liquefied petroleum gas, hydrogen, and coal-derived fuels.

So we begin to phase in a requirement first for Federal fleets by the year 1995, requiring that 30 percent of their purchases in the year 1995, which is virtually tomorrow when you are talking about massive purchases and when you are talking about manufacturing lead times. But beginning in 1995 for Federal fleets, we will require 10-percent purchases. By 1996, 15 percent; 1997, 25 percent; 1998, 50 percent; 1999, 75 percent and by the year 2000, 90 percent of all Federal fleet purchases must be on alternatively fueled vehicles.

When you go out there to the parking lot at the Pentagon, just picture that 90 percent of those vehicles will be required to be purchased as alternatively fueled vehicles. If you look at all of these fleets throughout the Federal Government, the Post Office, all the rest, and just picture that requirement beginning in 1995 of purchases, you begin to get the idea of the scope of our bill.

With State fleets, we require them to begin phasing in in 1995 with 10 percent, and we go up with the same increase in percentages to 90 percent by the year 2000. I am sure we are going to hear from Governors and State legislators when they realize how strict this requirement is, how ambitious it is to require the States in effect to shoulder the cost of this program. But we made that judgment, argued it out a great deal in our committee, and made the judgment, that, yes, they ought to be part of the program.

And with respect to municipal and private fleets, we begin to phase those in in 1998 requiring 30 percent purchases; 50 percent in 1999; and 70 percent in the year 2000, a private fleet being, qualifying, if you have 50 vehicles anywhere in the United States, at least 20 percent of which are centrally garaged, you have to meet these requirements.

You know 50 vehicles is not very much on a nationwide basis, and 20 vehicles is very little. Most law firms, at least big law firms today, would be required to have these kinds of purchase requirements, not to mention virtually every small business around will have 50 vehicles somewhere in the country.

They will also be required to make the purchases. And, in order to fuel those vehicles, we require DOE to make the findings about what fuel is going to be available.

Now, why, Mr. President, did we make this requirement on fleets? Well, because in order to get this, what the Senator from Vermont properly shows is a problem here, the chicken and the egg problem, the place to begin is with fleets because the fueling capacity—our emphasis on centrally garaged is you can have the fueling capacity as the central garage. For example, a cab fleet. You always come back into where the cabs are located, the Yellow Cab Co. or whatever. And they could have there the quick fill for natural gas or the methanol pumps, or the ethanol pumps, or the hydrogen pumps, or whatever it takes. They can have those there on an economical basis at a place which requires central fueling.

We believe that to require an immediate system nationwide, so that people who are going coast to coast would have to be required to have these kinds of vehicles, it would not be practical, not for a number of years. But this is a very far-reaching program.

Mr. President, we believe that 4 million vehicles by the year 2000 is a very ambitious program because in the first place, if you look at the planning horizons of automobile companies, when we held our hearings on CAFE standards, we got all the information that shows that for the first new model to come out of an automobile, it takes over 4 years in planning. So that, if General Motors today decided to build a methanol automobile, and if it was a separate model, the chances are it would take over 4 years in just the planning process.

Some of these vehicles can undoubtedly be reconfigured. Natural gas tanks can be fairly simply, as I understand it, installed in existing automobiles without a huge amount of reconfiguration except a bit in the carburetor. Some others will take more engineering. In any event, it takes a period of years to put on the road a new automobile.

So we believe that this is going about as fast as you can go. Some would say faster than you can go. But it is about as fast as you can go to produce 4 million automobiles.

So, we think it is an ambitious program. Four million will give us a tremendous start on alternative vehicles. It will also give us experience. What works best?

People in the natural gas business believe it is the natural fuel of choice in a free market competition for the best technology. People, certainly in the Los Angeles basin, believe that the only answer to their clean air problems is the electric cars. I had the opportunity to drive an electric car at a White House demonstration not too long ago. I can tell you, the feel of that car, the power of it, top speed, the motorability of it, all of those things were very, very desirable. I think the electric car is going to be very much in this competition.

People from the methanol industry came by to see me and described their case, and theirs is a very strong case. As is the case of other fuels. I do not mean to just mention those three except to say that the proponents of every fuel have a story to tell. I can see that their ads out there to the public when they try to sell these things are going to try to make these things look good and wonderful and the market is going to decide which fuel is best. So we will be well on the way by the year 2000, if this bill passes in the form it is now, toward a good alternatively fueled industry. We think we are going as fast as you can go.

Mr. President, compare that to what the Senator from Vermont would require. He would require, in lieu of 4 million vehicles—were it not for the stripper well exemption—you would have to have 10 percent of the fleet with alternatively fueled vehicles by the year 2001. There are now projected to be 180 million vehicles on the road by the year 2000; 10 percent of that would be 18 million. So you would have to produce another 14 million over and above what we have here.

How would he require that those be produced? The refiners here would have the primary responsibility. The refiners would either have to make 10 percent of their fuel as alternative fuel and sell that fuel or, if they failed to sell it, they would have to go to this trading bank and buy the credits. Are refiners going to reconfigure their refineries by the year 2000 to make methanol before they know whether there is a market for methanol, before they know whether they can sell it? Are they going to spend those billions of dollars in those years for construction before they know whether they can sell it? I think not. I think not, Mr. President. It would not be a very prudent thing to do.

So, if they cannot sell the methanol, or they did not reconfigure their refineries, how can they then avoid the $25,000-a-day fine that they would have by not complying with this?

They go to this trading bank. The trading bank has credits either for automobiles which are manufactured, which are measured by the amount of alternative fuels they would burn in the lifetime of the car—or you can get credits by, in effect, filling stations that would either be configured to dispense the methanol or the alternative fuels, whatever they happen to be; or you can go and buy the credits from the stripper wells.

As I illustrated, if you had to buy the automobiles, the number of automobiles it would take: fourteen million. Figure what the cost of that would be. The gross cost would exceed $200 billion. If the average automobile is, say, $20,000, and you have to build 14 million of them for the year 2000, that is $280 billion. Indeed, the Department of Energy said with electric cars it would be $269.7 billion. So it is very easy to see how they came up with those figures.

Where is this $269 billion going to come from? It is going to come from the American public. But how would you avoid the $269 billion? Well, you could do so by buying stripper oil. The Senator from Vermont says, if you buy the stripper oil—you can avoid that obligation of $269 billion by buying stripper oil. Keep in mind, 10 percent stripper oil constitutes 10 percent of the total fuel—so therefore you can avoid this obligation of building the first alternatively fueled car; or you do not have to build any filling stations for alternatively fueled up through 2001, simply by buying stripper oil.

What is that going to do to the price of stripper oil? Mr. President, it is going to be expensive. Remember the old entitlements program, where we had two and three tiers of oil. We had new oil, we had old oil. Remember natural gas, we had new gas and old gas? We got to the point sometime where new gas was selling as high, at least that below 20,000 feet, I think it was sold for $9/Mcf, where you had other gas selling at 20 cents; $9 and 20 cents? You might have that with stripper oil.

Why? Because it is the only way to avoid paying what might be, according to the Department of Energy, $269 billion. So you avoid that by buying stripper oil. You do not have to do a thing, and this bill does not produce the first electric car, or the first gallon of methanol or ethanol, or the first kilowatt for an electric car. Because you can avoid it all with strippers.

Mr. President, being from an oil-producing State, I like to see stripper wells do well. Yes, we ought to have a modest program, one that the country can afford, one that is predictable so we know how much we are paying the stripper well owners to produce this oil. But we should not be buying a pig in a poke where stripper oil owners might be getting $100 a barrel—that is very conceivable—while everybody else is getting $15 or $18 a barrel. They might get $100 a barrel, or maybe more than that, if that is the only way to avoid these obligations.

These obligations are immense. The Department of Energy says it could be as much as $269.7 billion, if satisfied with electric cars. Less than that, depending on the other technologies.

There are other ways you can avoid the obligation. You can avoid the obligation by building the service stations that sell the alternative fuels. If they were going to use that, and if this were in effect, enacted into law, then starting in 2010 the obligation jumps from a

minimum of 10 percent to a minimum of 30 percent. And if it were still the law by that time, and I feel pretty confident that the folly of this kind of enterprise would be discovered by that time and it would no longer be the law. But if it were still the law, then you would have to find other ways to avoid the obligation, and one would be to have service stations that would dispense the alternative fuels.

And what would people do? They would find the cheapest way to have a service station that dispenses the alternative fuels. I have not thought about this very long, but I can tell you how I would do it if I wanted to do it the cheapest way. It would buy up a series of old and closed service stations and we have them by the thousands, I guess by the tens of thousands across the countryside.

We have a lot fewer service stations now than we used to have. Now you have the big self-serves and there are all these—some of them are 7-Eleven's, some of them are bait and tackle stores. They replaced the old service stations. I would buy up a lot of those, and I would change them from gasoline to ethanol.

Why is that? Because the reconfiguration for ethanol is a lot less than it is for anything else. Ethanol is less toxic than gasoline. It does not corrode the pumps as methanol might. Methanol is very toxic and you cannot use rubber hoses. You have to use something else because of the toxicity of methanol. But not so with ethanol.

So you build it for ethanol, which might mean that all you have to do is take the old service station and change the sign from gasoline to ethanol.

Under his bill, the requirement for this service station, you do not have to actually sell the fuel through the service station. All you have to do is be ready to sell.

Let me see if I have the language.

* * * refueling facilities at public and private refueling stations that shall be available to owners of the facilities based on a reasonable estimate of the quantity of gasoline or diesel motor fuel that would have been sold at a similar gasoline or diesel motor fuel refueling facility in a calendar year.

So you do not have to sell it. You simply have to satisfy the Secretary that it would be available to sell a similar amount.

So you say, that is really not what we intended here.

Mr. President, if you think this is the stuff of lawsuits and the stuff of bureaucratic regulations, you are right. On the Energy Committee, we dealt with that entitlements program for two decades. It was the most gosh awful set of regulations I think this country ever saw, probably even worse than the old OPA, the Office of Price Administration, back in World War II.

We had these tiers of regulation. It cost a tremendous amount. It kept regulators by the thousands employed all over this country, and it was hard to shut them down. They are still in operation. We still have cases going on from the early 1970's. I mean today in Washington, almost 20 years after the supposed violation of the regulation took place, we still have enforcement actions winding their way through the courts, over 20 years after the supposed violation started.

This is even more complicated than that, Mr. President, because you have more parties involved. You have refiners and importers, vehicle manufacturers and service station owners, providers, and all these are dealing with all these credits and they are trying to trace through fuels that become combined—they are not crude oil anymore. They have some ETBE, methanol, oxygenated fuel, they are mixed together and you are trying to keep track of all those.

Back in the old entitlement days, they talked about the daisy chain and resellers. It was hard to tell what a reseller was reselling, whether it was old oil and new oil and at what price it was supposed to be sold.

Mr. President, if you think that was complicated—and it was—and if you think the enforcement of that was unfair, and it was causing howls all across this country—Ronald Reagan was almost elected President on the unfairness of those regulations. He wanted to shut down the Department of Energy. That was mainly because of that regulation which was so unfair.

Mr. WALLOP. Will the Senator yield for a question and observation?

Mr. JOHNSTON. Indeed.

Mr. WALLOP. The observation is that that office shut down in 1981. The question is, Why are we still in court with some of the people who were viewed as being in violation, or other things, of requirements in these days? You cannot even kill it after it is dead.

Mr. JOHNSTON. You cannot do that because so many of these people make their living out of that and they keep doing something to justify their salaries. It is the most amazing that I have ever seen, how this thing has a life of its own.

Mr. WALLOP. Eleven years.

Mr. JOHNSTON. And defies the ability to shut it down.

Mr. President, we have had experience with that kind of price regulation. We have had experience with that kind of bureaucracy. Believe me, it did not work. It certainly did not work well, and it did not work inexpensively.

Mr. President, if this country's energy policy and independence on energy depended on doing what, you might say, let us do it. It is going to be expensive, it is going to be unfair. We are going to have to hire tens of thousands of bureaucrats around the country and it is going to be awful, but it is going to achieve our goal.

If that were so, maybe I would say, let us do it if it would otherwise work. But, Mr. President, we have heard it out of the mouth of the author of this amendment that all of the requirements for new cars, all of the requirements for refining new fuels, new alternative fuels, all of the requirements of building new service stations can be avoided at least through the year 2001 and perhaps through the year 2010 simply by purchasing stripper oil.

Mr. JEFFORDS. Will the Senator yield for an explanation?

Mr. JOHNSTON. I yield.

Mr. JEFFORDS. Mr. President, I know the Senator has not had an opportunity to read my amendment. A number of the things he was stating are relative to the previous amendment. Some things are relevant to neither amendment. So I want to make sure that he understands that the relationship—for instance, the service station's relationship with respect to electric cars has nothing to do and is not in any way interfered with by stripper wells. So I want to clear that up.

Mr. JOHNSTON. If I may answer on that. Mr. President, can you not purchase stripper well oil and satisfy the requirements here?

Mr. JEFFORDS. There are a number of options which a refiner can use. One of those can be stripper oil unless members of the oil industry say you should raise the percentage goal. The Secretary has the authority to do that after the initial years. All the other options are out there. The goal can be fulfilled in many ways.

Mr. JOHNSTON. What I am getting at, though, is you do not have to do any of these things so long as your goal is 10 percent and your 10-percent goal does not come in at 2001 and it is still in minimum through 2010.

Mr. JEFFORDS. You cannot have it both ways. You cannot say the price for stripper oil is going to go up so high it is going to be terrible and at the same time none of the alternatives are going to be used here because stripper oil is going to be too low. You cannot have it both ways.

There are a bunch of options here. We do not mandate anything, which is the ironic part of the situation. Here we are saying we want a free market, and you are saying no mandates, and then you are mandating.

Mr. JOHNSTON. Am I incorrect in saying that the requirements of 10 percent—first of all, that is a minimum number in 2001 and still a minimum up until 2010. Are we correct so far?

Mr. JEFFORDS. That is correct. That is a misunderstanding the Senator must have. He said there is a 30-percent mandate in here. There is no 30-percent mandate. There is a 30-percent goal.

If I may clear up another point, the Senator said there is a $25,000-a-day penalty for not complying. That is the

penalty for not reporting. There is a big difference. The penalty for inability to comply is based on what you should have spent but did not spend, so that we do not undo anything as far as making it burdensome.

Mr. JOHNSTON. If the Senator will look on page 5 and follow me, I thought I had cleared this up earlier. The minimum percentage that replacement fuels and alternative fuels constitute shall be—up and through 2,000, it is determined by the Secretary. And 2001 through 2009 it is 10 percent, subject to the ability of the Secretary to raise that, and 2010 and each year thereafter, determined to be feasible under paragraph 2(B). But I am correct that 10 percent is a mandate through 2009?

Mr. JEFFORDS. The Senator is correct.

Mr. JOHNSTON. That was my point. What I am saying is that all of these possibilities of buying vehicles or refining fuel and selling it or building service stations can be avoided by buying stripper oil.

Mr. JEFFORDS. Unless the Secretary increases the goal. That may be correct. But if the stripper oils were to get together and say, Hey, we are going to sell it at a certain price, all these other options would be there. That is why we like the free market. That is why we are opening this up to all these options, so the free enterprise system will find the proper way for these to be priced. That is what we like. We like the free market. It confuses me when I see the administration saying we want the free market, comes in with mandates, and they say we have mandates when we have the free market.

Mr. JOHNSTON. The point is this. If the Secretary of Energy is correct in saying that the obligations, if satisfied by buying automobiles, are of the size about which we are talking, $20, $30, $40, $269 billion, then if that cost were shifted to stripper oil, it would be through the roof.

Mr. JEFFORDS. The free market system would not let that happen.

Mr. JOHNSTON. Where would it stop? I think what people would do would be to say, is it cheaper to buy stripper oil at $200 a barrel or to buy an automobile alternatively fueled that I might not be able to sell. I think they may go with the stripper oils. My point is we do not have any idea what the stripper oil would sell for. All we know is it would be very expensive. And it does not get you any new stripper oil.

We are not talking about new oil. We are not talking about new energy supplies. We are talking about keeping what we have; a worthy goal to be sure. But if you are talking energy independence and you are going to put all that money on existing supplies—I heard the Senator from Iowa talk as if it was some kind of scandal that the oil companies were opposing this great amendment. This would be the oil company amendment, I can tell you, because at least through 2009 they can avoid all this by just pricing an existing commodity up.

Now, if it gets so high that they would want to build these alternatively fueled vehicles, maybe they would do that. The free market might work that way. But of one thing you can be sure, this is a very expensive proposition and somebody profits. And I can tell you that the owners of the stripper oil would get rich, rich, rich, and do so not by producing new energy, not by making electric cars, but just by doing what they are doing today, just keeping on keeping on.

Stripper oil is great oil, but it is no better than an oil well drilled in some other area.

I am just saying that this amendment does not get you anything for sure except to pay existing owners of stripper oil more than they are getting today and probably a whole lot more and maybe in the hundreds of dollars a barrel a day.

Mr. JEFFORDS. Will the Senator yield on that point?

Mr. JOHNSTON. Yes.

Mr. JEFFORDS. Let us take an alternative that the Senator is quite interested in, natural gas. Natural gas right now is priced under the cost of gasoline; is that correct?

Mr. JOHNSTON. Natural gas today is less than half of the Btu value of No. 2 fuel oil, diesel fuel delivered to New York. That is correct.

Mr. JEFFORDS. So another option which would be very attractive which would certainly hedge—and I do not believe you would get the problem of the stripper oils that the Senator says—would be natural gas. And we allow for natural gas to expand nationwide if that is the option that the free market dictates by helping the service stations for 1 year.

Now, the Senator says forever, and it makes it sound ridiculous. It is for 1 year that you get that. And that is just to make sure that you get them to do it, so they will get the credits, but after that they are on their own.

Mr. JOHNSTON. What would you have to do to an existing gasoline station to refigure it to ethanol? What do you have to do to qualify? Strike "gasoline" and put in "ethanol"?

Mr. JEFFORDS. There has to be new tanks is the answer on the bill.

Mr. JOHNSTON. The bill does not say that.

Mr. JEFFORDS. I believe it does in that sense.

Mr. JOHNSTON. The bill says—Can I read the Senator what it says?

Mr. JEFFORDS. Maybe not. Even if it does, if they shifted over, I do not have a problem in that sense. But I would expect that the price of the credits would be a lot less valuable.

Mr. JOHNSTON. It does not say that and I do not know what they would require. Here it says, "Subject to*** the Secretary shall determine the value of credits for alternative fuel refueling facilities at public and private refueling stations that shall be available to owners of the facilities based on a reasonable estimate of the quantity of gasoline or diesel motor fuel that would have been sold at a similar gasoline or diesel motor fuel refueling facility in a calendar year."

Mr JEFFORDS. I do not want to argue that. But that does not answer the question. The question is, For what can you sell it? It establishes a size of the credit. And what you can sell it for will depend upon what will be paid for it under the free market system. And if a refiner wants to pay a lot of money for it, he can to help the system go. If you modify the bill to say only new tanks or pumps, fine. That is a minuscule difference.

Mr. JOHNSTON. What I am saying is that you have this old closed gasoline station out there; they closed it because the traffic passed them by and it was not very economical. So he changes the sign and puts "ethanol" up there, uses the same tanks, the same pumps, everything, and he says look, this is capable of selling so much a year and therefore I am entitled to that credit. And please give it to me. He does not sell ethanol, you understand, because there are no ethanol cars, let us assume, but he is entitled to the credit under this. Or at least he goes to court, or he has some bureaucrat making the determination.

That may be an unreasonable conclusion, but it does not jump off the page of the Senate's amendment as being unreasonable. To the contrary, all the amendment speaks of is the ability to sell this alternate fuel.

What it brings to mind is all the game plans that took place under the old petroleum allocation fueling system. I remember there was an amendment for small refiners. It sounded so good. I think the Senator from Wyoming was here at that time; I think the Senator from Oklahoma was in the Senate at that time.

But we had so-called small refineries, and the idea was to help the little mom-and-pops. There is a small refiner exemption, in part, here as well, as if somehow the small refiners were morally more upright, were composed of little struggling people against the big giants in the oil companies. So we helped the small refiners.

Mr. President, the billions of dollars that went through the small refineries and gave these huge windfalls—I mean, we are not talking about mom-and-pop windfalls. We are talking about tens of millions of dollars per refiner that went through these small refineries and avoided the regulations and charged it to the American public, all because we could tinker with this extreme market thing and have this exception.

That is what this bill would cause in spades. I mean, you would have more lawsuits determining how you trace the fuel through, and who is the reseller and who is the alternative fuels. There is one thing for certain. It would keep the courts busy; it would employ lots of bureaucrats. And it would not, at least through the year 2009, in my judgment, get you anything in terms of alternate fuel produced by the refineries, or alternate-fuel vehicles produced by the manufacturers, or any new filling stations, other than those which would come forward under the legislation as we have it.

Mr. President, it is no wonder that the administration has submitted a letter on this which says very succinctly:

We strongly oppose the Jeffords amendment. It would require that DOE establish an extensive regulatory apparatus to enforce this requirement. This burdensome apparatus is counterproductive to meet alternative fuel use objectives.

It further says:

The amendment will require allocation and regulation reminiscent of the costly and disruptive price and allocation controls used during the 1970's.

In addition, artificial distinctions based on the origin of fungible products such as oil and MTBE mean that refiners would be required to track both the sources and the makeup of refinery feedstocks, increasing consumer costs and reducing consumer choice.

The provision would also establish massive and unproductive new paperwork requirements. This amendment will increase gasoline prices, increase unemployment, and retard economic growth. The administration strongly opposes it.

Mr. President, we certainly endorse the goals of the Senator from Vermont. As I say, we have accepted, we think, the central purpose of his amendment in the Energy Committee, which now is part of our legislation. He wanted to ensure, citing the chicken and egg argument, that the fuel will be there when the vehicles are manufactured. And we have language that will effectuate that purpose, borrowed from or taken from the Senator from Vermont.

But to go further than that and to establish this massive bureaucracy would, as the administration says, run up the price of gasoline, impose burdensome and huge bureaucratic additional costs and delays, and be counterproductive to the goal of alternative fuel.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Oklahoma [Mr. NICKLES] is recognized.

Mr. NICKLES. Mr. President, I rise in opposition to the amendment of my friend, Mr. JEFFORDS.

I first would like to mention, though, I listened to part of his debate, and part of his debate was correct when he said we are too dependent on foreign sources of oil. We are. We are spending too much money on imported oil. He is exactly right. Ten years from now, we will probably be spending much more on imported oil, and that is going to be too much.

It means our national security is somewhat in jeopardy when we are exporting billions of dollars, $54 billion, I might mention, in 1990. We do not have the figures yet for 1991, but we spent $54 billion for imported oil in 1990 alone, over half of our trade deficit. I expect it to be well over half our trade deficit for 1991. And I will project by the year 2000, probably be two-thirds, if not three-fourths, of our trade deficit will be imported oil.

I happen to share many of the statements made by my friend and colleague from Vermont. I think we are too dependent on foreign sources. We found in 1973 and we found in 1979 that those foreign sources can be curtailed, shut off. And the net result is it can really put this entire country in an economic collapse. It can cause rampant inflation, as we had when the Middle East curtailed our oil supplies. That could happen again; it could happen tomorrow. It could make a difference. It could jeopardize the economic health and security of our country. We should reduce that dependency.

So I agree with the overall goal. I just totally disagree with my friend and his amendment because it will not work. It has a good stated, lofty objective: Let us try to become more dependent on domestic resources. I agree with that. But this amendment will not work.

I do not know how many refineries my good friend from Vermont has in Vermont, but we happen to have quite a few—at least still a few in Oklahoma. This amendment will not work. His amendment will mandate that refineries sell 10 percent of their production, and it has to be nonoil, or it has to be alternative fuels, by the year 2000 or 2001.

You cannot really mandate that a cow produce orange juice. They produce milk; they do not produce orange juice. This is almost analogous. It makes no sense. I know my colleague came up with an exemption. He said we are not going to count stripper oil. That does not really work. Maybe it will try to get votes.

We happen to have more stripper production than almost any State other than Texas. We have 73,000 stripper wells in my State of Oklahoma. But, still, I think this is a ridiculous amendment. It will not work.

I look at the alternative fuels. I happen to be a supporter of alternative fuels. I really want to see more vehicles driven by compressed natural gas or by propane, or maybe it would be by ethanol or maybe it will be methanol; or even some combination of these fuels. Maybe it will be hydrogen, or electric. I want to encourage all of those.

But my friend from Vermont, when he said his amendment is a free market solution, is totally wrong. This is not a free market solution. This is a mandate. His bill mandates 10 percent of the output of refineries must be these alternative fuels. Refineries would have to sell 10 percent alternative fuels, as he would define them today.

That definition today is changed from what it was some time ago. Today it includes oil produced in stripper wells, which is really not an alternative fuel in most people's definition. But he threw it in, maybe thinking it would enhance his amendment. It confuses the amendment. But it does not make the amendment work. The amendment will not work. You cannot mandate to an apple tree that it produce oranges. It will not work. An apple tree is not going to produce oranges. They do not do it.

These refineries do not really produce compressed natural gas. I want to see more compressed natural gas. I want more vehicles to run on compressed natural gas. But passing this amendment is not going to make it work.

It will not work.

I expect that we will see some vehicles in a few years that will be running on methanol or fuel cells from natural gas. I think we will see some vehicles running on all electric, cars, and that is kind of exciting. But frankly, refineries are not in that business. They do not make electric cars. They do not make electricity.

Again, this idea of saying this is a free market solution; this is not a free market solution. This is a Government mandate that will be very expensive; that will cost consumers a lot of money. It will cost jobs. It will not create jobs. Frankly, I do not think it would reduce dependency on imported oil.

I do not think I disagree with my friend and colleague from Louisiana: I do not think it would be the boon to the stripper wells, as was discussed. Maybe stripper wells would be the exception or the exemption, and a lot of refiners might say, "Well, this is the way to stay away from this alternative fuel mandate; we will get more stripper well production."

Frankly, that is easy to do in my State. But it really does not make sense. It would not help solve the problem for my friend and colleague. If you want to reduce imported oil by putting stripper well production in this equation, it would not help in that in any way. Nationally, there simply is not enough stripper oil available to meet the 10-percent requirement in this amendment.

This amendment would increase costs to consumers. But you know, if you mandate that refiners have to produce 10 percent of alternative fuels, however Congress would define that, how do we mandate that the consumer will buy it?

In the bill, we have an alternative fuels section, and we put in some incentives and, basically, we tell the Government they are going to have to buy more alternative-fuel cars. They have to. We go up to 90 percent. I say to my friend from Louisiana, I think 90 percent is too high. I support alternative-fuel vehicles and the idea of using the Federal Government to kind of jump start it. So we tell GSA they have to buy a certain percentage of their cars that use alternative fuels. Ninety percent is a mistake. In remote areas a mandate of 90 percent will not work. We have a requirement for private fleets in this bill that says that, if you have a private fleet of over 20 cars, then you have to be up to 30 percent by the year 1998, and by the year 2000, I think it is up to 70 percent. I think that is too onerous on the private sector, I tell you. I happened to have been a business person before coming to the Senate. We owned several cars. We traveled all across the United States and into remote places in Louisiana and remote places in Wyoming. Our salesmen were out all over the country. They would not find access to alternative fuels in some of these more remote places in the country. If they tell us we have to have 70 percent of our fleet of automobiles, it is not workable. It is not workable. So I think we will be looking at this again. If we do not amend it today, or in conference, we may have to make adjustments in the future.

The point is that we have things that are going to be difficult for the Government and for the private sector to live with regarding alternative fuels. We put a lot of encouragement into moving toward alternative fuels to try to accomplish some of the goals my colleague from Vermont is trying to accomplish, but to mandate to oil refiners that a certain percentage of their product—not only a certain percentage of their product, but a certain percentage of their sales—10 percent, by the year 2001, has to be in something they do not presently make, is ludicrous. It will not work. That is like trying to mandate to the cow, "You produce orange juice." That is like trying to mandate the apple tree, "We want you to produce 10 percent oranges by 2001." That will not work. It does not mix. Compressed natural gas does not come out of a refinery. Frankly, methanol does not come out of a refinery. Most methanol is going to be imported. So that is not going to solve the problem. It will not advance the goals of the Senator's amendment or get us on alternative fuels. It certainly will not reduce our dependency on imported fuels, because most of that will be imported.

I think my colleague from Vermont has a good idea for encouraging alternative fuels, but the mandates in this bill will not work. I will say that there is strong opposition to this amendment from independents—I happen to be from a State of predominantly independent producers. People who actually own and run those refineries say it will not work. I am amused when people say we need to be competitive in the United States, and we need to be creating jobs; yet, we are always passing legislation, and a lot of times we do not know what we are doing. And we are putting a lot of onerous, burdensome requirements on businesses, making it impossible for them to survive and compete worldwide. The net result is that we lose jobs. The net result is that we increase prices for consumers, and we are less competitive internationally.

Congress made several mistakes during the Carter administration's energy policy. They passed legislation like the Fuel Use Act and said, "you cannot burn natural gas in certain industrial plants and utilities." That did not work. We have repealed that law. Then Congress passed the Synthetic Fuels Corporation. That did not work, and we wasted billions of dollars in the process of repealing it, but we did it. In the Natural Gas Policy Act of 1978, Congress was going to go in and set 28 different price categories for natural gas, deregulate one little category of gas, but keep price controls on all the other categories of gas. In that one little category that is deregulated, deep gas, the prices skyrocketed until supply met demand, and then the prices collapsed. When those deep gas prices collapsed, a few financial institutions collapsed as well, including Penn Square Bank and Continental Illinois, about a $1 billion loss. Seattle First and other major banks, including Chase Manhattan, took billions of dollars of losses. Penn Square was making loans on deep gas, exaggerated in price, only because Congress made serious mistakes when it passed the Natural Gas Policy Act. Congress helped lay the foundation for many of the financial problems that we had throughout this country, as well as the cost to taxpayers that have to pay FDIC billions of dollars in bailout funds. Congress laid and planted many of the seeds back in 1978 when they passed the Natural Gas Policy Act. It did not make sense.

Congress also passed the windfall profit tax in 1980. Another idea. We are going to take this money—these oil companies were making too much money. It was only a tax on domestic production. It was not on imports. So we basically discouraged domestic production and encouraged imports, and we took about $79 billion from a few domestic States like Texas and Oklahoma, Louisiana, New Mexico, and spent it for other purposes, and we increased our dependency on imported oil in the process. It was a stupid, ridiculous policy. We have repealed that law as well. We finally repealed many of the mistakes that were made 12, 13 years ago during the Carter administration. We should not repeat those.

But I will tell you that if we pass this amendment, the so-called Jeffords amendment, one, the President will veto the bill, it will not become law. The President will be exactly right in vetoing this bill. So this amendment is a killer amendment. But, more important, it just should not be on this bill. It is a serious, serious mistake for Congress to think we have the wisdom to come in and micromanage and tell refiners that, well 10 percent of your production by 2001 has to be in alternative fuels, and even though that is not your business, you do not make alternative fuels and even though it is an oil refinery and you refine oil products, and you do not make alternative fuels like compressed natural gas and you do not make methanol or ethanol and some of these other derivatives.

I think we want to encourage alternative fuels. We do that in the bill before us. But this amendment we have pending, in my opinion, would be a serious mistake, and would not enhance alternative fuel development. It would be exceedingly expensive for consumers; it would be very detrimental to the economy; it would cost a lot of jobs. I hope that my colleagues will vote against this amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. JEFFORDS. Mr. President, I would like to respond briefly and perhaps ask the Senator from Oklahoma—and I know that the President is urging jobs in Oklahoma. I am a little confused as to why the Senator would call this such a mandate when we open it up to many options, not the least of which is natural gas, as well as to help distributor wells. We do not create any mandates in our bill, other than to do exactly what was done with the accolades from the oil industry in the 1930's through the 1970's that said, "create a market free of OPEC domination," or the oil domination of the lower price back in the 1930's up through the 1970's and said, "protect us from having been undercut." Nobody called that a mandate at the time. That was a rescue.

What we are trying to do here is to rescue the American energy situation. You do not talk about what the solutions to energy are in the bill you have now with respect to methanol. That is going to come from overseas. Ours provides domestic production. We cannot lose sight of what the purpose of this bill is, and what the goal of the country ought to be, and what the President himself said ought to be our goal, which is to become energy independent.

We are talking about all sorts of regulations and all sorts of this and that kind of a problem, but what is the goal of this bill and what should the national policy be?

It should be to put us on a path to have the option to become energy inde-

pendent. And there is absolutely nothing, and there is no one here who is going to disagree with the projections of the Department of Energy that without my bill you are going to become more and more dependent on OPEC oil; that our trade imbalance is going to skyrocket up to $170 billion a year or more instead of $50 billion now; that we are going to lose more and more jobs in your State and others; and that instead we could pass an amendment which opens a free market walled off from OPEC to create hundreds of thousands of jobs in this Nation from energy resources which we have, which are there, and which are available.

So when I hear people raising all these straw men and knocking them down, I want to remind you that DOE had a similar program. They went forward with it. They provided me with the facts and figures that indicate we can do it, that this Nation just lacks the will.

There is no one who is going to disagree with these facts either, that we do have the resources in this Nation to become energy independent. I do not believe, and I would ask anybody to dispute me, that there is any dispute on these basic facts: Does OPEC have the ability to undercut the world price of oil? When they have a cost of production of $2 to $10 nobody is going to disagree with that. Will a decrease in demand for imports tend to lower prices? Does anybody disagree with that?

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. JEFFORDS. Sure.

Mr. JOHNSTON. The distinguished majority leader has been inquiring whether we could have a vote at 3 o'clock. I told him I think Senator GLENN wants to speak.

Mr. JEFFORDS. Senator GLENN is tied up to 3 o'clock. That is the problem. He asked very strongly to be able to talk on the bill. So I have no problem with the vote, say, at 3:30.

Mr. JOHNSTON. How about 3:15?

Mr. JEFFORDS. I want to make sure I accommodate Senator GLENN. I do not know where he is. He may be here at 3, but that is my problem.

Mr. MITCHELL. Mr. President, if the Senator will yield, we are trying to get the bill moving. We have now been nearly 3 hours on this amendment. Obviously we want to accommodate each Senator to the maximum extent possible, but we would also like to try to get votes and get the thing moving. Does the Senator know how much time Senator GLENN will require?

Mr. JEFFORDS. I do not. We can find that out. I do not want to prolong the debate any longer than we have to.

Mr. MITCHELL. I understand that.

Mr. JEFFORDS. But I point out this is obviously the most controversial and probably the most important amendment we will have on this bill. We are nearing a time to complete, and the energy future and the health of this Nation is at stake on this amendment. So I would hope that perhaps at 3:30 we could have a vote.

Mr. MITCHELL. Would it then be agreeable to the managers to a have a vote at 3:30 and divide the time between now and then equally, if that would be agreeable to both sides, because I believe Senator WALLOP wants to speak and he wants to reserve the time for others in opposition to the amendment? Would that be agreeable to the managers?

Mr. WALLOP. Either. The Republican leader wants some time to speak in opposition to it as do I.

Mr. MITCHELL. I am sorry. I was distracted.

Mr. WALLOP. No problem. I say the Republican leader, Mr. DOLE, wants some time to speak in opposition to it, as do I. That would give approximately 45 to 47 minutes equally divided, so it would be about a little less than 5 minutes on each side.

Mr. MITCHELL. That suits me fine.

Mr. JEFFORDS. That certainly is acceptable to me.

Mr. NICKLES. Would the Senator from Vermont yield for just a response to his comment?

Mr. JEFFORDS. Your time is my time.

The PRESIDING OFFICER. May the Chair inquire, is the intent of the majority leader to propound the unanimous consent?

Mr. MITCHELL. That is correct. I wonder if the Senator will yield so I may do that?

Mr. WALLOP. Mr. President, I have a problem that has been expressed to me by the Republican leader.

Mr. MITCHELL. Mr. President, I am advised that the Republican leader has at least momentarily a reservation about our proceeding in this form, and we are going to check that right now. So I withhold it. But it is my expectation that I will shortly propound a request for a time certain on this vote in a way that permits every Senator who wants to be heard to do so, and yet let us complete action.

Mr. WALLOP. Mr. President, as as I understand the reservation, we could, nonetheless, conclude debate on this amendment by the hour of 3:30 and we will still withhold the rights of the Republican leader to contact the majority leader as with regards to action subsequent to the debate.

Mr. MITCHELL. That will be fine. I have just now been advised the Republican leader will be communicating to me shortly. So why do I not withhold that and permit the debate to continue and propound the request as soon as I hear from him?

The PRESIDING OFFICER. The Chair will inform Members that the Senator from Vermont technically retains the floor and he yielded to the majority leader for a colloquy that just proceeded. Let me inquire if he is yielding the floor now? There is another Senator who seeks recognition.

Mr. JEFFORDS. I seek recognition and yield to the Senator from Oklahoma.

Mr. NICKLES. I thank my colleague from Vermont.

If I understood him directly he said the bill was not a mandate. I am reading the bill, section 4307, and it says the minimum percentage that replacement fuels and alternative fuels constitute shall be—and it basically says 10 percent by the year 2000. And then by 2010, the percentage is to be determined by the Secretary. It says "shall be." In other words, the refineries have to come up with 10 percent in alternative fuels. However we define it here, that sounds like a mandate to me, and many alternative fuels are not made by refineries. I do not see how they could do it.

Mr. JEFFORDS. I would be happy to respond. It all depends. It is typical. If you are for something, it is not a mandate, if you are against it, it is mandate. I am for it, it is not a mandate. The Senator is against it, it is a mandate. I assume there is not a mandate on natural gas, and because the Senator is against mandates. So, let us not worry about that.

The question is, what does it do? It does the same thing that was done for the oil companies in the 1930's through the 1970's, and that is to say that we will protect you from the low price of OPEC, which was not in existence but the Mideast oil, but we will let you get that price up to about $8 instead of $10 over the Middle East oil, so you can build the industry in this Nation so you can have domestic oil. The result of that, of course, was that we drained our country much faster than we would if we had imported at that time from the Middle East and those of us who lived in the areas that had to pay that additional cost suffered. We suffered.

But on the other hand, we were happy to develop in a way—I do not know if I should use the word "happy," but we developed the industry. What we are doing is the reverse side. We are saying, establish a protection around the alternative and replacement fuels industry so that it can develop, so that it can attract the capital necessary in order to bring on the alternative fuels and replacement fuels from the domestic sources.

What the chairman of the committee did not mention was that, yes, they do that, and why they do that. But where does it come from? Right now we have magazine articles and everything I can show Senators that say, hey, it is going to come from overseas. That the money is going over there to develop the methanol industries. The money is going somewhere else. So it is not going to help this Nation. No one de-

bated with me that there is a way this bill, as presently drafted, is going to get you anywhere near the position to be able to be energy independent.

Let me continue to go through the list.

Mr. WALLOP. Mr. President, will the Senator yield for a question on that?

Mr. JEFFORDS. On the Senator's time I am happy to.

Mr. WALLOP. I am happy to do it on my time. What refiner does the Senator——

Mr. JEFFORDS. Does he have time?

The PRESIDING OFFICER. The Chair will inform the Senator there is no time agreement.

Mr. JEFFORDS. All right. I am sorry.

Mr. MITCHELL. Will the Senator yield to permit me to put the request now? I just discussed the matter with the distinguished Republican leader staff and I think we can put the request in the form suggested earlier.

Mr. JEFFORDS. I am happy to yield to the leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 3:30 p.m. this afternoon there be a vote on or in relation to the Jeffords amendment, and that the time between then be equally divided for debate on that amendment between Senators JOHNSTON and JEFFORDS.

Mr. JOHNSTON. Mr. President, reserving the right to object, and I understand that Senator DOLE does not wish time, do I understand the same thing about Senator GLENN?

Mr. MITCHELL. I believe Senator GLENN's message was he did not want it held up for him. This will not be holding it up.

Mr. JOHNSTON. I wonder if we can accelerate it in view of that fact.

Mr. MITCHELL. OK. Mr. President, I add to my request that there be no second-degree amendment to the amendment.

The PRESIDING OFFICER. With that understanding is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, reserving the right to object, this does not preclude motion to table?

Mr. MITCHELL. It does not.

Mr. NICKLES. It does have a time agreement on the Jeffords amendment if the motion to table is not acceptable?

Mr. MITCHELL. No.

Mr. NICKLES. No time agreement on the Jeffords amendment itself?

Mr. MITCHELL. Mr. President, I misspoke in my response. I am advised under the terms of this agreement there will be a tabling motion if an opponent chooses. That is not required, but permitted under this agreement. If the tabling motion fails, then there will be a vote immediately on the amendment.

Mr. President, reserving the right to object, I would like to have a time agreement on the motion to table but not a time agreement on the Jeffords amendment itself.

Mr. MITCHELL. Mr. President, in light of this objection, I modify my request in a manner to accommodate the concern expressed by the Senator from Oklahoma so that the time between now and 3:30 would be for debate on a motion to table the Jeffords amendment, and that if the motion to table does not prevail, there would still then be debate and second-degree amendments permitted on the Jeffords amendment.

Mr. JEFFORDS. Reserving the right to object, I assume that means that my amendment could be filibustered at that point and would require a cloture vote.

Mr. MITCHELL. That would depend on the opponents' decision and I am not able to speak for them.

Mr. NICKLES. It would also reserve our right to amend the Senator's amendment.

Mr. MITCHELL. I think in fairness, though, it reserves the right to second-degree amendments and to filibuster the amendment if they so choose.

Mr. NICKLES. That is right.

Mr. MITCHELL. No decision would have been made with respect to the amendment beyond the refusal of the Senate to table it.

The PRESIDING OFFICER. The majority leader has proposed a unanimous-consent agreement. Is there objection?

The Chair hearing none, the consent agreement as proposed is agreed to.

Mr. MITCHELL. Mr. President, I thank my colleagues.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, I will continue then going down the list where I think we have no disagreement so that we can get the focus back upon the intent and purpose of this bill.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. I have read off about four factual situations in which I think there is no disagreement and I would await someone to say otherwise after I complete it.

Have market or trading credits been used successfully by the oil industry? And I have listed those.

Will a floor and likely higher prices for stripper wells reduce oil imports and the life of stripper wells? I do not think there is a disagreement on that.

If the goal of 30 percent use of replacement or alternative fuels is reached, imports will be reduced. There is no disagreement on that fact.

Will the cost of replacement or alternative fuels be less——

Mr. NICKLES. Will the Senator yield?

Mr. JEFFORDS. I am happy to yield.

Mr. NICKLES. I would like to mention I would disagree with that. I think saying this amendment would reduce imports, I have expressed it once and I will be happy to repeat that. But there is disagreement. I do not think the Senator's amendment reduces imports.

Mr. JEFFORDS. I do not think there is any disagreement that the 10-percent goal set in the bill will be reached.

Mr. NICKLES. I happen to disagree with that as well. I just want the Senator to know there is a difference of opinion on several of his statements, so he will be aware of that.

Mr. JEFFORDS. That this approach is similar to the one which benefited the oil companies in 1930's to 1973. Would the distinguished Senator disagree with that?

Mr. NICKLES. I think I probably would. So the Senator will know I have been consistent on this.

Mr. JEFFORDS. That there is no specific fuel mandated in our agreement other than there is only a goal of 5 percent renewables. Does anybody disagree with that?

And that, has technology been developed to produce carbon neutral fuels with the potential of reasonable prices from cellulose? Is there any disagreement on that?

OK, so before I rest momentarily, there is only a disagreement with the three that the Senator from Oklahoma referred to.

Mr. NICKLES. Will the Senator yield? I thought I heard him say there was a 5-percent requirement. I am reading his amendment which says 10 percent.

Mr. JEFFORDS. There is a 5-percent goal for renewables. The 10 percent is on replacement and alternative fuels including such things as electric cars and with respect to fueling stations and all of those aspects under the matter.

Mr. President, I yield the floor.

Mr. NICKLES. If the Senator will yield just for a second.

The PRESIDING OFFICER. The Chair has an inquiry. Is time being charged to the Senator from Vermont?

Mr. NICKLES. Mr. President, I seek the floor in my own right.

The PRESIDING OFFICER. Who yields time to the Senator from Oklahoma?

Mr. JOHNSTON. Mr. President, I yield 4 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, just so my colleague from Vermont will know, I think I disagree with almost everything that he said as far as the specifics of this amendment and what it will do. It will not reduce imports. And I do not think it will work.

Here is how a refiner could meet the goal. It is on the amendment sponsor's chart. A refiner could meet the goal by electric vehicles. A refiner does not make electric vehicles. They are not in

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that business. It says a refiner can meet the 10-percent goal by selling hydrogen. They are not in that business. They are not in the compressed natural gas business. That is a different business. We have gas companies, we have refineries, we have oil companies. We have companies that produce methanol and ethanol, but those are not oil refiners, by and large.

So my friend's amendment is telling oil refiners that they have to sell alternative fuels. I have heard him say four or five times, this bill is not a mandate. This bill mandates that refiners produce and sell, not only produce. They could produce it and if they cannot sell it they do not get credit for it. They have to sell 10 percent of their output in these alternative fuel sources that they do not make as defined by my colleague from Vermont. How in the world can we pass legislation to mandate producers make something that they do not make, or buy something they do not make and then sell it? It makes no sense.

So I think the net result is they would end up buying little companies maybe that are in the alternative fuel business so maybe they could gobble up the compressed natural gas companies or do other little schemes to meet the mandates of this amendment. It would not work and I think the immediate result is, no, it would not reduce imports.

I want to reduce imports probably more than the Senator from Vermont. I happened to have grown up in this industry. I happened to have been in this industry for many years before coming to the Senate. It happens to be part of my lifeblood. I am really almost offended by the fact that we have legislation that, really, is so inconsistent with the free marketplace and people say: Oh, this is a free market alternative. It is not. I do not think it would work. I think it would be devastating to the oil and gas industry, but I also think it would be devastating to the consumer as well.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, will the Senator from Louisiana yield me 5 minutes?

Mr. JOHNSTON. Yes.

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

Mr. DOLE. Mr. President, I want to commend the distinguished Senator from Vermont [Mr. JEFFORDS] on his leadership in the area of alternative fuels, particularly that of ethanol and other domestically produced fuels. I know he shares my view that it is critical that our Nation develop ways to increase our domestic energy security and promote other important policy goals.

As my colleagues in the Senate know, I have been a leader in the effort to develop this industry through the years and have led the fight in the Senate on many occasions to preserve important provisions in Federal law that are vital to this industry.

In fact, as my colleagues know, the ethanol program already in place, including the extended blenders tax credit through the year 2000 and incentives to bring small producers into the marketplace, will go a long way toward realizing important policy goals of increasing domestic energy security, environmental protection, increasing farm income, and decreasing farm program costs.

Last year's Clean Air Act amendments will also increase ethanol's market share by requiring that America's future supplies of gasoline be reformulated with cleaner alternative blends including ethanol. Senator JEFFORDS has been a tireless leader in this effort and I commend him for it.

However, Mr. President, I regret I cannot support the Jeffords amendment and must support the language that is included in the bill before the Senate.

I fully support the intent of the Jeffords amendment, because it is clear that those domestic policy goals I have long supported are at the heart of the effort behind this amendment. However, I do find that the policy goals of the bill itself are quite similar and believe that the approach contained within the committee bill is less restrictive than the mandated approach of the Jeffords amendment. I believe the policy goal of the bill to determine the technical and economic feasibility of replacing 30 percent or more of the projected consumption of U.S. motor fuel by the year 2010 must be adopted. This policy that directs the Secretary of Energy, in consultation with the Secretaries of Agriculture, Transportation, and Commerce, as well as the heads of appropriate agencies, including the EPA, to find ways to meet this goal, in my view, is the appropriate way to go. Although I have heard this described as a mandate in its own right—because of the provision that gives the Secretary the authority to require motor fuel providers to supply alternative fuels—I believe that this approach is preferable to giving the Federal Government too much control over the day-to-day details of the free enterprise system. The committee approach is a measured approach that seeks to determine costs, technical feasibility, voluntary commitments, and then as a last resort, provides for a supply requirement if we fall short of the 30-percent goal.

I also appreciate Senator JEFFORDS desire to include domestic stripper oil wells under the definition of alternative fuels in his amendment. I may be offering an amendment myself affecting stripper wells later in this debate with the same goal in mind of promoting and preserving this important, but vanishing domestic fuel source.

Mr. President, Senator JEFFORDS and I agree that the cost of importing our energy supplies is greater than simply the shortfall to our balance of trade. This Nation's national security is at stake. We can no longer rely on foreign sources—including the volatile Middle East—for critical energy supplies. The committee bill seeks these goals and in my view should be adopted.

Mr. WALLOP. Mr. President, I ask unanimous consent that a statement from the Independent Petroleum Association of America, otherwise known as IPAA, which strongly opposes the Jeffords amendment, be printed in the RECORD.

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

[From the Independent Petroleum Association of America, Washington, DC, Feb. 5, 1992]

INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA OPPOSES JEFFORDS AMENDMENT ON ALTERNATIVE FUELS

Increased use of alternative fuels is laudable from both an environmental and energy security perspective. However, the alternative fuels proposal by Senator Jeffords, requiring mandated production of such fuels, is not the most economically efficient approach and could raise consumer costs.

STRIPPER WELL AND ENHANCED RECOVERY PRODUCTION EXEMPTION IS SUBJECT TO ABUSE, COULD BE COSTLY TO PRODUCERS

The Jeffords Amendment's special exemption for oil-based fuels that use crude oil production from stripper wells and enhanced oil recovery techniques, while it recognizes the significant contribution these sources of domestic oil make to America's energy security, would require a burdensome administrative tracking system in order to prevent abuse. These crude oils are, for the most part, indistinguishable from other domestic crudes.

We are unable to determine if enactment of the Jeffords amendment would create sufficient demand for stripper and EOR oil to offset the costs the additional administrative costs domestic producers would have to shoulder under an enforceable program. Our guess is that it would not.

JOHNSTON/WALLOP IS PREFERABLE

The Johnston/Wallop legislation contains provisions mandating the use of alternative fuels in fleet vehicles. In IPAA's view, the alternative fuels provisions in this legislation are preferable to the Jeffords' amendment. By encouraging demand and relaying to the marketplace to provide sufficient supplies of alternative fuels, the Johnston/Wallop provisions avoid the potential for economic waste and abuse that could result from the approach used by the Jeffords amendment.

Mr. WALLOP. Mr. President, I really am sort of startled by the debate that has been here. The Senator from Iowa got the debate by bringing in the specter of big oil as though somehow or another that this was all us little people against big oil, which is utter nonsense. It is an easy way to avoid any arguments on the substance.

I will say to the Senator from Vermont, he has not indulged in that. But the Senator from Vermont has played

around with a lot of sort of spectacular scare tactics—imports eats us up alive and they have the shark of imported oil. And it is not demonstrable that his bill would do that. It is a sort of "mother made me do it" kind of bill, brings on the specter of special interests. But it is proposed in principal as a special interest by agriculture interests as a way to get corn and soybeans off the ground again.

This is not the way to do it because it will distort their markets, just as much as it distorts the energy market.

The Clean Air Act is, today, running American refineries offshore. We have shut down two in my State, and I expect before many years are out, there will be none left. This act will accelerate that process because people cannot comply with it.

As the Senator from Oklahoma pointed out, they do not make nor do they have retail outlets for electric cars. And I do not know what the local distributing companies are going to think when we say that refiners must sell natural gas, or must produce natural gas. They are going into the drilling business. They do not know how hard it is to get on the public lands.

This thing is a sort of presumption attack. It presumes it is an efficient use of capital for Congress to mandate where it goes. And that has never been proven to be the case. It presumes that more costly fuel would not diminish the competitiveness of America in the world. And that is a wrong assumption.

Everybody is saying we ought to be more competitive with the Japanese, with the Germans, with the French, with the Indians, no matter who it is. And all we do is put rules and regulations and requirements and competing and distorting behavior requirements on the people who are trying to make this country competitive again. It presumes that two-tier pricing is not a market disruption, and it presumes that producers with wells that are above stripper, producing 26 barrels a day, 30 barrels a day, would not simply stop the production of them down to the 16 barrels a day so they could qualify for the new subsidized price that goes in under this. And that is why IPAA is understanding that this amendment is nothing but a hole into which they have already been allocated.

It presumes a production requirement produces a retail response. This production requirement of the refiner is supposed to be responded to by America's consumers, whether or not they have the automobile, whether or not they have the desire to use it, whether or not they think it is competitive. And it presumes, worst of all, that paper is good for the economy.

Lord, think of the requirements and the regulations that are going to be in the paper trail that has to go through the certain percentages that are required to meet the goals and mandates of this act. Think of it, and tell me and tell the Senate if it is a good idea to have yet another bureaucracy created, yet another entitlement program that the Senator from Louisiana was talking about. Eleven years ago we put that down and it is still operating. The Senator is going to establish one that is far worse than that.

The PRESIDING OFFICER (Mr. LIEBERMAN). The time of the Senator has expired.

Who yields time?

If no one yields time—the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I will speak if no one is seeking the floor.

I would point out, I do not believe the Senator from Wyoming is suggesting that a tax subsidized industry is a free market as he would indicate. I hope he would not do that because I would certainly be surprised if he is in any way indicating that the oil situation right now is a free market in this country, especially with the tax subsidies which are occurring. I fact, I ask him if it is not correct, he may be in the process of asking for tax subsidies for his uranium industry? If that is not a breach of the kind of philosophy which he is attempting to use against me now on our program?

Mr. WALLOP. I am presuming the Senator is asking on his time?

Mr. JEFFORDS. I will ask on my time.

Mr. WALLOP. I do not control time so I will respond on my colleague's time. The response is no.

The PRESIDING OFFICER. The Senator from Vermont retains the floor.

Mr. WALLOP. I do not know what subsidies the oil industry has today that the Senator is talking about. They were taken care of in 1986 and that is why you have the lowest rig count in this half century operating in America today. That is why the industry is going down. And that is why this not only kills the rest of the oil industry but the refining industry that goes with it—and American competitiveness in jobs.

Mr. JEFFORDS. I point out you still have depreciation allowances which are very substantial tax subsidies. But anyway, let that be as it may. I hope, again, we can concentrate on the purposes here.

I would like to read from a CRS report:

> It is widely agreed upon among petroleum economists that virtually all or any decrease in refinery input of crude oil or petroleum products comes at the expense of imported petroleum. Replacement of oil with alternatives will ultimately result in a barrel-for-barrel decrease in imports of crude oil or gasoline.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Louisiana has 11 minutes and 9 seconds; the Senator from Vermont has 13 minutes and 23 seconds.

Mr. JOHNSTON. Mr. President, I yield 3 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. WALLOP].

Mr. WALLOP. Mr. President, there are mandates in this bill. The Senator from Louisiana would tell you the Senator from Wyoming resisted them. But that is what the committee had decided to do, mandating alternative fuel vehicles and other things which came, I might say—I would hope the Senator would admit—from the Senator's ideas. They were the certain portions of this idea of his that we thought would fit in with the American economy and within the availability of equipment and other kinds of things.

But I must say one of the things that is most difficult, really, apparently for people from Vermont and apparently for people from other parts of the country, is the presumption that every other State is precisely like theirs.

A little gas station in Shoshone, WY, which is almost the center of Wyoming, a town and population of a couple of hundred folks that is pretty far from anywhere else—maybe 35 miles, 40 miles from the nearest other town—would have sufficient business in a day to be able to afford the kind of capital establishment that this amendment envisages?

It is a mandate. I do not care how many times the Senator from Vermont will deny it. He has a timetable for refiners and certain minimum requirements. I do not know how that can be described as anything but a mandate.

But we go on. We have all kinds of interesting others.

He insists:

> The Secretary shall issue regulations allowing the sale, other exchange, banking, carry-forward, and carry-back of marketable credits, in order to satisfy the requirements of this section, among—refiners; providers; manufacturers * * * and owners of public and private refueling stations.

It mandates the Secretary to determine the market value, not the market. The Secretary goes and does it. And he satisfies the requirement of the section by parceling it out amongst refiners and providers and manufacturers and owners of public and private refueling stations.

Then it goes on that:

> The Secretary shall determine the value of the credits for alternative fuel refueling facilities at public and private refueling stations that shall be available to owners of the facilities based on a reasonable estimate of the quantity of gasoline or diesel motor fuel * * *.

The Secretary is mandated to insert himself smack dab in the middle of the marketplace and say from the Secretary's perspective what the value of these credits are.

If these are not mandates, then the world is coming to a strange definition of them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. To answer, briefly, the Senator from Wyoming, we do not require the Secretary to establish the value, just the number of the credits. And that is a simple mathematic calculation which is different, obviously, from establishing the value. The free market would establish the value.

I yield the floor.

Mr. WALLOP. I say to my friend, I read from your bill,

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. JOHNSTON. I yield 1 minute to the distinguished Senator.

Mr. WALLOP. Mr. President, the distinguished Republican leader, Mr. DOLE, has just sent his statement over with regard to the Jeffords amendment. Some of us on this side are wondering what his position is. It is in strong opposition to this amendment.

I yield the floor and suggest the absence of a quorum and ask unanimous consent that it be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. JEFFORDS. Mr. President, I will use some of my remaining time. How much time do I have?

The PRESIDING OFFICER. The Senator from Vermont has remaining 10 minutes and 50 seconds.

Mr. JEFFORDS. Mr. President, first of all, I know this sheet has been distributed. I point out this is from an oil industry establishment in Dallas, TX, I believe. It was not something we prepared but what came to us from people in the oil industry who are concerned about the loss of jobs.

I just want to straighten that out so people know where it came from. It came from the Energy Research Association in Dallas, TX. Just to let you know there are those concerned in the oil industry about the loss of jobs and essentially support our proposal to try and rescue the jobs in America.

In addition to that, I want to talk again about the free market that we are faced with in the sense of what is the cost of oil. This is from the chairman's speech given some time ago where he indicated and analyzed what the actual cost of a barrel of oil is in this country due to subsidies direct and subsidies through military, et cetera.

It indicates that the cost of an OPEC barrel of oil, as delivered, is $200 a barrel. What we want to do is to provide an option to place us in a position where it is no longer necessary to have those costs, and we want to do that with the production of domestic energy. I think that certainly can be done.

An important thing not mentioned about the present bill is the fact that there is no requirement in the bill at present that the fuels they are trying to bring on to try to enhance, to try to move forward, be domestic fuels. In fact, right now, the reformulated gas mandate, if you want to call it that—and I will certainly go along with it there—of the Clean Air Act, be coming almost all from overseas. I just wanted to straighten that out.

I also point out that what we have done in this bill—and again I want to remind my colleagues that our facts came from DOE. It was a proposal similar to this proposed by DOE to get us out of this mess we are in, and it is the only thing that will put us on a path toward being in a position to have the option of becoming energy independent.

My colleagues have heard a lot of smokescreens and straw men raised here. But the final analysis is that what we have done here is to give this country an option. It is true that we became a little mousetrapped by listening to the administration and others by saying get oil in. We brought the stripper wells in and they turned around and said, now that you put those in, which helps the domestic oil industry, maybe it makes your bill too easy and, therefore, we do not want it.

At this time, Mr. President, I will be happy to yield 5 minutes to the Senator from Ohio.

Mr. GLENN. I thank my distinguished colleague.

The PRESIDING OFFICER. The Senator from Ohio [Mr. GLENN].

Mr. GLENN. Mr. President, I rise today to join my distinguished colleague, Senator JEFFORDS, and others in sponsoring this amendment that will, I feel, have the potential for greatly reducing our Nation's dependence on imported oil. The purpose of this amendment is to require that by the year 2001, 10 percent, just 10 percent of our Nation's motor fuel must be derived from alternative sources.

We do not specify this percent of one type and another percent of another type. It is just that we want to see 10 percent of our Nation's motor fuel come from alternative sources.

Each year we have seen our dependency on foreign oil grow and grow, and this growing dependency threatens our national security. It adversely affects the balance of trade and literally depresses economic growth at home. We send that much money out abroad.

In 1990, Americans spent $200 billion on transportation fuels, accounting for two-thirds of petroleum use and one-fourth of total energy consumption. I believe it is critical that we move forward with a systematic and efficient alternative fuels program. This amendment is exactly that. It is a straightforward and practical way, we believe, to lead the diversification of our country's transportation fuels.

This amendment will lessen our vulnerability to future oil shocks, shortages, and price disruptions. It will help put America in control of its own energy future. In addition, this amendment will foster the development and utilization of domestic resources, including natural gas, coal, and agriculture commodities, and others. The development and growth of these industries will create new jobs here at home. We must stop sending U.S. jobs and U.S. dollars abroad to oil-producing countries. We have the resources, and we have the technology to develop a better domestic energy program.

Setting an ambitious goal for gasoline displacement will accelerate progress toward energy security.

I believe that new industrial uses for agricultural commodities can not only be a partial solution to the clean air problems for the country but can also increase farm income.

Let me give you an example of what we have going on in Ohio right now. I was privileged some years ago to visit a plant down at South Point, OH, the southernmost point in Ohio, down along the Ohio River. At South Point, we have a 68-million-gallon South Point ethanol plant which uses 25 million bushels of Ohio corn per year—25 million bushels.

This has a major impact on one of Ohio's higher unemployment areas by providing jobs, directly and indirectly. According to a national advisory panel on ethanol's cost effectiveness, the production of 1 billion gallons of ethanol increases employment by more than 4,400 farm jobs and 3,700 industrial jobs. The plant at South Point is now evaluating ways to expand. They are presently operating at peak capacity, and they want to increase production since the market for corn-based ethanol looks very bright to them.

Production of the additional ethanol that could be used to meet the alternative fuels requirement would result in significant expansion of rural economies throughout the United States. Almost 1.2 billion bushels of corn—that is

1.2 billion, B, billion bushels of corn—will be required to produce 3 billion gallons of ethanol by 2001.

Right now, the ethanol industry consumes more than 400 million bushels of corn per year. I am confident that the farmers in Ohio and throughout this country can meet the challenge and produce enough corn to supply increased demand for ethanol if use is phased in over several years.

Mr. President, let me give you an example of what I am talking about and why I think we need the infrastructure in the eastern part of this country. Just a couple years ago, my wife and I had the opportunity to take a car to the west coast during one of our nonlegislative periods. We drove all the way through from Washington to San Francisco. As we came into the area about western Indiana and into Illinois, from there on clear to the west coast, at almost every service station at which we stopped there was a pump that had an ethanol-gasoline mix, 10 percent ethanol.

Now, in the Eastern part of the country, you do not see that. In Ohio, we do not have very many stations like that. In fact, they are very rare. But in the Western part of this country, out across the great Farm Belt, we are using ethanol and using it now. And people are becoming accustomed to that.

West of the Mississippi, this ethanol-gasoline mix was offered at virtually every stop. It is clear that these guys are already playing a significant role in utilizing our abundant agricultural commodities and in substituting other nonpetroleum-based fuels for gasoline in some parts of the country. I believe it is imperative for our Nation's future that these alternative fuels and others be made available nationwide.

Mr. President, this amendment will spur development of a domestic energy market free from the influence of OPEC, and it will create jobs and improve competitiveness. I urge my colleagues to join me in voting for passage of this amendment.

I thank my distinguished colleague, Senator JEFFORDS, for his initiative in proposing this legislation. I am glad to join him in it and appreciate his yielding me time to take my remarks.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Vermont has 1 minute 20 seconds; the senior Senator from Louisiana has 5 minutes.

Who yields time?

Mr. JOHNSTON. Mr. President, how much time do I have?

The PRESIDING OFFICER. Five minutes.

Mr. JOHNSTON. Mr. President, I yield myself 4 minutes.

Mr. President, under the bill as reported by the Energy Committee, we do permit ethanol to be part of our program. But, Mr. President, before we get too enthusiastic about ethanol, let us remember that there has been a subsidy of 60 cents a gallon up until the last year for ethanol; that the subsidy is now 54 cents a gallon for ethanol; that it takes about as much energy to produce a gallon of ethanol as it yields.

Moreover, Mr. President, in spite of this tremendous subsidy, of 13 separate loan guarantees—some as high as $126 million, $64 million, $78 million—of 13 such loans, 10 of those loans have defaulted, including all of the biggest ones. There are only three of those that are operating. I am glad to say one is in Ohio, of the 13.

I am sorry to say, one of those which defaulted was in my State—$78.9 million. Agrifuels Refining Corp., in my State, received that much of a loan and never opened their doors. Not only did they have the 60 cent Federal guarantee, but we had a total, I think, including the State, of something like a $1.60 a gallon subsidy, and they still could not open the door.

So, Mr. President, when we speak of ethanol and gasohol, let us be enthusiastic but not too enthusiastic, because I submit if you are going to try to solve this whole problem with massive subsidies for ethanol or gasohol, it is not going to work. It has not worked in the past. We have spent a lot of money, and it has gone down the drain.

Back to the point, Mr. President. According to the Jeffords amendment, between now and the year 2009, we need, in order to satisfy his amendment, only to have 10 percent alternate fuels. What are alternate fuels? They include stripper wells. Not only stripper wells in the United States but stripper wells in Canada. And if we get a free trade agreement with Mexico, it will include stripper wells in Mexico as well.

Those stripper wells in the United States alone are already more than 10 percent of what you would need, so this amendment, Mr. President, will not produce a single automobile, a single filling station, or a single gallon of some alternative fuel. It will only be a subsidy to stripper well owners, and it will include subsidies to stripper well owners in Canada, according to the way it is right now, and in Mexico in the event we get a free-trade agreement.

The price you will pay under the Jeffords amendment for not getting these automobiles, filling stations, or refining capacity is a huge bureaucracy and a bunch of redtape that will make the old entitlement programs under the crude oil pricing program look like a simple, easy, and cheap solution to a difficult problem.

Mr. President, under our bill, we will have 4 million alternatively fueled vehicles on the road. That is the answer, not the Jeffords amendment. We agree with the administration, which says this is counterproductive.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, how much time does the Senator from Vermont have?

The PRESIDING OFFICER. The Senator from Louisiana has 1 minute remaining, and the Senator from Vermont has 1 minute 14 seconds.

Mr. JEFFORDS. Mr. President, I will take my minute and 14 seconds right now. I will be very brief.

First of all, let us compare the cost of ethanol, which was mentioned with the chairman's admission, with the cost of our present OPEC oil—$200 a barrel versus the ethanol, which is much, much less, at about $60 a barrel.

Second, let us go back to the original big differences in these bills.

This amendment is the only one that will get us toward energy independence, and a downward slope on the DOE chart; no question about that.

Let me now also thank the chairman, certainly, for his help. I want to thank the original cosponsors on the committee, Senators AKAKA, BINGAMAN, CONRAD, FOWLER, SHELBY, WIRTH, BURNS, CRAIG, DOMENICI, SEYMOUR, BURDICK, DASCHLE, REID, WARNER, and EXON. I appreciate very much their assistance.

Let me sum it up very briefly by stating the best way to get people's attention and understand what you are running against, by voting against this amendment, is to take it in a 30-second bite:

> In February of 1992, your Senator had a chance to vote to keep hundreds of thousands of jobs at home and to create hundreds of thousands more, to build a plan to be independent, to fight domination by OPEC and higher and higher oil prices, to cut the trade deficit, reduce the Federal deficit, to keep clean air and to fight global warming all for 1 or 2 cents a gallon.

If you want to vote against that, because that is what you will be hearing if you do.

I yield the floor.

Mr. JOHNSTON. Mr. President, the case against this amendment is well summed up in the letter of yesterday from the Secretary of Energy in which he says:

> We strongly oppose the Jeffords amendment. It would require the DOE to establish an extensive regulatory apparatus to enforce this amendment. This burdensome apparatus is counterproductive to meeting alternative fuel use objectives. The amendment will require allocation regulation reminiscent of the costly and disruptive price and allocation controls used during the 1970's. This amendment will increase gasoline prices, increase unemployment, and retard economic growth.

Mr. President, the case against this amendment is overwhelming.

Mr. WALLOP. Will the Senator yield me 30 seconds?

Mr. JOHNSTON. Yes.

Mr. WALLOP. I just make the observation that the Senator from Ohio said that South Point Ethanol supported

this. We have received a telephone call from them. They do not support this bill.

Mr. DASCHLE. Mr. President, I rise today to express my support for the amendment being proposed by my friend from Vermont, Senator JEFFORDS.

From our days in the House together, there has been no greater advocate of alternative fuels and the environment than Senator JEFFORDS. I commend him for offering his amendment today.

Senator JEFFORDS is exactly right. As long as we avoid making the hard choices necessary to get away from imported oil—and, more generally, all oil—we only exacerbate the future costs of our current dependency. We will pay the price in terms of our environment, our energy security, and in the fact that we will have lost the opportunity to become the world leader in alternative energy technology. If Congress does not send the signal that it is serious about diversifying our energy sources—especially in our transportation sector, which is 90 percent dependent on oil—there is little to indicate that the administration or the oil companies will take us where we need to go.

Listening to Senator JEFFORDS recite all the arguments raised against his amendment, "it's deja vu all over again," as the saying goes.

Two years ago I came to the floor to offer the reformulated gasoline amendment to the Clean Air Act. I heard all the same comments about unreasonable costs, impractical deadlines and technical infeasibility. I also heard the familiar refrain from the oil industry that "we are already doing this and Congress shouldn't meddle."

Well, I am pleased to say Congress did meddle, and, as a result, the fuel provisions of the Clean Air Act are some of the strongest provisions of the act.

History has also shown that the dire predictions of the opponents of these provisions were wrong. A recent study on implementation of the Clean Air Act prepared for the Department of Energy reports an ample supply of oxygenates. It also reports that because reformulated gasoline is such a cost-effective means of coming into ozone compliance, whole States are choosing to opt in to the program voluntarily.

Some argue that the Clean Air Act will bring us to the 10-percent level called for in the Jeffords amendment, and, therefore, the amendment is unnecessary. There is no doubt that alternative fuels will be in far greater supply due to the act. But where will these fuels come from? The simple fact is that much of the demand for alternative fuels generated by the Clean Air Act will not be met by domestic sources unless we do something.

Let us look at the situation of MTBE, the methanol-based oxygenate that will be one of the additives of choice in reformulated gasoline and oxygenated fuels. Currently, the United States imports about 30 percent of its methanol, and the rest is produced domestically. This is good for American industry and for the domestic natural gas industry, as methanol is made from natural gas. But analysts predict that by the end of the decade, 70 percent of the methanol consumed in this country will be imported.

In the year 2000, in the absence of some very clear policy signals, three-quarters of the MTBE capacity will be located abroad, largely in the Middle East. We will have merely traded one dependency for another, and, what's worse, all the value adding will be done abroad rather than at home. Unless Congress sends the signal that the alternative energy industry is a vital domestic resource, worth building here at home, it will go elsewhere.

Look at the solar industry. Where the United States was once the clear leader in solar energy technology, Germany and Japan have now surpassed us. This development is part of the legacy of the Reagan administration's disinterest in, and discouragement of, the development of the domestic industry. In considering S. 2166, the Jeffords amendment, and several other provisions currently before Congress, we have the opportunity to set a new course for the domestic alternative energy industry. America has the raw materials, the technical expertise, and the demand for the product. Now we need the will.

In summary, I commend Senator JEFFORDS for raising these issues on the floor today. He has America's interest at heart, and I hope my colleagues will support his amendment.

Mr. SIMON. Mr. President, I support the alternative fuels amendment offered by my colleague from Vermont, Senator JEFFORDS.

The Jeffords amendment would help our Nation to decrease its dependence on imported oil. This proposal sets production goals for domestically produced alternative fuels. Under this proposal, by 2001, 10 percent of our Nation's gasoline would be domestically produced replacement or alternative fuels. By 2010, the goal would be 30 percent.

I think this amendment could really give a shot in the arm to our Nation's alternative fuels industry. We need to be doing more in this area. Our Nation has been moving too slowly toward a viable alternative energy market.

My colleague from Vermont makes an important point that we need to recognize—there is no free market for energy operating in our country today. OPEC is a cartel which can produce oil at very little cost. Some estimates are as low as $2 or $3 a barrel. Because of the abundant supply of the world's oil reserves which are located in the Middle East, the cartel will always be able to undercut what we try to do in this country. We'll never free ourselves from dependence on Mideast oil unless we can find a way to undercut OPEC's ability to manipulate the price of oil.

Another problem is that we lack the infrastructure to encourage motorists to consider alternatively fueled vehicles. I know that the alternative fuels title of S. 2166 takes some steps in the right direction. But we need to be doing more.

The Jeffords proposal will also help to create jobs here in this country. And that's something we desperately need to be doing. If we can encourage U.S. auto manufacturers to produce affordable alternatively fueled vehicles, like electric vehicles and vehicles that run on natural gas, we'll be doing our Nation a great service.

I urge my colleagues to join me in supporting Senator JEFFORDS' amendment.

Mr. GRASSLEY. Mr. President, I rise in strong support of the alternative fuels proposal offered by our good colleague from Vermont, Senator JEFFORDS.

I am proud to be a cosponsor. The Jeffords proposal is the one thing that we can support and return to our constituents and be able to say with all honesty and sincerity that we supported legislation that we know with certainty will head us down the road toward energy independence.

Mr. President, there are good proposals in S. 2166 but at best they buy us time.

They encourage conservation and production but none have teeth like the Jeffords amendment which guarantees significant gains toward energy independence.

The Jeffords amendment is far-sighted, not shortsighted. It represents a long-term energy independence strategy, not a short-term, stop-gap policy.

Americans want a real national energy security policy, not one that merely buys time but one that buys America a future, a future no longer held hostage to OPEC.

Unfortunately, we are heading toward increased foreign energy dependency.

On October 29 of last year the Office of Technology Assessment to which I serve as a congressional board member issued a report entitled "U.S. Oil Import Vulnerability: The Technical Replacement Capability."

OTA predicted that within 20 years, "America could be dependent on foreign sources for almost 75 percent of its oil."

Now, Mr. President, we have heard our colleagues cite this OTA report as an argument in favor of oil drilling and development of the Arctic National Wildlife Refuge but the OTA report went far beyond the issue of increasing domestic oil production.

Let me quote:

The growth of non-oil based liquid fuels is an important adjunct to increased fuel economy and increased domestic oil production (in reducing U.S. dependence on imported oil). A recent OTA analysis of several alternatives to gasoline found that alternative fuels present a key opportunity to reduce U.S. oil dependence.

The OTA report proposes as part of a long-term national energy policy and I quote:

Initiating a move toward a postfossil economy in the long term by reducing carbon intensity by 10 percent in each of the next two decades.

Mr. President, we have to ask ourselves, do we want to become energy independent or not?

If the purpose of this so-called National Energy Security Act is anything less than becoming energy independent, why take up the Senate's time?

Some may be surprised by my question, but I ask my colleagues to listen very carefully to the debate.

Some will argue forcefully about freeing ourselves from dependence upon foreign oil—oil, not energy—and will point to the alleged strides the oil industry is taking to utilize clean alternative fuels to meet the Clean Air Act.

Regrettably, some of these people seem comfortable drawing distinctions between dangerous dependency upon foreign oil and dangerous dependency upon foreign energy.

Mr. President, this is critical for our colleagues to understand. What good does it do America if all we accomplish is exchanging reliance on foreign oil with reliance upon foreign alternative fuels? The Jeffords amendment guarantees against this problem by fencing in a percentage of our domestic fuel market and reserving that small percentage for domestically produced alternative fuels.

But when you inject into the discussion the word "domestic" and argue that billions of dollars of investment in alternative fuels produced in Saudi Arabia does nothing for America's energy independence, you quickly find that some proponents of this legislation have quite a different notion of energy independence.

The amendment offered by Senator JEFFORDS interjects that key word "domestic."

If our alternative fuels are not domestically produced, how does the development of alternative fuels foster energy independence?

I predict that if the oil companies succeed in defeating the Jeffords amendment, that in the years ahead as we shift from petroleum to alternative fuels such as MTBE's, most of that product will have come from overseas production.

Our vulnerability to foreign sources of energy will be no less than it is today, and in fact, we will be far worse off.

Our growing dependency on foreign alternative fuels is already well underway.

Let me share with my colleagues part of a report by Eric Vaughn, the president of the Renewable Fuels Association, which was submitted just yesterday to the Governors' Ethanol Coalition.

He reported:

As the octane and oxygen needs of the major petroleum refiners grow, so too does their reliance on imported methanol and methyl tertiary butyl ether [MTBE] to satisfy that demand.

Because oil companies control the large foreign reserves of oil and natural gas from which methanol is derived, their proclivity will always be toward utilizing those foreign feedstocks for their octane and oxygen needs, regardless of the public policy consequences for the Nation.

Published reports indicate that more than 70 percent of the planned MTBE production expansion is sited overseas, including construction of the world's single largest MTBE facility with a daily production capacity of 33,000 barrels to be built in Kazikstan of the former Soviet Union.

In fact, more than 288,000 barrels per day of MTBE is currently under construction or in engineering and anticipated to be on stream before the Clean Air Act requirements are fully implemented.

In fact, industry analysts have stated that Saudi Arabia will provide one-fourth of the entire world's supply of MTBE by 1995.

Facilities operated by the Saudi Government and several major United States oil companies are expected to increase the Saudi MTBE capacity to more than 70,000 barrels per day. By 1995, foreign MTBE capacity is expected to exceed 4.5 billion gallons annually. That is three times current U.S. capacity.

It is important to note that this rapid expansion of MTBE capacity will be financed largely by the investment of major United States and international oil companies. Using a conservative investment cost estimate of $1.30 per gallon of MTBE capacity, the total investment in non-U.S. MTBE production facilities will exceed 5.7 billion dollars.

While U.S. domestic MTBE capacity is also expected to grow, it is important to note that it will be sustained by increasing levels of imported methanol as the feedstock.

MTBE production is the largest consumer of methanol today, using more than 31 percent of total U.S. methanol supplies. In fact, total U.S. methanol production amounted to 1.1 billion gallons in 1988, with imports of 670 million gallons. These imports represented 40 percent of total U.S. methanol supplies.

Imports of methanol in 1988 were up 71 percent from the 400 million gallons imported the previous year. Industry analysts indicate that the level of imported methanol for MTBE production is likely to continue to grow—to as much as 1.3 billion gallons by 1995, or more than three times the level of just 4 years ago.

Furthermore, if neat methanol fuel markets develop on a large scale, as proposed by the national energy security bill, the demand for imported methanol will explode.

Mr. President, the bottom line is this: While we are maintaining a business as usual dangerous dependency upon OPEC oil, we are at the same time developing an equally dangerous dependence upon foreign methanol and MTBE for our motor fuel and fuel additive needs of the future.

In fact, it was reported in the recent edition of Fuel Reformulation magazine that—

85 percent of the known world scale [MTBE] plant capacity will be located in areas which are already exporting petroleum products to the North American market.

Mr. President, let me take a moment to underscore the importance of what this all means in relation to our energy future.

MTBE is the favored alternative fuel by most oil companies and petroleum interests. This should be of no surprise. MTBE's, afterall, were invented and developed in the 1970's with the aim of maximizing the economic return of isobutylenes coming from refineries and petrochemical plants. Initially, it served as a powerful octane enhancer and was useful in replacing lead as it was being phased out of gasoline.

But then, along came the passage of the Clean Air Act in 1990, which called for certain levels of oxygen for fuels used in the CO and ozone nonattainment areas. Suddenly, MTBE became a product that could provide the required oxygen levels in the United States. A huge market opened up not only for MTBE's but also methanol. Remember the big fight the oil companies mounted during the Clean Air Act debate for weakened oxygen standards? It was to make certain MTBE could fall within these standards, and so the oil companies would maintain an upper hand in controlling our fuel supplies.

So what has happened since then?

The oil industry has socked well over $5.7 billion in foreign MTBE plants. Consequently, 70 percent of all new MTBE plant capacity has been sited outside of the United States.

Ultimately, 85 percent of MTBE production will be located on foreign soil in nations already exporting petroleum products to the United States.

It is time for this Congress to wake up and smell the coffee. We are being duped once again into complacency.

We pass the alternative Motor Fuels Act of 1988 in the name of the national energy security in hopes of promoting and developing alternative fuels.

We pass the Clean Air Act thinking just maybe America has some clean alternative fuels that can suffice. And now, we are debating S. 2166, the so-called National Energy Security Act. This bill professes to increase the production and use of alternative fuels, for instance, by increasing biofuels research funding, and that's fine.

But the most aggressive alternative fuels provision is the requirement for public and private fleets to begin phasing in the use of alternative-fueled vehicles. It is estimated that this could eventually result in about 5 million alternative fueled vehicles.

This sounds great. But what good is it if all of them are fueled with methanol and MTBE from Saudi Arabia.

There is absolutely nothing with teeth in the National Energy Security Act to protect us from this dangerous dependency upon foreign sources of alternative fuels.

The only game in town. The only way of assuring the development of domestic markets for alternative fuels is the passage of the Jeffords amendment.

If we want to control our new energy destiny, we vote for the Jeffords amendment. If we are happy to continue being held hostage by OPEC, then vote against Jeffords.

Mr. BIDEN. Mr. President, throughout my Senate career, I have supported efforts to develop and expand the use of alternative fuels. When I first heard of Senator JEFFORD's amendment, my initial inclination was to back it. Years of experience with alternative fuels have convinced me that progress in this area will only come about under an aggressive program. A hope-and-wait approach yields nothing. The outline of Senator JEFFORDS' amendment certainly fits the description of an aggressive approach.

But as I looked into the details of the amendment, I grew increasingly concerned about whether this was the direction we should go in alternative fuels. The goal is one I certainly support, assuring the supply of these fuels, but the specifics of the amendment left me wondering about its ultimate effectiveness.

For example, the amendment included output from stripper wells, or those that produce less than 10 barrels of oil per day, under the umbrella of alternative fuels. I do not understand why we are proposing to include oil in a program to support alternative fuels. This seemed to be a rather serious loophole that could undermine the effectiveness of the program.

I was also concerned about whether other portions of the amendment would work as predicted. The sum of these concerns led me to vote to table the amendment. While I am willing to back aggressive efforts on alternative fuels, and I believe that with respect to many environmental issues we must push into the unknown, there were too many unresolved difficulties in this proposal for me to support its passage at this time.

But it must be emphasized that the tabling of this amendment does not leave this bill blank on alternative fuels. Requirements to increase use of alternatively fueled fleet vehicles remain in this bill. We will have a solid base in place for expanded use of alternative fuels in the years ahead. Those efforts are sure to need revision and expansion in the years ahead, and I expect that I will support many of them. But in this case, I think it is best that we understand its terms better before moving forward.

Mr. JOHNSTON. Mr. President, I yield the remainder of the time.

I move to table the amendment. I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Louisiana to lay on the table the amendment of the Senator from Vermont.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I also announce that the Senator from Hawaii [Mr. INOUYE] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

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

The result was announced—yeas 57, nays 39, as follows:

[Rollcall Vote No. 18 Leg.]

YEAS—57

Akaka	Dole	McCain
Bentsen	Domenici	McConnell
Biden	Durenberger	Moynihan
Bingaman	Ford	Murkowski
Bond	Garn	Nickles
Boren	Gorton	Pryor
Bradley	Gramm	Riegle
Breaux	Hatch	Roth
Brown	Hatfield	Rudman
Bumpers	Heflin	Seymour
Burdick	Helms	Shelby
Burns	Hollings	Simpson
Byrd	Johnston	Smith
Coats	Kassebaum	Specter
Cochran	Kohl	Symms
Conrad	Levin	Thurmond
Craig	Lott	Wallop
D'Amato	Lugar	Warner
Danforth	Mack	Wofford

NAYS—39

Adams	Gore	Nunn
Baucus	Graham	Packwood
Bryan	Grassley	Pell
Chafee	Jeffords	Pressler
Cohen	Kasten	Reid
Cranston	Kennedy	Robb
Daschle	Kerry	Rockefeller
DeConcini	Lautenberg	Sanford
Dixon	Leahy	Sarbanes
Dodd	Lieberman	Sasser
Exon	Metzenbaum	Simon
Fowler	Mikulski	Wellstone
Glenn	Mitchell	Wirth

NOT VOTING—4

Harkin	Kerrey	Stevens
Inouye		

So the motion to lay on the table the amendment (No. 1530) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois [Mr. DIXON].

AMENDMENT NO. 1531

(Purpose: To express the sense of the Senate in support of U.S. workers, and for other purposes)

Mr. DIXON. Mr. President, I send an amendment to the desk that has been cleared on both sides and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON], for himself, Mr. RIEGLE, Mr. GORE, Mr. DECONCINI, Mr. LEVIN, Mr. DASCHLE, Mr. BURDICK, Mr. GLENN, Mr. HARKIN, and Mr. D'AMATO, proposes an amendment numbered 1531.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . SUPPORT FOR UNITED STATES WORKERS.

(a) FINDINGS.—The Senate finds that—

(1) the United States worker is one of the most productive in the world;

(2) based on gross domestic product produced per employed person, the United States is rated number one in productivity compared to Canada, Japan, Korea, Germany, and Britain;

(3) according to a study (based on statistics from the Organization for Economic Cooperation and Development) during the mid-1980's, America produced almost twice as much as Japan for every man-hour worked;

(4) it was the hard work, dedication, and efficiency of United States workers that made the United States the number one industrial power in the world;

(5) the quality of United States products is one of the best in the world;

(6) the United States leads in many areas including computer software and hardware technology, pharmaceuticals, biotechnology, construction engineering, entertainment, Agriculture and energy and environmental control;

(7) the United States has been able to successfully export to other areas of the world;

(8) the trade deficit with Japan for 1991 is approximately $42 billion;

(9) United States and other foreign auto makers attempting to sell in Japan have less than 3 percent of the Japanese market;

(10) Japan's structural impediments, such as restrictive distribution system, exclusionary business practices, keiretsu relationships, regulatory system, land policy, and predatory pricing practices, prevent United States companies from fairly competing in Japan;

(11) Japan's tariffs and quotas on foreign agricultural goods restrict the import of United States agricultural products into Japan;

(12) Japan continues to violate United States copyright, patent, and trademark protection laws; and

(13) Japan continues to restrict foreign direct investment in certain industries, while the United States permits unrestricted foreign investment.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate objects to—

(1) the comments made by Japan's Speaker of the House, Yoshio Sakurauchi, regarding American workers, and

(2) the statements made by Prime Minister Kiichi Miyazawa disparaging the American work ethic and undermining the commitment that was made with President Bush.

Mr. DIXON. Mr. President, I rise today to offer an amendment to S. 2166. This amendment in support of American workers is very similar to Senate Resolution 245, which was introduced by me on January 21, 1992.

On January 19, Japan's Speaker of the House Yoshio Sakurauchi said, "American workers don't work hard enough." He added that our workers were lazy and illiterate. Later we get an apology. On the same day, Prime Minister Kiichi Miyazawa said that Japan did not actually have a firm commitment to buy more American cars. Later they apologized for that, too. On Monday, Prime Minister Miyazawa said that America's work ethic is lacking. They have apologized for that statement, too. These comments are a series of statements made by Japanese officials regarding the American work ethic, American workers, and American products. What should we believe—the statements or the apologies?

A couple of weeks ago in Chicago, 3,000 people lined up outside in subzero temperatures for 1,000 job openings in a new Sheraton Hotel. One man had a baby wrapped inside his coat. He did not have enough money for a babysitter, so he stood outside in the freezing cold with a baby in his coat. He did this because he wanted to work.

Americans want to work and they work hard. I have met workers in shoe factories, steel plants, and candy companies. All of these workers produce quality work, so before Japan's officials make any more comments about our work ethic, they should come and meet some of our workers.

This very simple Senate resolution that I am offering objects to the comments made by Japanese officials disparaging U.S. workers and their attempts to undermine the commitment that was made with President Bush regarding autos and auto parts. Contained in the resolution are studies done by the U.S. Department of Labor and the Organization for Economic Cooperation and Development. These studies refute the Japanese officials' statements about our workers' performance.

The United States is ranked No. 1 in productivity compared to Japan Canada, Korea, Germany, Britain in terms of gross domestic product produced per employed person, the international measure of productivity levels. I have the chart here if anyone wishes to inspect it. I will put it in the RECORD.

According to a study by the Organization for Economic Cooperation and Development, during the mid-1980's, America produced almost twice as much as Japan for every man-hour worked. We also work more hours per week than German workers.

Even in documents produced by Japan, the United States does well. In a Japanese economic planning survey on 110 critical technologies in 1991, it concluded that the United States dominated 43 of them, Japanese firms 33, with European and others dominating the remaining 34. Our workers and industries must be doing something right.

The Senate resolution also lists the structural barriers that restrict our products from being sold in Japan. Since 1963, the entire world has had a trade deficit with Japan. This means 29 years that other countries like us have had a trade deficit with Japan. Obviously, it is not only America that has trouble selling in Japan.

Japan needs to look seriously at their trade practices instead of putting the blame on our workers. Mr. President, I urge my colleagues to adopt this Senate resolution.

Mr. DIXON. I thank the managers for their support

The PRESIDING OFFICER (Mr. GRAHAM). Has the Senator from Illinois submitted the resolution?

Mr. DIXON. I have submitted the resolution.

I ask unanimous consent that the productivity records be printed in the RECORD.

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

RELATIVE LEVELS: PURCHASING-POWER-PARITY EXCHANGE RATES—REAL GROSS DOMESTIC PRODUCT, REAL GDP PER CAPITA, AND REAL GDP PER EMPLOYED PERSON OUTPUT BASED ON OECD PRICE WEIGHTS

[United States = 100]

Year	United States	Canada	Japan	Korea	Austria	Belgium	Denmark	France	Germany	Italy	Netherlands	Norway	Sweden	United Kingdom
Gross domestic product per employed person:														
1950	100.0	76.1	15.7	NA	30.9	47.2	NA	38.1	34.3	29.6	49.7	43.3	NA	54.4
1955	100.0	78.0	18.8	NA	34.0	47.2	44.8	41.0	40.7	34.4	52.4	44.7	NA	52.4
1960	100.0	79.0	24.1	NA	39.2	50.7	53.1	47.7	49.5	42.1	57.5	50.5	52.4	54.7
1961	100.0	78.2	26.6	NA	40.0	51.5	54.0	49.0	49.7	44.1	56.9	51.4	53.6	54.5
1962	100.0	78.9	27.2	NA	39.7	51.6	54.3	50.6	50.1	45.4	56.3	50.8	53.8	53.0
1963	100.0	79.0	29.0	13.0	40.5	52.1	52.5	51.5	50.1	47.5	55.9	51.1	54.9	53.7
1964	100.0	79.0	31.4	13.6	41.7	53.3	54.3	52.7	51.8	47.6	57.9	51.9	56.1	54.1
1965	100.0	78.7	31.5	13.2	41.8	53.2	54.2	53.3	52.5	48.8	58.5	52.5	56.0	53.0
1966	100.0	78.5	33.2	14.1	43.4	53.2	53.0	54.1	52.7	51.1	58.0	52.8	55.5	52.6
1967	100.0	78.2	35.8	14.3	45.3	55.3	54.9	56.2	54.1	53.9	61.0	55.4	57.8	54.4
1968	100.0	79.3	38.9	14.9	47.0	56.5	55.4	57.7	55.9	56.3	63.3	55.5	58.1	55.8
1969	100.0	81.1	43.2	16.5	50.0	59.3	58.3	60.8	59.1	60.2	66.4	57.5	59.9	56.6
1970	100.0	83.0	47.3	17.5	53.8	63.5	59.6	63.9	61.9	63.6	70.0	58.2	63.0	58.6
1971	100.0	83.9	47.9	18.2	54.6	63.9	59.5	65.2	62.1	63.2	70.9	59.0	62.3	59.7
1972	100.0	84.6	50.8	17.9	56.5	66.2	60.2	66.4	63.2	64.9	72.5	60.2	62.4	59.7
1973	100.0	85.5	52.5	19.1	57.4	68.4	60.6	68.0	64.6	67.8	74.7	61.3	63.6	62.2
1974	100.0	88.0	53.7	20.5	60.7	71.9	61.8	71.3	67.2	72.0	78.9	65.3	66.0	63.1
1975	100.0	88.7	55.4	21.6	60.7	71.9	62.1	71.7	68.1	69.6	79.3	66.7	66.3	62.9
1976	100.0	90.9	56.3	22.7	62.2	75.2	64.0	73.1	71.0	72.6	81.5	67.9	65.8	64.8
1977	100.0	91.7	57.6	24.2	63.8	75.1	63.9	74.1	72.2	73.6	81.1	67.9	64.0	64.8
1978	100.0	91.8	59.2	25.5	63.1	76.4	63.6	75.6	73.2	75.6	81.6	69.1	64.3	66.0
1979	100.0	92.3	62.1	27.2	66.1	77.9	65.6	78.6	75.4	79.8	82.6	72.0	66.3	67.1
1980	100.0	91.6	64.1	26.5	68.3	81.8	66.0	80.3	75.6	82.5	81.3	73.9	67.1	66.9
1981	100.0	91.6	65.3	27.6	67.4	82.0	65.7	81.1	75.2	82.0	79.6	73.2	66.5	68.0
1982	100.0	93.4	67.8	28.9	70.1	85.7	68.6	84.4	76.6	83.7	80.2	74.6	68.5	70.8
1983	100.0	93.6	66.9	31.0	70.4	84.9	68.4	83.3	77.1	82.4	81.0	76.5	67.9	72.2
1984	100.0	94.5	67.5	33.2	69.3	84.4	68.3	82.9	76.9	81.8	79.6	78.2	68.1	70.2
1985	100.0	95.0	69.3	33.7	69.8	83.4	68.4	83.4	76.6	82.3	78.1	78.9	67.9	70.8
1986	100.0	94.9	70.0	36.3	69.8	83.6	68.7	84.8	76.7	83.5	77.9	79.2	68.5	72.6
1987	100.0	95.0	71.5	38.2	70.5	84.2	67.6	85.6	76.5	85.4	76.5	78.4	69.2	73.6
1988	100.0	94.0	73.1	40.4	70.6	85.0	66.5	86.6	77.0	85.7	76.2	76.9	68.3	72.2
1989	100.0	94.6	74.6	41.1	72.2	86.9	67.4	88.7	78.0	88.4	77.3	78.9	68.4	71.5
1990	100.0	93.0	76.9	43.3	74.4	88.7	68.6	89.7	79.1	88.4	77.7	80.4	67.7	71.2

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we have discussed this matter with the distinguished Senator from Illinois and are willing to accept the amendment.

The PRESIDING OFFICER. Is there further debate?

If not, without objection the amendment is agreed to.

So the amendment (No. 1531) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider.

The PRESIDING OFFICER. The motion to table the motion to reconsider is laid upon the table.

ALTERNATIVE FUELS

Mr. BURNS. Mr. President, I want to take a moment to discuss the alternative fuels provisions of S. 2166. In committee I offered language to include alternative fuels as broadly defined. I did it because I feel that we need to wean ourselves off foreign oil.

My amendment requires the Secretary of Energy to assess the economic situation regarding the supply and demand of oil and gasoline. If the supply of oil is disrupted, then the Secretary could turn to alternative fuels as a way of keeping the economy in balance.

I want alternative fuels to succeed. But I do not want the oil industry to destroy a small industry because it is being forced upon them. The amendment was all that we could get at the time. It moves in the right direction, and it is doable.

ELECTRIC POWERED VEHICLES

Mr. DECONCINI. Mr. President, as we consider S. 2166, the National Energy Security Act of 1992, I thought I would take a moment of the Senate's time to recognize the Arizona Public Service [APS], the largest electric utility in my State, for their innovative and forward-looking support of electric powered vehicles.

We in Arizona will never admit to anything except crystal blue skies and golden sunshine. Unfortunately, Phoenix and Tucson, as with many of our Nation's cities, increasingly report noncompliance with Federal and State air quality regulations. Frankly, too many of our cities have days when the air quality is unhealthy for many of our citizens.

Also, Mr. President, as you know, we have spent hours and days debating energy issues. Today, we continue discussion of those needs in the context of the National Energy Security Act of 1992. The future of our country is one of increasing energy needs, decreasing known energy sources, and heightened environmental and public health concerns. We have discussed many ways to resolve our energy problems, and yet we are not agreed on any one course of action. One of the solutions proposed has been requiring increased vehicle fleet use of alternative energy sources.

While we in Congress have worked toward legislative solutions for the air quality and energy issue facing our Nation, APS has had a history of action in the development of electric vehicles. The work that this corporation has undertaken in this field demonstrates that it can be both economical and practical to use electric powered vehicles to improve air quality while reducing our reliance on foreign energy resources.

The Arizona Department of Environmental Quality performed a study on urban haze in Phoenix, and concluded that 50–90 percent of the Phoenix and Tucson haze is caused by motor vehicular activities, specifically tailpipe emissions. While much work still needs to be done, many contend that electric vehicles could reduce much of these harmful consequences without compromising our society's need for readily available personal transportation.

When automobiles were still relatively new machines, many of them were electric. As early as 1966, APS bought and restored a 1915 Detroit electric car for display at the Arizona State Fair. This car is still around and may be seen at special events and celebrations in Arizona.

In 1967, APS began its research in practical electrically powered modern vehicles when it purchased a converted sedan for $5,000, the Mars II. APS employees made the first successful cross-country trip by electric car—from Detroit to Phoenix in 17 days. The Mars II cruised at speeds of 45–55 mph, covering 2,226 miles while consuming 1,074 kilowatts of energy. The cost was $27.17 or 1.2 cents per mile.

According to the Electric Power Research Institute, even when powerplant emissions to support increased electric generation for the vehicles are factored in, electrically powered vehicles are still 90 percent cleaner than internal combustion engines. Electrically powered cars have the ability to reduce major pollutant emissions by 97 percent over traditional gasoline powered vehicles. These emissions include volatile organic compounds and carbon monoxide. Also, electric vehicles do not use engine oil or antifreeze, and the batteries are 97 percent recyclable.

The United States is today largely self-sufficient in our ability to produce electricity. Our present electric generation base has ample capacity already on line to fuel many millions of electric vehicles. APS has used our self-sufficiency in electrical generation to foster research into the electric car.

They hosted the International Electric Vehicle Symposium in Phoenix in 1968. In the 1970's, APS obtained and used two electric vans as part of the National Electric Vehicle Council research program. In fact, Mr. President, their research on electronic control systems technology is used in many of today's electric cars.

In the eighties, APS in cooperation with the Department of Energy, began evaluating 22 electric pickup trucks, cars, and cargo vans. In 1989, 3 converted 1988 Ford Escort station wagons were added to the APS fleet and initiated a new phase of research testing sealed, lead-acid batteries.

In February 1991, they purchased two more vans which were the first commercially available electric-powered vehicles. Electric vehicles are used by APS for routine company business and research purposes. They have one of the largest electric commuter car fleets in the Nation.

APS and Southern California Edison have joined together in a joint research program to develop a new battery which will allow electric vehicles to perform comparably to gasoline-powered vehicles. In March of last year, a test of the new battery developed by this partnership set a new performance standard for electric vehicles on a single charge. The car developed by APS and Southern California Edison continues to set new records for speed and distance.

Mr. President, the efforts of APS in the field of electric vehicles have been the subject of comment and praise in such diverse publications as Automotive News, Popular Science, Electric Light and Power, and Environment Week, as well as by many commentators, including Paul Harvey. I ask unanimous consent that articles from the Arizona Republic, Arizona Daily Star, Tempe Daily News Tribune, Phoenix El Sol, and Chino Valley Review appear in the RECORD at the conclusion of my remarks.

While I sometimes find myself in disagreement with positions taken by the utility industry on other energy issues, I believe that credit must be given when credit is due. Electric cars may not be for everyone or for every use, but they represent a challenge and a partial answer for some of our problems created by our energy consumptive society while protecting our environment. APS deserves recognition and our support for its efforts to meet the challenge of cleaner air, while conserving energy in exploring new applications of old technologies. This will create a healthier environment for future generations, and I applaud their efforts.

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

[From the Arizona Republic, Oct. 27, 1991]

CAR OF FUTURE ALMOST HERE TODAY

(By Bob Golfen)

Just imagine, a city filled with cars, trucks and buses that emit no exhaust and make no noise as they coast along. They would need minimal maintenance and never have to stop for gas.

Instead, we have the brown cloud of pollution hovering over Phoenix. We also have just one choice, the internal-combustion engine, for propelling our private vehicles.

More and more, people are hoping that modern technology will provide a non-polluting alternative vehicle, and are asking the question:

If they can put a man on the moon, why can't they make a good electric car?

So far, the only electric vehicles available to the average motorist have been too small, too slow, too impractical or simply not up to vehicles power by fossil fuels.

But since last year, when California set a 1998 deadline for having a significant number of "zero emission" vehicles on the road, cor-

porate and private researchers have been working feverishly to overcome the technical obstacles that have kept electric vehicles out of private garages.

"This is all brand-new technology, all extremely sophisticated," said Ray Hobbs, leader of an electric-vehicle project for Arizona Public Service.

* * * * *

Basically, an electric car has three components that make it go: an electric motor, sometimes several; an electric-power source, usually rechargeable batteries; and an electronics system that controls the driver's input and the motor's power draw.

All three components are under study, but the power source has proven most difficult. If cars could go with an outside electrical source, as do subway trains and toy slot cars on electric tracks, the technology would be simple.

But because an automobile must carry its own source of power, the proposition is much harder. There is an inevitable trade-off between range—the distance that can be traveled before needing a recharge—and available power.

Traditional lead-acid batteries can power an electric car, but there are critical problems. The range is fairly limited under current technology. Also, the required multiple batteries weight 1,000 pounds or more, and there are environmental concerns about the batteries' sulfuric acid and lead plates.

ZERO EXHAUST EMISSIONS

Some other rechargeable systems being explored include nickel cadmium, which also contains hazardous materials; zinc-air, which has great range but technical problems plus high cost; and sodium sulfate, which requires prohibitively high operating temperatures.

The biggest advantage of electric vehicles is zero exhaust emissions, although some critics point out that increased loads on electric-company power plants might increase pollutants that they emit.

Arizona has become something of a focal point for electric-vehicle research. Virtually every major automaker has a vehicle testing facility in Arizona, and most are involved in some form of electric-vehicle development. Notable is General Motors, which set imaginations soaring last year with its electric sports-car prototype, the Impact.

APS and Motorola are cooperating in electric-vehicle research. APS has had experimental vehicles in its fleet for about a decade. It even has a working survivor from the early days of electric cars, a 1910 Detroit Electric.

A LITTLE MARVEL

Of the electric vehicles that APS uses, Hobbs is most enthusiastic about the EVcorts, made by the Chicago company from converted Ford Escort station wagons.

"That EVcort is a little marvel," he said. "The EVcort is the best vehicle in the country that you can get right now."

But, he added, there are serious limitations. The EVcort is heavy and not as easy to drive as a gas-powered model, and it has a range of only 50 or 60 miles before needing a recharge. Also, there are no support services such as trained mechanics or public electrical outlets for recharging.

In recent years, electric-car proponents have set out on a course begun nearly a century ago when the first automobiles competed in road races and endurance events to improve the breed and erase public skepticism.

The Phoenix area is home of the visionary Solar and Electric 500, a contest of speed and endurance for automobiles powered by batteries or solar rays. Promoter Ernie Holden said that the second running, in April, promises to be a showcase of recent advancements.

In 1992 race will be more competitive than the 1991 meet, he said, in which a Honda CRX powered by an experimental zinc-air battery far outclassed its less-sophisticated competition. The CRX, backed by APS and developed by Dreisbach Electro-Motive Inc. of California, had been predicted as the winner.

BREAKTHROUGHS, ENTHUSIASM

But this year, Holden said, it will be impossible to pick the outcome of the race.

Holden said he is excited about breakthroughs and public enthusiasm for electric vehicles.

"This is like Sputnik and the Oklahoma land rush both happening at the same time," he said.

The local race isn't the only 500 being targeted by electric-vehicle pioneers. A Scottsdale firm is attempting to build two electric race cars for next year's Indianapolis 500.

Leading that program is Larry Burton, a former chief mechanic for many years on Indy teams, and an experienced builder of race cars and aircraft.

Burton aid the technology going into the two groundbreaking Indy cars includes newly developed motors and battery systems.

Indy officials have been responsive, he said, but they will need to analyze the cars before allowing them to run against conventional races.

"Cars with experimental engines are not excluded but must be demonstrated," Burton said. "The Speedway has always sought after different technology."

The entire Indy-car effort, he said, is geared toward advancing the development of electric vehicles.

"It's going to take $10 million to build the two cars," said Burton, adding that he has financial backers and is trying to line up sponsors.

"But that's cheap when you consider what it will do for public opinion of electric cars."

PROMOTING A PROTOTYPE

Rodger Ward, twice winner of the Indy in the 1960s, has been in Phoenix to promote an electric-car prototype that is wrapped in a beautiful Italian body.

Ward is trying to drum up interest in the EXAR–1 from investors so production can begin on the sporty four-seater, which has a lightweight acrylic body, performs as well as gas-powered cars and will sell for about $14,000.

There are many other innovators in the Phoenix area, such as engineer Howard Greene and businessman Dick Clark, who have worked together 15 years to develop what they say is a revolutionary vehicle that includes circuitry to cut in half the power used by its electric motor.

[From the Arizona Daily Star]

ELECTRIC CAR FROM HONDA A PACESETTER

Arizona companies, just like everyone else, are in the hunt to develop a marketable electric car.

Wednesday, Arizona Public Service Co. held a press and public review of its electric vehicle project in Phoenix.

The presentation was to highlight the Zinc-Air Electric Honda CRX, which in late August traveled 251 miles on a single battery charge on public roads in the Santa Barbara, Calif., area. That was a new distance-per-charge record for an electric passenger car.

The electric Honda also won an electric stock car race held earlier this year at Phoenix International Raceway, and holds the national 1-mile closed course speed record for an electric car, 69.44 miles an hour, according to APS spokeswoman Maria Arellano.

The car is sponsored by APS and Southern California Edison. From the exterior it looks no different from any other Honda, but under the hood. It's an entirely new game.

The car is powered by zinc-air batteries developed by Dreisbach ElectroMotive Inc., a research and development firm in Santa Barbara.

Driesbach, known as DEMI within the renewable energy industry, developed the zinc-air battery to "have about eight times the energy content by weight of conventional lead-acid or nickel-cadmium batteries," said DEMI engineer Len Danczyk.

Danczyk said that under optimal conditions the electric Honda could go as far as 400 miles without a charge.

Distance is the barrier holding back commercial production of an electric car say officials in the automotive, electronic and energy fields.

General Motors plans to introduce its impact electric car by the late 1990s. The impact is a two-passenger compact commuter car.

Among the imports, Driesbach already offers a small electric car in Japan, and Nissan has a four-passenger, two-door concept car which has done 250 kilometers (155 miles) on a charge.

Ross Roberts, vice president of the Ford Division of Ford Motor Co., said during a recent Tucson visit that all the major U.S. automakers have electric cars at some stage of development, and they're all stymied by the same problem.

"There are going to be electric cars, and we're going to be in the business. The problem is how are you going to build a better battery to power it," Roberts said.

In January, Ford, General Motors and Chrysler formed the United States Advanced Battery Consortium. The Battery Consortium works to "develop advanced energy systems capable of providing future generations of electric vehicles with significantly increased range and performance," according to a release from the consortium.

Along with the Big Three, the U.S. Department of Energy and the Electric Power Research Institute are involved in the consortium's research, said a consortium spokesman.

The consortium "is not a joint vehicle research program and doesn't involve joint battery production," said the spokesman, a Ford engineer who asked not to be identified.

Rather, the program is looking to identify the best options for development of an increased range battery system by the end of the 1990s, when California will be the first state to demand that a percentage of its vehicles be non-polluting.

"We're all working toward the California mandate in 1988," he said.

Danczyk, the DEMI engineer, said small research and development firms like his will not be able to meet that short deadline alone, and look to the automobile manufacturers to pick up on their research when it looks promising enough.

[From the Tempe Daily News Tribune]

NEW, IMPROVED ELECTRIC CARS MAKING RETURN, FAIR SHOWS

(By Janie Magruder)

The Detroit Electric was a handsome, clean-running automobile, first built in 1907.

No crank to turn, no rumbles, rattles or terrifying explosions, no gas fumes, oil or grease, the Detroit carried turn-of-the-century ladies around town in splendor at a top speed of 30 mph.

About 1,000 of these electric cars were sold before World War I, before Henry Ford began mass producing automobiles with internal combustion engines and before electric-car owners tired of recharging batteries every 40 to 60 miles.

But the electric car made its return on Tuesday, highlighting a "How to Clean the Air Fair" in downtown Phoenix.

The new models appear to be a vast improvement over the Detroit—a sporty Honda CRX can travel 87 mph-plus and up to 251 miles without needing a recharge.

Today's electric car is an urban machine with the mission of stamping out dirty tailpipe emissions, said Ray Hobbs, a research engineer for Arizona Public Service, which sponsored the fair.

"It's zero-emissions vehicle and more energy efficient," Hobbs said. "Major metro areas are just becoming too polluted."

But until there are service stations for electric cars and stores that carry electric auto parts, the average motorist won't want to buy an electric car, he said.

That's why electric-vehicle makers spent part of Tuesday selling their product to representatives of city and state governments that may purchase large fleets and pave the way for such a service infrastructure, he said.

The electric car has fewer moving parts, and thus requires far less maintenance than its gas-powered counterpart, Hobbs said. To recharge the battery, the owner simply connects a cable from a recharger inside the car to an electric outlet in the garage.

GMC plans to market in the mid 1990s an electric sports car that is comparable in price to its current models, Hobbs said.

In the meantime, the city of Phoenix has purchased an electric shuttle bus for $188,000 to supplement its gas-driven downtown shuttles, which sell for $147,000. The new bus will arrive in April but until then, the city has borrowed an electric shuttle from the city of Santa Barbara. Free rides are available from 11 a.m. to 2 p.m. daily on the downtown shuttle route.

Driver Cyndi Garrett said the electric model steers easily, belches no fumes and makes little noise.

[From the Phoenix El Sol, Sept. 27, 1991]

APS AND MOTOROLA JOINTLY DEVELOP EXCITING ELECTRIC VEHICLE PROJECT

Representatives from APS, Motorola and Dreisbach ElectroMotive Inc. joined Governor Fife Symington and U.S. Environmental Protection Agency Administrator William K. Reilly in Phoenix to discuss new technology in electric car technology. The event hosted by APS and Motorola included the exhibition of the Zinc-Air Electric Honda CRX that holds the world record of 251 miles on a single charge.

APS and Southern California Edison cosponsor the CRX experiment which started a year ago. The Zinc-Air powered Honda CRX is a joint research and development project between APS and Southern California Edison (SCE). The purpose is to develop a high performance Zinc-Air powered electric vehicle.

Honda of North America joined the project in April of this year and the project if contracted through ElectroMotive Inc., who developed the Zinc-Air battery. DEMI Zinc-Air technology is a wall-plug rechargeable gelled electrolyte (and hence maintenance-free) variant of the Zinc-Oxygen battery couple commonly used in Hearing Aids. DEMI has made major breakthroughs in making the battery rechargeable and in increasing the battery's power density while maintaining mechanical simplicity, a very low raw material cost and a very high energy density of up to 200 Wh/kg. or about 8 times that of a conventional lead-acid or Nickel-cadmium batteries.

This new technology for the first time allows electric vehicle performance to approach that of gasoline-powered vehicles. The principle limitation of DEMI Zinc-Air technology is its rather short one to two years service life. However, Zinc-Air used extremely low cost materials so that total operating costs per mile appear competitive with other advanced vehicle economics with additional development.

Laboratory tests of DEMI Zinc-Air cells have yielded up to 75 over 20,000 miles in a properly designed 300-mile range electric vehicle. Testing has demonstrated comparable performance to laboratory systems.

Mid-term goals appear to be a 2-year 35,000 mile battery life which in turn could be economically competitive with $1.25 per gallon gasoline. Electric vehicles (EV's) offer the promise of zero emissions when recharged by solar, wind, hydro or nuclear power plants. Even when recharged by coal or natural gas fired power plants, EV's allow independence from foreign oil and dramatically better energy efficient than conveniently fueled vehicles, yielding energy usages equivalent to 100 mpg or better. California has mandated that 2% of all new vehicles sold in the state by 1988 must be electric, with that percentage rising to 10% by 2003.

[From the Chino Valley Review, Apr. 24, 1991]

ELECTRIC VEHICLE WINS FIRST ELECTRIC RACE IN PHOENIX

PHOENIX.—A specially designed electric vehicle which set new records with sustained speeds of 62 miles per hour and traveled 108 miles in two hours won the first-ever electric vehicle race, held in Phoenix recently.

The vehicle, a Honda CRX, was sponsored by Southern California Edison Company (SCE) and Arizona Public Service Company (APS), and was designed by Dreisbach ElectroMotive, Inc. (DEMI) of Santa Barbara, California.

"We're extremely pleased with the performance of this vehicle," said Joseph Reeves, research manager at SCE. "This win clearly shows that the future of electric vehicles is quite bright."

"This win means that, for the first time, electric vehicles have approached the performance of gasoline-powered vehicles," said Joe McGuirk, APS manager of research. "The new zinc-air battery is a major step toward putting non-polluting electric vehicles on the road."

The Honda, which utilizes a new, bipolar zinc-air-battery, carries up to eight times the energy of other batteries of comparable weight. These new batteries are "environmentally friendly," using only benign materials in their construction. Oxygen from the air combines with a unique zinc paste and a specially formulated catalyst to produce electricity to power the vehicle.

The Honda CRX was chosen by DEMI for its aerodynamic design and structural suitability. "We had high hopes for this vehicle, and they were all realized," said Michael Cheiky, director of research for DEMI. "This car didn't even exist seven weeks ago, and today it set new records for speed and distance. To say we're pleased is an understatement!"

The Honda CRX was one of the 13 electric cars entered in the Solar and Electric 500 stock car race held at Phoenix International Raceway. The closed-circuit track provided SCE and APS an opportunity to test the vehicle under controlled conditions. In qualifying runs, the Honda CRX set fast time and a new national record, averaging 69.436 miles per hour on the one-mile paved oval.

The $20,000 first prize was awarded to SCE, APS and DEMI immediately following the conclusion of the race. The winning driver was Chris Smith, SCAA Formula Atlantic champion, who is used to driving much faster vehicles.

"This was a different experience for me," he said, "but I really enjoyed the opportunity to demonstrate what electric vehicles can do."

The Honda still had a projected 100 miles left on its charge when the race concluded. DEMI will continue to pursue development of the zinc-air battery for use in other electric vehicles.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, was leader time reserved?

The PRESIDING OFFICER. Leader time has been reserved.

Mr. DOLE. Mr. President, in addition to the leader's time, I ask for 10 additional minutes.

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

ECONOMIC GROWTH ACCELERATION ACT OF 1992

Mr. DOLE. Mr. President, at the request of President Bush, I am today officially introducing the administration's Economic Growth Acceleration Act of 1992.

This legislation, combined with the President's entire budget proposal, represents an ambitious plan, with real substance, real vision and real solutions for real people. The President's program features much-needed tax incentives for working and earning America to help get the economy moving again—and just as important, it does so without busting congressional spending caps; without jacking up the Federal deficit; and without putting our Nation's security at risk.

Is it a perfect plan? It may not be, but the President's plan is light years ahead of Congress, despite all the criticism we have been hearing from some of the grumps on Capitol Hill. The President has a plan.

So why don't the partisan critics in Congress just level with the American people: Congress does not have a plan. Let me repeat, the President's critics—House and Senate Democrats—do not have a plan. And if you ask the American people these days, they will tell you most Members of Congress do not have a clue.

So let us follow the leadership of the man with the plan, President Bush. He has proposed a comprehensive plan that responsibly targets tax relief and spending priorities.

The President's Economic Growth Acceleration Act I am introducing today contains seven key elements.

And I have listed those seven key elements on the chart. We also have 44 days until the March 20 deadline. We will be speaking every day and ripping off one of these and pretty soon we will be down to zero. Maybe by then we will have enacted this package.

But let me just briefly explain the seven problems.

A new $5,000 tax credit for first-time home buyers; penalty-free IRA withdrawals; real estate investment by pension funds; and passive loss relief—four incentives that will help spark the sluggish real estate market, and help bring the dream of homeownership within the reach of more Americans;

Job-creating growth incentives such as a reduction in the capital gains tax rate—we believe that is very, very important—and as President Bush said in his State of the Union Message, 60 percent of the people who will benefit from the lower rate have incomes under $50,000. So it is not something for the rich.

Mr. SASSER. Will the minority leader yield for a question on that?

Mr. DOLE. I would like to complete my statement. I know the Senator from Tennessee has all kinds of charts. I only have one.

An investment tax allowance to help businesses purchase new equipment—and create jobs;

And permanent simplification of the alternative minimum tax depreciation rules, a measure to curb administrative costs—and headaches—for many taxpayers.

The second phase of the President's package, which I will introduce later this week, proposes additional measures that also mean real money for working Americans. The President's plan reduces taxes on working families by increasing the personal exemption for dependent children by $500 from the current level of $2,300.

The President is also seeking repeal of the so-called luxury tax, a phony soak-the-rich scheme that pushed American workers off the aviation and boat production lines and right onto the unemployment lines. The President has also called for an extension of the targeted jobs tax credit, and a permanent research and development tax credit.

The President has already initiated an automatic change to the income tax withholding schedule that will put dollars directly into the hands of hard-working middle-income taxpayers instead of into the pockets of Uncle Sam.

This is no gimmick, as one member of the President's Cabinet incorrectly stated.

In my own home State of Kansas, the Federal Government over-withholds more than a half billion dollars. This is in Kansas, every year from more than 700,000 hard-working Kansans. If you ask me, the American people have no interest in making any more interest-free loans to Washington.

Above all, the President's program is responsible, and pays for the growth initiatives—within the budget agreement—with tough proposals on Government spending. The remainder of the President's package—to be introduced later this week—contains his initiatives to contain the explosive growth of the Federal budget.

I invite every Democrat—every critic—to study this legislation along with the President's entire package. Again, no one, including myself, will support every item in the President's budget plan. But taken as a whole, President Bush's package provides just what the doctor ordered for our economy: tax relief, economic growth, and jobs.

So, let us roll up our sleeves and get to work. The President was right to give Congress a deadline for action—by March 20, the President and the American people will expect us to get the job done. President Bush delivered, now it is up to Congress to do the same.

The American people will be watching. It is 44 days and counting; 44 days to make a difference for every man, woman, and child in America; 44 more days to decide if Congress will be part of the solution, or part of the problem.

I yield the remainder of my time equally divided between the Senator from New Mexico and the Senator from Pennsylvania.

Mr. President, I ask unanimous consent that the Economic Growth Acceleration Act of 1992 be printed in the RECORD.

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

S. 2195

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

TITLE I—ACCELERATED GROWTH

SEC. 101. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the "Economic Growth Acceleration Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Rvenue Code of 1986.

(c) SECTION 15 SHALL NOT APPLY.—Except as otherwise expressly provided, no amendment made by this title shall be treated as a change in rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) TABLE OF CONTENTS.—

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Sec. 141. Credit for first-time homebuyers.

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Subtitle A—Provisions Relating to Capital Gains

SEC. 111. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. REDUCTION IN CAPITAL GAINS TAX FOR NONCORPORATE TAXPAYERS.

"(a) DEDUCTION ALLOWED FOR CAPITAL GAINS.—

"(1) IN GENERAL.—If, for any taxable year, a taxpayer other than a corporation has a net capital gain, an amount equal to the sum of the applicable percentages of the applicable capital gain shall be allowed as a deduction.

"(2) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under paragraph (1) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by income beneficiaries (other than corporations) as gain derived from the sale or exchange of capital assets.

"(b) APPLICATION PERCENTAGES.—For purposes of this subsection, the applicable percentages shall be the percentages determined in accordance with the following table:

"In the case of:	The applicable percentage is:
1-year gain	15
2-year gain	30
3-year gain	45

"(c) GAIN TO WHICH DEDUCTION APPLIES.—For purposes of this section—

"(1) APPLICABLE CAPITAL GAIN.—The term 'applicable capital gain' means 1-year gain, 2-year gain, or 3-year gain determined by taking into account only gain which is properly taken into account on or after February 1, 1992.

"(2) 3-YEAR GAIN.—The term '3-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 3 years.

"(3) 2-YEAR GAIN.—The term '2-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by 3-year gain, or

"(B) the long-term capital gain determined by taking into account only gain from the sale or exchange of qualified assets held more than 2 years but not more than 3 years.

"(4) 1-YEAR GAIN. The term '1-year gain' means the net capital gain for the taxable year determined by taking into account only—

"(A) gain from the sale or exchange of assets held more than 1 year but not more than 2 years, and

"(B) losses from the sale or exchange of assets held more than 1 year.

"(5) SPECIAL RULES FOR GAIN ALLOCABLE TO PERIODS BEFORE 1994.—For purposes of this section—

"(A) GAIN ALLOCABLE TO PERIODS BEGINNING ON OR AFTER FEBRUARY 1, 1992 AND BEFORE 1993.—In the case of any gain from any sale or exchange which is properly taken into account for the period beginning on February 1, 1992 and ending on December 31, 1992, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 3-year gain.

"(B) GAIN ALLOCABLE TO 1993.—In the case of any gain from any sale or exchange which is properly taken into account for periods during 1993, gain which is 1-year gain or 2-year gain (without regard to this subparagraph) shall be treated as 2-year gain and 3-year gain, respectively.

"(6) SPECIAL RULES FOR PASS-THROUGH ENTITIES.—

"(A) IN GENERAL.—In applying this subsection with respect to any pass-throgh entity, the determination of when a sale or exchange has occurred shall be made at the entity level.

"(B) PASS-THROUGH ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-through entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(7) RECAPTURE OF NET ORDINARY LOSS UNDER SECTION 1231.—For purposes of this subsection, if any amount is treated as ordinary income under section 1231(c) for any taxable year—

"(A) the amount so treated shall be allocated proportionately among the section 1231 gains (as defined in section 1231(a)) for such taxable year, and

"(B) the amount so allocated to any such gain shall reduce the amount of such gain."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) MINIMUM TAX.—Section 56(b)(1) is amended by adding at the end thereof the following new subparagraph:

"(F) CAPITAL GAINS DEDUCTION DISALLOWANCE.—The deduction under section 1202 shall not be allowed."

(d) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting", reduced by the amount of any deduction allowable under section 1202 attributable to gain from such property" after "investment".

(3)(A) Subparagraph (B) of section 170(e)(1) is amended by inserting "the nondeductible percentage" before "the amount of gain".

(B) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), the term 'nondeductible percentage' means 100 percent minus the applicable percentage with respect to such property under section 1202(b), or, in the case of a corporation, 100 percent."

(4)(A) Paragraph (2) of section 172(d) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 221 (as redesignated by section 224(a) of this Act) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deductions for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 (as amended by section 224(c) of this Act) is amended by striking "reference" in the item relating to section 221 and inserting "references".

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for net capital gain) shall not be taken into account."

"(8) Subparagraph (C) of section 643(a)(6) is amended—

(A) by inserting "(i)" before "there", and

(B) by inserting ", and (ii) the deduction under section 1202 (relating to deduction of excess of capital gains over capital losses) shall not be taken into account" before the period at the end thereof.

(9) Paragraph (4) of section 691(c) is amended by striking "1202, and 1211" and inserting "1201, 1202, and 1211".

(10) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(11) Paragraph (1) of section 1402(i) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(12)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking the last sentence.

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act of 1936, is amended by striking the last sentence.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Reduction in capital gains tax for noncorporate taxpayers."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending on or after February 1, 1992.

(2) TREATMENT OF COLLECTIBLES.—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after February 1, 1993.

(B) SPECIAL RULE FOR 1992 TAXABLE YEAR.—In the case of any taxable year which includes February 1, 1992, for purposes of section 1202 of the Internal Revenue Code of 1986 and section 1(g) of such Code, any gain or loss from the sale or exchange of a collectible (within the meaning of section 1222(12) of such Code) shall be treated as gain or loss from a sale of exchange occurring before such date.

SEC. 112. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect to such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than a sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property, shall be treated as gain which is ordinary in-

come. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENT.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect to the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188, 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on the day before the date of enactment of the Economic Growth Acceleration Act of 1992)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subsection (d) of section 1250 is amended by striking paragraph (10).

(4) Section 1250 is amended by striking subsections (e) and (f) and by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(5) Paragraph (5) of section 48(q) is amended to read as follows:

"(5) RECAPTURE OF REDUCTION.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(6) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on the day before the date of enactment of the Economic Growth Acceleration Act of 1992)".

(7)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(1)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(10) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(11) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on the day before the date of enactment of the Economic Growth Acceleration Act of 1992)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions made on or after February 1, 1992, in taxable years ending on or after such date.

Subtitle B—Provisions Relating to Passive Losses and Depreciation

SEC. 121. PASSIVE LOSS RELIEF FOR REAL ESTATE DEVELOPERS.

(a) TREATMENT OF REAL ESTATE DEVELOPMENT ACTIVITIES.—Subsection (c) of section 469 (relating to the limitation on passive activity losses and credits) is amended by adding at the end the following new paragraph:

"(7) REAL ESTATE DEVELOPMENT ACTIVITY.—The real estate development activity of a taxpayer shall be treated as a single trade or business activity that is not a rental activity."

(b) DEFINITION.—Subsection (j) of section 469 is amended by adding at the end thereof the following new paragraph:

"(13) REAL ESTATE DEVELOPMENT ACTIVITY.—

"(A) IN GENERAL.—The real estate development activity of a taxpayer shall include all activities of the taxpayer (determined without regard to subsection (c)(7) and this paragraph) in which the taxpayer actively participates and that consist of the performance of real estate development services and the rental of any qualified real property.

"(B) REAL ESTATE DEVELOPMENT SERVICES.—For purposes of this paragraph, real estate development services include only the construction, substantial renovation, and management of real property and the lease-up and sale of real property in which the taxpayer holds an interest of not less than 10 percent.

"(C) QUALIFIED REAL PROPERTY.—For purposes of this paragraph, real property is qualified real property if the taxpayer materially participated in the construction or substantial renovation of such property."

(c) EFFECTIVE DATE.—The amendments made by this section are effective for taxable years ending on or after December 31, 1992.

SEC. 122. SPECIAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1992.

(a) IN GENERAL.—Section 168 is amended by adding at the end thereof the following new subsection:

"(j) SPECIAL RULE FOR EQUIPMENT ACQUIRED IN 1992.—

"(1) ADDITIONAL ALLOWANCE.—There shall be allowed, in addition to the reasonable allowance provided for by section 167(a), a depreciation deduction determined under paragraph (2) with respect to qualified equipment.

"(2) DETERMINATION OF ADDITIONAL ALLOWANCE.—

"(A) IN GENERAL.—The additional allowance shall equal 15 percent of the purchase price of the qualified equipment.

"(B) PURCHASE PRICE.—For purposes of paragraph (A), the purchase price of qualified equipment under paragraph (4)(D), cost is determined on the date the property is placed in service.

"(3) WHEN ADDITIONAL ALLOWANCE MAY BE CLAIMED.—The additional allowance may be claimed in the tax year in which the qualified equipment is placed in service.

"(4) DEFINITIONS AND SPECIAL RULES.—

"(A) QUALIFIED EQUIPMENT.—For purposes of this subsection, the term 'qualified equipment' means property that—

"(i) is new property,

"(ii) is section 1245 property (within the meaning of section 1245(a)(3)),

"(iii) is—

"(I) acquired on or after February 1, 1992, but only if no binding contract for the acquisition was in effect before that date, or

"(II) acquired pursuant to a binding contract entered into on or after February 1, 1992, and before January 1, 1993,

"(iv) is placed in service before July 1, 1993, and

"(v) is not defined as disqualified property in regulations prescribed by the Secretary.

"(B) NEW PROPERTY.—For purposes of this paragraph, property is new property if the original use of the property commences with the taxpayer and commences on or after February 1, 1992. Except as otherwise provided in regulations, repaired or reconstructed property is not new property, regardless of the extent of the repairs or reconstruction.

"(C) ACQUIRE.—For purposes of this paragraph, a taxpayer is considered to 'acquire' property on the date the taxpayer obtains physical control or possession of the property, or on such other date as the Secretary may prescribe by regulations.

"(D) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—If a taxpayer manufactures, constructs, or produces property for the taxpayer's own use, the property shall be treated as 'qualified equipment' only if—

"(i) the property meets the requirements of clauses (i), (ii), (iv), and (v) of paragraph (4)(A), and

"(ii) the taxpayer begins manufacturing, constructing, or producing the property on or after February 1, 1992, and before January 1, 1993.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(b) BASIS ADJUSTMENTS.—Subsection (c) of section 167 is amended by adding at the end thereof the following new sentence: "If a taxpayer claims the additional allowance provided by section 168(j) with respect to qualified equipment in a taxable year, the basis of the qualified equipment is reduced under section 1016 by the amount of the additional allowance before the depreciation deduction under paragraph (a) is determined for that taxable year."

(c) ALTERNATIVE MINIMUM TAX.—Paragraph (1) of section 56(a) is amended—

(1) by inserting "or (iii)" after "(ii)" in subparagraph (A)(i), and

(2) by adding at the end thereof the following new clause:

"(iii) The additional allowance provided by section 168(j) for certain equipment shall apply in determining the amount of alternative minimum taxable income. The basis adjustment required for the additional allowance provided by section 168(j) shall be made before the depreciation deduction allowable in determining alternative minimum taxable income under this paragraph is determined."

(d) CROSS REFERENCE.—Subsection (e) of section 1016 is amended by adding at the end thereof the following new paragraph:

"(3) For the order in which basis adjustments should be made for depreciation in the case of property with respect to which the special additional allowance is claimed under section 168(j), see section 167(c)."

(e) EFFECTIVE DATE.—The amendments made by this section are effective February 1, 1992.

SEC. 123. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) GENERAL RULE.—Clause (i) of section 56(g)(4)(A) is amended to read as follows:

"(i) PROPERTY PLACED IN SERVICE AFTER 1989 AND PRIOR TO FEBRUARY 1, 1992. The depreciation deduction with respect to any property placed in service—

"(I) in a taxable year beginning after 1989, and

"(II) prior to February 1, 1992, shall be determined under the alternative system of section 168(g).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for property placed in service on or after February 1, 1992.

Subtitle C—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 131. REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) INTERESTS IN MORTGAGES.—The last sentence of subparagraph (B) of section 514(c)(9) is hereby transferred to subparagraph (A) of section 514(c)(9) and added at the end thereof.

(b) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—For purposes of section 514(c)(9)(B), except as otherwise provided by regulations, the following additional rules apply—

"(i) IN GENERAL.—

"(I) For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in clause (iii) or (iv) shall be disregarded if no more than 10 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(II) Clause (v) of subparagraph (B) shall not apply to the extent the financing is commercially reasonable and is on substantially the same terms as loans involving unrelated persons; for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary.

"(ii) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—In the case of a qualifying sale out of foreclosure by a financial institution, clauses (i) and (ii) of subparagraph (B) shall not apply. For this purpose, a 'qualifying sale out of foreclosure by a financial institution' exists where—

"(I) a qualified organization acquires real property from a person (a 'financial institution') described in sections 581 or 591(a) (including a person in receivership) and the financial institution acquired the property pursuant to a bid at foreclosure or by operation of an agreement or of process of law after a default on indebtedness which the property secured ('foreclosure'), and the financial institution treats any income realized from the sale or exchange of the property as ordinary income,

"(II) the amount of the financing provided by the financial institution does not exceed the amount of the financial institution's outstanding indebtedness (determined without regard to accrued but unpaid interest) with respect to the property at the time of foreclosure,

"(III) the financing provided by the financial institution is commercially reasonable and is on substantially the same terms as loans between unrelated persons for sales of foreclosed property (for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary), and

"(VI) the amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property ('participation feature') does not exceed 25 percent of the principal amount of the financing provided by the financial institution, and the participation feature is payable no later than the earlier of satisfaction of the financing or disposition of the property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt-financed acquisitions of real estate made on or after February 1, 1992.

SEC. 132. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 131 of this Act) is amended by adding at the end thereof the following new subparagraph:

"(H) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) investments in the partnership are organized into units that are marketed primarily to individuals expected to be taxed at the maximum rate prescribed for individuals under section 1,

"(II) at least 50 percent of each class of interests is owned by such individuals,

"(III) the partners that are qualified organizations owning interests in a class participate on substantially the same terms as other partners owning interests in that class, and

"(IV) the principal purpose of partnership allocations is not tax avoidance.

"(ii) EXCEPTION WHERE TAXABLE PERSONS OWN A SIGNIFICANT PERCENTAGE.—In the case of any partnership, other than a partnership to which clause (i) applies, in which persons who are expected (under the regulations to be prescribed by the Secretary), at the time the partnership is formed, to pay tax at the maximum rate prescribed in section 1 or 11 (whichever is applicable) throughout the term of the partnership own at least a 25 percent interest, the provisions of subparagraph (B) shall not apply if the partnership satisfies the requirements of subparagraph (E)."

(b) PUBLICLY TRADED PARTNERSHIPS; UNRELATED BUSINESS INCOME FROM PARTNERSHIPS.—Subsection (c) of section 512 is amended by striking paragraph (2) (relating to publicly traded partnerships), by redesignating paragraph (3) as paragraph (2), and by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

Subtitle D—Provisions Affecting Homebuyers

SEC. 141. CREDIT FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—Subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—If an individual who is a first-time homebuyer purchases a principal residence (within the meaning of section 1034), there shall be allowed to such individual as a credit against the tax imposed by this subtitle an amount equal to 10 percent of the purchase price of the principal residence.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed $5,000.

"(2) LIMITATION TO ONE RESIDENCE.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

"(3) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return under section 6013, the credit under this section is allowable only if both the husband and wife are first-time homebuyers, and the amount specified under paragraph (1) shall apply to the joint return.

"(4) OTHER TAXPAYERS.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and the sum of the amount of credit allowed to such individuals shall not exceed the lesser of $5,000 or 10 percent of the total purchase price of the residence. The amount of any credit allowable under this section shall be apportioned among such individuals under regulations to be prescribed by the Secretary.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of any other credits allowable under this chapter.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of the acquisition thereof.

"(2) FIRST-TIME HOMEBUYER.—

"(A) IN GENERAL.—The term 'first-time homebuyer' means any individual is such individual has not had a present ownership interest in any residence (including an interest in a housing cooperative) at any time within the 36-month period ending on the date of acquisition of the residence on which the credit allowed under subsection (a) is to be claimed. An interest in a partnership, S corporation, or trust that owns an interest in a residence is not considered an interest in a residence for purposes of this paragraph except as may be provided in regulations.

"(B) CERTAIN INDIVIDUALS.—Notwithstanding subparagraph (A), an individual is not a first-time homebuyer on the date of purchase of a residence if on that date the running of any period of time specified in section 1034 is suspended under subsection (h) or (k) of section 1034 with respect to that individual.

"(3) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—No credit is allowable under this section if—

"(A) the residence is acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707 (b), or

"(B) the basis of the residence in the hands of the person acquiring it is determined—

"(i) in whole or in part of reference to the adjusted basis of such residence in the hands of the person from whom it is acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(d) RECAPTURE FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (determined without regard to subsection (e)) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—The provisions of paragraph (1) do not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period to which reference is made under paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence.

"(e) PROPERTY TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—The provisions of this section apply to a principal residence if—

"(A) the taxpayer acquires the residence on or after February 1, 1992, and before January 1, 1993, or

"(B) the taxpayer enters into, on or after February 1, 1992, and before January 1, 1993, a binding contract to acquire the residence, and acquires and occupies the residence before July 1, 1993."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time homebuyer."

(c) EFFECTIVE DATE.—The amendments made by this section are effective on February 1, 1992.

SEC. 142. PENALTY-FREE WITHDRAWALS FOR FIRST HOME PURCHASE.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans), as amended by section 213 of this Act, is further amended by adding at the end thereof the following new subparagraph:

"(E) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR FIRST HOME PURCHASE.—A distribution to an individual from an individual retirement plan with respect to which the requirements of paragraph (7) are met."

(b) DEFINITIONS.—Subsection (t) of section 72 is amended by adding at the end thereof the following new paragraph:

"(6) REQUIREMENTS APPLICABLE TO FIRST HOME PURCHASE DISTRIBUTION.—For purposes of paragraph (2)(E)—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a distribution if—

"(i) DOLLAR LIMIT.—The amount of the distribution does not exceed the excess (if any) of—

"(I) $10,000, over

"(II) the sum of the distributions to which paragraph (2)(E) previously applied with respect to the individual who is the owner of the individual retirement plan.

"(ii) USE OF DISTRIBUTION.—The distribution—

"(I) is made to or on behalf of a qualified first home purchaser, and

"(II) is applied within 60 days of the date of distribution to the purchase or construction of a principal residence of such purchaser.

"(iii) ELIGIBLE PLANS.—The distribution is not made from an individual retirement plan which—

"(I) is an inherited individual retirement plan (within the meaning of section 408(d)(3)(C)(ii)), or

"(II) any part of the contributions to which were excludable from income under section 402(c), 402(a)(7), 403(a)(4), or 403(b)(8).

"(B) QUALIFIED FIRST HOME PURCHASER.—For purposes of this paragraph, the term 'qualified first home purchaser' means the individual who is the owner of the individual retirement plan, but only if—

"(i) such individual (and, if married, such individual's spouse) had not present ownership interest in a residence at any time within the 36-month period ending on the date for which the distribution is applied pursuant to subparagraph (A)(ii), and

"(ii) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from an individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account—

"(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

"(II) for purposes of subclause (II) of subparagraph (A)(i).

"(D) PRINCIPAL RESIDENCE.—For purposes of this paragraph, the term 'principal residence' has the meaning given such term by section 1034.

"(E) OWNER.—For purposes of this paragraph, the term 'owner' means, with respect to any individual retirement plan, the individual with respect to whom such plan was established."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after February 1, 1992.[S05FE2-X1]{S987}1, 1992.

Mr. SPECTER. Mr. President, I support the President's legislative package and I urge my colleagues to turn to consideration of this important measure at the earliest possible moment. There is no doubt that the United States is suffering from very serious economic problems.

Mr. President, my last statement is worth repeating. The United States has very, very serious economic problems and these are problems which ought to be addressed by Congress.

The President has shown leadership by coming forward with this package and, while I do not agree with all parts of the President's package, I am an original cosponsor because I think that there are very important provisions in the package and, more important, it provides a vehicle for us to move ahead.

Last Friday, I urged my colleagues to stay in session during the full February session and the full March session. I urge that the scheduled recess now planned from February 7 to February 18 be canceled and the recess scheduled for March 6 to March 16 be canceled. I repeated that comment on Monday of this week. I understand that plans may be underway to cancel the March recess. But I believe that we ought to be in session during February as well. When you talk about a recess, even from February 7 to February 18, 11 days, 6 working days, what we ought to be talking about are plans to move ahead with this President's program right now.

The March 20 date is the outside limit. However, there is no reason why we should not complete action earlier, if that is possible. Some consideration has been raised that there is nothing that the Senate can do next week because, constitutionally, tax packages must originate in the House. I would differ, Mr. President, with those who say there is nothing we can do next week. We could take up the legislative proposal; we could debate it; we could adopt amendments; we could come all the way up until third reading without violating any constitutional restraint, without subjecting the work which we have done to a blue slip.

I know the Finance Committees are scheduled to work next week. I submit to you, Mr. President, we do not need any more hearings on capital gains reduction. We do not need any more hearings on first-time home buyer tax credit. We do not need any more hearings on IRA's. There have been hearings on many of these matters. We have the super IRA bill which has had 74 cosponsors, for a year. We do not need hearings on the investment tax allowance or the pension fund real es-

tate investment or passive loss relief—we know all about passive loss relief—or to simplify the AMT depreciation.

What we need to do is to vote, and that is why I think we ought to be in session next Monday instead of in recess, and we ought to be tackling these important problems at the earliest moment.

Those who disagree with the President's plan, let them step forward and offer amendments; let them step forward and offer deletions; let them step forward and offer expansions.

Mr. President, Senator DOMENICI and I proposed, on November 19, legislation which would stimulate consumer purchasing power, Senate bill 1984. We have since received a letter from Intergroup Companies, Inc., which outlines a research proposal which shows that the proposal Senator DOMENICI and I introduced would be very substantially stimulative of consumer purchasing power.

I am going to yield at this point to my distinguished colleague from New Mexico. I do not want to use too much time, if some remains.

In fact, when Senator DOMENICI finishes, I will ask for a few more minutes even if it takes a little extension of time.

I thank the Chair and yield the floor to my colleague.

Mr. DOMENICI. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from New Mexico has 7 minutes and 28 seconds.

Mr. DOMENICI. Might I say to my friend from Pennsylvania I will use 5 minutes and yield the balance to him. I yield myself 5 minutes.

WILL THE BILL WORK?

Mr. DOMENICI. Mr. President, let me first address the issue my friend from Pennsylvania raised last. Will the bill that we introduced with reference to using IRA savings and 401(k) savings, within limits, to buy homes or automobiles—will it work? Actually, I was amazed to see the results of a very large survey of American households. They have been asked questions which relate to whether or not they would take advantage of this, short-lived permission to use IRA's without tax penalties and defer the regular income taxes over a 4-year period of time.

The group that did the survey suggested that the cars might very well be mostly American. They suggested they did not think our international trading partners would object to us limiting the use of withdrawn funds to buying American cars because they, too—the Japanese and the Germans—want an American economy that recovers.

But the numbers that would take advantage of the plan, if this survey is correct, are startling. It should be looked at carefully. I believe the leadership here in the Senate should look at it carefully, because it will work.

Now, Mr. President, the President's package: 44 days remain for the U.S. Congress to pass a bill that will cause Americans to be put back to work, that will create jobs, that will cause growth, that will enhance and increase our productivity, and ultimately the standards of living of Americans.

President Bush's economic growth plan, an agenda for growth, is rather simple. We can take a long time studying all kinds of proposals. We can even listen to those who say we ought to cut taxes across the board in the United States, or those who say the middle-income people of America ought to get a tax cut. The truth of the matter is the American people are not dumb. They understand that we have an enormous deficit and they want some real, permanent fixes to this economy. They are not looking for any quick fixes. And I am very hopeful they are going to distinguish between economic stimulus, job creating stimulus, and political stimulus.

I think there is a lot of the latter around, and some would like to use it to overshadow the real stimulus, which is jobs, economic growth. And how do you do it?

I submit 44 days is long enough for us to get the job done. We on this side are going to be ready. We think the President has an exciting plan. It will get the American economy going and give the American economic machine the kind of boost it needs. We do not believe we need a myriad of solutions. We do not think we have to spend untold numbers of billions of dollars.

We think there is a pending stimulus being built up because of interest rates, oil prices, the fact that all of these things are working in the economy right now. The new withholding schedule will put another $25 billion into this economy. Add those up, and the economy is going to recover. We need to push it in the right direction, not send the wrong signals.

I close this discussion by saying sometime tomorrow, I will put some numbers up on this plan as to how many jobs it is going to create, how it is going to affect the American standard of living, and then I will supply the Senate with some information about what has happened to the long-term interest rate since we have been busy talking about tax cuts. I believe it has gone up substantially.

I will try to convert that increase into the damage it does to the American economy. If it goes up much more, we probably cannot even make up for it with a politically stimulated tax cut.

I yield the floor to my friend from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, at the conclusion of my remarks, I ask unanimous consent that the full text of a letter from the chairman and chief executive officer, Philip H. Geier, Jr., of the Interpublic Group of Companies, Inc., to the Secretary of the Treasury, Nicholas Brady, dated December 24, 1991, be printed in the RECORD.

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

(See exhibit 1.)

FINDINGS IN A SURVEY OF 1,000 PEOPLE

Mr. SPECTER. Mr. President, briefly, the essence of a finding on a survey of 1,000 people, which is a large sampling that we are all familiar with here, using polls as much as we do, has these essential findings: The proposed use of IRA and 401(k) funds would increase intentions to buy or improve a home or buy a car from 26 million to 44 million families, a gain of 18 million families.

Of those surveyed, over 10,000,300 families say they are very likely to take positive action. Another 20,700,000 households say that they are somewhat likely to act on this proposal. Of the 31 million households, 65 percent say they will use the maximum of $10,000; 18 percent report they would use more than $5,000 but less than $10,000. This proposed legislation would motivate 26 million American families to spend more than $5,000 on housing and autos, with another 5 million families spending less than $5,000.

If they do as they say, these 31 million families would theoretically transfer over $224 billion from existing IRA and 401(k) funds to the housing and auto industries.

Mr. President, the balance of the letter spells out in some greater detail what the impact would be, and it is obvious that there is a tradeoff in terms of savings being used. But these savings are really for a rainy day, and the realities are that we have a cloudburst out there. The $800 billion in IRA's and 401(k)'s are in addition to approximately $3 trillion in other retirement funds, and only a portion of the 401(k)'s and IRA's would be used because of the limitation of the proposals which Senator DOMENICI and I have advanced.

Mr. President, the nub of the situation is that leadership is urgently required from the Federal Government today to deal with the economic recession. The President has provided the leadership from the executive branch and now it is up to the Congress to act.

There is no reason, Mr. President, why we cannot do better than the President's deadline of March 20. Let some leadership come from the Congress, Mr. President. Let it come from this body. Let it originate here. Beyond the possible cancellation of the March recess, let us move to work next week to start with this legislative proposal, to make amendments, to make additions, to vote on it, to be in the position to deal with the very serious economic problems which confront America today.

Mr. President, I am joining the distinguished Republican leader, Senator DOLE, in cosponsoring the President's legislative proposals for economic recovery because it is urgent that the Congress move forward expeditiously to legislate on this important subject. In joining as an original cosponsor, I wish to make it clear that I do not agree with all aspects of the proposed legislation but do believe it is a starting point for action at this time.

I agree with some of the President's proposals; I disagree with some of the President's proposals; I believe there should be significant additions to the President's proposals. Most fundamentally, however, I am convinced that action should be taken promptly because of the Nation's serious economic downturn, and this legislative package will provide a vehicle for immediate congressional action on this subject.

On November 19, 1991, Senator DOMENICI and I introduced S. 1984 which would allow Americans to withdraw penalty-free up to $10,000 from their IRA, 401(k) and Keogh retirement plans to stimulate consumer purchasing power on major items such as home purchases, college tuition, medical expenses, new cars and home improvements. There are more than $800 billion in assets currently existing in IRA's, 401(k)s and Keogh plans. Our bill would permit individuals with incomes under $75,000—$100,000 for married couples filing jointly—to withdraw a small portion of these assets and put them into our economy by spending them on the items I have mentioned. In addition, the tax on such withdrawals would be payable over a 4-year period. I am considering, however, making the withdrawal tax-free so long as Americans recontributed to their IRA's the amount that was withdrawn.

This idea has been broadly discussed with the Secretary of the Treasury, Nicholas Brady; the Chairman of the Federal Reserve Board, Alan Greenspan; and the Chairman of the President's Council of Economic Advisers, Michael Boskin. All have been receptive and believe the idea is worth exploring, although no final comments have been given. Presently, my staff is working with the staff of Messrs. Brady, Greenspan, and Boskin to determine the stimulative effect on consumer spending as a result of our bill. I might add that we have received correspondence from interested individuals suggesting that a significant number of Americans would take advantage of our proposal.

On November 14, 1991, I urged that the Congress stay in session during December/January because of the seriousness of the economic downturn. During my travels through Pennsylvania from Thanksgiving until we reconvened on January 21, I found serious problems in my State.

Following the President's State of the Union speech on January 28, I made floor statements on January 31 and February 3 urging that the Congress stay in session without recess in February or March in order to meet the President's deadline of March 20 to act on a legislative program for economic recovery.

The President's legislative proposals will provide the starting point for prompt congressional action to stimulate an economic recovery.

I thank the Chair and yield the floor.

EXHIBIT 1

THE INTERPUBLIC GROUP
OF COMPANIES, INC.,
New York, NY, December 24, 1991.

Mr. NICHOLAS F. BRADY,
Secretary of the Treasury, Department of the Treasury, Washington, DC.

DEAR NICK: I recently reviewed the Specter/Domenici Bill (S#1984) which has the possibility of stimulating the economy in two key sectors—housing and automobiles—major indicators of economic vitality both with the so-called experts on the economy, but more importantly, with the consumer (not to mention the impact this would have on unemployment).

We amended some of the aspects of the Bill (see attachment) and put it into national consumer research; I found the results more than interesting, and I believe you and the White House should review the data and the approach as a possible major element in a package of measures for stimulating an economic recovery.

With due respect, I point out that the consumer confidence level, which is a major problem and has been so for many months, was not addressed. The past is the past but if scenarios had been worked out in advance (what if the economy did not respond, etc.), the Administration might be in a better position to be on the attack with Congress. Of course, the media has not helped the situation at all. If you consider that the 1981–82 recession which had almost 10% unemployment and interest rates in the high teens (but a solid banking system and reasonable ability to lend), versus what we have today where the primary problems of the lending institutions require not only larger downpayments but a stronger consumer creditworthiness as well, we can understand one of the major problems we face.

Because I share this concern and was intrigued by the Specter/Domenici approach, my company commissioned a study through a leading research company to estimate the number of American families who would make use of their IRA and 401K savings for housing and automobiles on a one-time basis, and to estimate the amount of money these families would invest above the levels they would spend without the use of these funds. Please note that the proposal provides that the IRA and 401K monies used would be tax free for five years, whereupon the consumer could put this money back into those retirement funds on a tax free basis (see attachment). Therefore, the program would be revenue neutral.

We have amended the Specter/Domenici Bill as follows:

A. We limited the use of IRA and 401K funds to housing and autos. These industries are the key industries for economic resurgence, and new vigor here would have a huge effect on the overall economy.

B. We suggested that autos purchased have at least 75% of content made in the USA. I recognize the GATT issue, but I believe our trading partners could be persuaded that a non-deficit 6 month domestic program that lifts the US economy would be to their own benefit over time as well. Additionally, this provision certainly would shake up the Japanese which the President politically must consider.

The research, a national probability sample of 1,000 households, was conducted in the middle of December, and is representative of U.S.A. demographics by age, sex, religion and race. Let me summarize the findings on this basis:

1. This proposed use of IRA and 401K funds would increase intentions to buy or improve a home or to buy a car from 26 to 44 million families—a gain of 18 million families.

2. One in three (33.5%) American families claim they would use some of their IRA and/or 401K funds to buy a new home, improve their home or buy a car under this proposal. Of these, over 10,300,000 families say they are "very" likely to take positive action.

3. Another 20,700,000 households say they are "somewhat" likely to act per this proposal.

4. Of these 31,000,000 households, fully 65% say they would use the maximum $10,000. Another 18% report they would use more than $5,000 but less than $10,000. This proposed legislation would motivate 26,000,000 American families to spend more than $5,000 on housing and autos, with another 5,000,000 families spending less than $5,000.

5. If they do as they say, these 31 million families would theoretically transfer over $224 billion dollars from existing IRA and 401K funds to the housing and auto industries. According to the BEA, American families spent $647 billion in these two sectors in 1990—not including maintenance and operations. At a very minimum, the proposed action would produce impactful double-digit gains in both industries.

6. Over half (55%) of the 31 million families who say they would make use of IRA and/or 401K funds for housing and autos, report they do not intend to invest at this time in new or improved housing or buy a new car without this proposal. In other words, the Specter/Domenici proposal motivates many more people to act now. Using just this 55% figure, the impact would be over $120 billion in incremental spending coming into these two industries at this critical time.

I am very enthused about these findings. Although the sample size is not large, the responses are statistically reliable within 3%. Even if one applies a conservative adjustment to these stated consumer actions, the numbers are still very impressive.

I have heard a lot of qualitative research recently which suggests the President should adopt a more pro-American business stance. While we are all believers in free trade, there is a deep seated popular concern that the Japanese are receiving special treatment with respect to their markets versus ours. This viewpoint is being strengthened by the current U.S. auto industry problems and the attendant negative publicity. I believe this proposal is an appropriate response.

I do hope this study might be of help to you and the President. We would be happy to have our research analyst come to Washington to go over the detailed results with your staff or whomever you wish.

On a related note, a lot of us believe that a cut in the capital gains tax rate would be revenue positive and is the right thing to do. However, I believe the average American family is much more concerned with holding onto or getting jobs, and unless this tax change can be explained simply and suc-

cinctly and backed up with facts on how it creates jobs, we really should let it pass. Our indications are that this will be a detriment with the average person in getting a tax stimulus approved.

In my view, the direction proposed in the Specter/Domenici Bill is exactly right for this time and these conditions.

I hope you and your family have a very happy holiday, and I look forward to seeing you soon in the New Year.

Sincerely,

PHILIP H. GREIR, Jr.

AMENDED STATEMENT OF SENATOR SPECTER'S PROPOSAL AS USED IN RESEARCH

As you may know, recently the US economy has been stagnant. A proposal is before the US Senate to help get things moving again. It is intended to provide the economy with needed stimulation from consumers such as yourself. This Senate proposal would allow consumers to withdraw up to $10,000 from their own individual IRA or 401K accounts penalty free and without tax consequences.

The funds may be used within six months either, for purchase of a home, for improvements to a home or for purchase of an automobile having at least 75% of its content made in the USA.

If consumers choose to eliminate the tax consequence, they only need to return the withdrawal to their IRA or 401K account within the next five tax years.

If consumers choose not to return the funds withdrawn, they can still reduce the tax consequences by paying tax on only ⅕ of the amount in each of the next five years.

How Congress can help Detroit sell a million more new cars, help American builders sell 500,000 more new homes, and American tradesmen improve millions of old homes in the next 6 months.

Without costing the taxpayers a penny.

It's remarkable. It's immediate. And it's a conservative estimate based on an independent market research response to a more effective and more powerful approach to the Specter/Domenici Bill S–1984.

Americans, when recently asked if they could use up to $10,000 of their money currently locked into IRA's and 401K's without penalty to purchase a new home, improve their current home, or buy an automobile or truck that is American-made, overwhelmingly answered "yes."

Indeed, 38% more people than are currently in the auto market said this would turn them from being bystanders into buyers. That's 4.8 million *more* people spending 65 billion new dollars. Out of a projected total of over $200 billion in purchasing power that this bill could unleash.

Additionally, they understood the only time qualification was that they do this in the next six months, and return the money to their accounts within five years to reinstate tax-free benefits without a taxable event taking place.

There are no adverse trade implications on the buying or improving of homes. And to those who question the trade implications on automobiles, the answer is that this is short term and should be seen in tandem with negotiating a voluntary Japanese auto import trade policy based on the Japanese-European quota model.

Support An Amended Senate Bill S–1984.

Americans Using American Money to Invest In Themselves And The Nation.

Mr. RIEGLE. Mr. President, I ask unanimous consent to proceed for a period of time as in the morning business period, as the Republican leader.

Mr. JOHNSTON. Mr. President, reserving the right to object, we have been on this bill for 3 days now. We have disposed of one amendment. I do not want to object, but we have that 44 days up there. That is the clock ticking. Unless we can get to this bill, we are not going to make the 44 days.

I am not going to object, but I am a little frustrated because the rope-a-dope is going on; everything else comes in here ahead of this bill.

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

Mr. JOHNSTON. How much time was requested?

Mr. RIEGLE. A period of time equal to that used in morning business by the minority leader.

Mr. JOHNSTON. How much time?

The PRESIDING OFFICER. The minority leader used or yielded 20 minutes.

Mr. RIEGLE. I was going to ask for 30, but I think I can live with 20, because the Senator from Tennessee also wants to speak.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. RIEGLE. I thank the Chair and thank my colleagues, Mr. President. I think it very important that the remarks just made be responded to.

A MORE BASIC FACT

Mr. RIEGLE. Mr. President, the indication that we have 44 days to act on the plan, if you can call it a plan, that was put forward the other day, really overlooks a more basic fact. And that is this administration, first Reagan-Bush, and now Bush-Quayle, has been in office now 11 years. That is over 4,000 days. They have had 4,000 days to construct an economic growth plan for America, and they have not done it. They have not done it in health care either, or in a host of other areas.

If you look back over that 11-year period of time, it was morning in America for part of it. Then in 1988, it was don't worry, be happy. And now we find ourselves in 1992 with a massive economic problem on our hands, very widespread unemployment in America, and no real answers from this administration that has been in charge as to what to do about it.

The Swiss-cheese plan that was offered the other day is not an answer. In fact, a member of the President's own Cabinet, and I am thinking of Secretary Kemp, was so troubled about it that he felt compelled in a moment of candor to label many of the proposals in that plan as gimmicks.

That is the conclusion that the American people themselves have reached. There have been a number of public opinion polls done just since the State of the Union Message, and by overwhelming numbers—and I will cite them in a moment. I have asked for one of the polls to be brought to the floor. In overwhelming numbers, including, I might say, those persons in the President's own political party, citizens across the country do not feel it is a plausible plan, do not think it will make a major difference. And they see it as something that is being tossed out there on the eve of a national election because there are major economic problems in the country and there is no real plan to deal with them.

Yesterday, on the evening news, there was a scene out in Los Angeles, CA. They were in that community sponsoring a job fair, and there were a few hundred jobs available that were being presented in that job fair. Several thousands of people showed up and were lined up for blocks trying to get into that job fair to compete for one or another of those jobs. Obviously, several thousand of those people are not going to get jobs, and they are desperate. They need work.

It is not just true in California. We saw it the other day in Chicago. In subzero temperatures, the snow blowing, a hotel opening in downtown Chicago offering a handful of jobs, there were several thousand people there standing out in the bitter cold, shifting from one foot to the other, desperate to try to find work—part of the 16 million-plus people of this country today who want full-time work and cannot find it.

We need a real plan, a comprehensive plan. What needs to happen is that the President needs to call together the business and labor leadership of this country to sit down around a table with Government leadership and fashion a plan that can put people to work in large numbers now.

We passed yesterday an unemployment compensation bill, desperately needed, but the people who are going to get those benefits, what they want is a job. They want to go back to work. They do not want to be unemployed, collecting unemployment benefits. They want to be able to work to support themselves and to support their families.

I read today an article from Investor's Daily. The headline on this particular article today says: "Poll Says Most Expect Few Gains From Bush's 1993 Budget Proposals." It goes on to say, "A full 74 percent of the people polled in this national poll said adoption of Bush's proposals will not make a difference in terms of helping the economy. Among Republicans it was 69 percent." That is published today in Investor's Daily. It is an AP story, and I think it speaks for itself in that respect.

We need an economic strategy for America, and it cannot be a Swiss-cheese strategy that helps those up at the top. We have tried that for 11 years, the whole supply-side concept, Reagonomics, send the money up to

the top of the income scale and let it trickle back down; maybe somebody else further down the ladder would get some of it. It was a massive failure. It did not work. It was unfair. It was bad economics.

The country is in trouble today. All across America we see major companies announcing permanent job reductions: IBM one day, Sears Roebuck the next day, GM the next day. Last week it was United Technologies—virtually every company in America laying off, eliminating jobs by the multiples of thousands. So you have engineers now, if they can find work, driving taxicabs. You are finding teachers working in hamburger stands because they cannot get work in teaching where they ought to be applying their skills because America is in serious economic trouble.

The elitists in this administration, some of the economic advisers around the President living off family trust fund income, say, "What's the problem?" The investment advisers that are managing those family trust funds, they invest in all kinds of things. It may be German currency today or Mexican stocks tomorrow, and the money rolls in and the trust fund checks come in every 30 days. They say, "What's the problem?" because they do not have a problem. The problem does not hit them, nor does it hit their children. Their children are not standing in unemployment lines like the sons and daughters of most of the rest of the people of this country, and it is not right.

Mr. SASSER. Will the Senator from Michigan yield on that point right there?

Mr. RIEGLE. Yes, I yield.

Mr. SASSER. I am interested that the Senator from Michigan should refer to the unemployment lines and what is happening with regard to economic growth. We have had a statement made in favor of the so-called Bush economic growth plan. We had Bush, the education President, earlier, and we know now what condition the education system is in this country.

I saw my friend and fellow Tennessean, the Secretary of Education, Lamar Alexander, I say to my friend from Michigan, on television just last evening addressing the National Governors Conference, and he was indicating that the education system in the United States and the performance of American students was some of the worst seen in the industrialized world.

Then we had the environmental President. We were going to have an environmental President on the part of this administration. I do not need to tell my colleagues that the United States has failed to take the lead in cleaning up the environment. My friend and colleague from Tennessee, Senator ALBERT GORE, has expressed his frustration many times about this administration's failure to abide by the environmental rules that other nations are abiding by and failing to take the leadership role in trying to do something about the environmental problems.

Mr. SARBANES. Will the Senator yield on that very point?

Mr. SASSER. Let me make this point, and then I will yield. Now we have, I say to my friend from Maryland, the economic growth President, and we have the economic growth plan there for all to see. Well, here are the results. I say to my friend from Maryland, the President says he wants us to act within 44 days on this economic growth plan. It took him 548 days in this 18-month recession, the longest recession since the Second World War, to come forward and even propose some sort of fig-leaf economic growth plan to this Congress. He wants us to act on it within 44 days.

Just let me show to my distinguished friend from Michigan, who yielded to me, let us look at what has happened with regard to real disposable income of the average citizen in this country over the past 45 years. Let us look at the record of the various Presidents with regard to real disposable income.

This administration, the Bush administration, is the first administration since the Second World War, Mr. President, to preside over a decline in the real disposable income of the American people. Look at it. During the administration of President Truman, real disposable income went up almost 3 percent. Even under President Eisenhower, who experienced a deep recession in 1956, 1957, 1958, we still increased our average real disposable per capital income by 1.2 percent. President Johnson pushed it up by 3.5 percent in real disposable per capita income.

But look, look at what has happened under the Bush administration, a decline of six-tenths of 1 percent in real disposable income of the American people. I say to my friend from Michigan what we have seen over the past 12 years is a decline in the real disposable income of the average American worker of 3 percent.

But, on the other hand, what about the wealthy? How have they fared over the past 12 years. The top 1 percent in this country have seen their real disposable income increase by 65 percent while the average worker saw his going down by 3 percent. And what do we see in this so-called economic growth plan? Well, guess what, another reduction in the capital gains tax for the fat cats. We now know that 65 percent of that capital gains tax will go to those making over $200,000 a year. Is that the recipe for putting the American people back to work? More trickle down? Do we have to make the wealthier even wealthier just to get a little crumb to drop for the average American citizen?

Mr. SARBANES. Will the Senator yield for a question on this chart?

Mr. SASSER. I will be pleased to yield.

Mr. SARBANES. For just one moment.

Mr. RIEGLE. Yes. In doing so, I hope we can get to the question of the number of jobs that have been created in the last 3 years because I think it is very important. There have been no jobs created.

Mr. SARBANES. Do I understand this chart to mean that under the Bush administration, in other words, there has been a drop in real disposable income per capita; is that correct?

Mr. SASSER. That is correct.

Mr. SARBANES. And this is the only administration in the entire postwar period—in other words, under Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, Reagan, all positive in varying amounts, varying percentages, but all positive. In other words, real disposable income per capita grew in every one of those administrations, and it has fallen in the administration of George Bush; is that correct?

Mr. SASSER. That is correct. The Senator from Maryland is correct. This is the only administration since the administration of Herbert Hoover in the Great Depression in which we have seen the real disposable income on a per capita basis decline; the first administration since Herbert Hoover.

Mr. RIEGLE. Will the Senator take a minute on that pledge on jobs and go over what the data shows there because I think it tells the whole story.

Mr. SASSER. We are talking about—I thank my friend from Michigan—an economic growth package and how we are going to get the American people back to work. We can look here at the promised performance of this administration represented by the blue line here, and the actual performance represented by the yellow line.

President Bush, at the beginning of his administration, promised to create some 15 million jobs during the first 4 years of his administration.

When we look here, we find that there has been almost no performance in that regard. We find out here, in 1992, there have been no net new jobs created whatsoever. So there is the promise in the blue, I say to my friend from Michigan, and the yellow represents the performance.

You see how it started off with a modest sort of trying to inch up and finally ran out of gas altogether and collapsed down where you have a loss of jobs.

Mr. SARBANES. Will the Senator yield?

Mr. RIEGLE. I yield.

Mr. SARBANES. Just this afternoon the administration issued their economic report. We will hold a hearing on that tomorrow morning at 11 o'clock in the Joint Economic Committee on the economic report of the President.

In that report they forecast that the unemployment rate for this year, for 1992, will average 6.9 percent. That is what they expect. That is what they are forecasting—the unemployment rate will average for 1992, 6.9 percent. It was 7.1 percent last month.

So they expect hardly any improvement. The 6.9 percent is the administration's forecast—this is not my forecast or someone else's forecast, who obviously may take a more realistic or a harder look at economic circumstances—because they obviously are trying to see everything through rose-colored glasses as much as they possibly can. Even under their forecast, they are forecasting an average unemployment rate for 1992 of 6.9 percent.

That is a grim prospect for the economy. That unemployment rate, the official rate of 6.9 percent, states only those that are out of work and looking for work. It does not count people who became so discouraged by the economic prospects they have dropped out of the labor force. I started to say jumped out of the labor force. Fortunately, we have not yet reached the point we had in the Great Depression where they were jumping out of the buildings. But that is 1.1 million. There are another 6.3 million who want to work full time, and they can only find part-time work.

If you factor all of that in, we have an unemployment rate now of over 10 percent, 10.4 percent. The administration in their own economic forecast, making all of the most positive assumptions that they can about the future, says the average rate is going to be at 6.9 percent.

It really takes a certain amount of chutzpah all of a sudden for the administration now, the President, to discover that there is an economic problem in the country. We tried all of 1991 to get the President and the administration to recognize that there was an economic problem. Back in July of last year, the President—first of all, back in February of last year, a year ago—said that the current recession is expected to be mild and brief by historical standards.

Do you remember that, February of 1991: Expected to be mild and brief by historical standards? Of course, it has been the longest recession now since the Great Depression.

Marlin Fitzwater, when the unemployment rate went to 6.9 percent, last May, said we still believe that the recession is ending, and we are on the road to recovery.

Mr. SASSER. Marlin Fitzwater is the President's press spokesman, I believe.

Mr. SARBANES. That is correct.

In July, Michael Boskin, Chairman of the Council of Economic Advisers—there was an unemployment rate of 7 percent—said we would like to see people have an understanding that this turnaround is coming. We believe the recovery has begun.

Mr. SASSER. July 1991?

Mr. SARBANES. That is right, just last summer, when we were pressing to extend the unemployment benefits.

Mr. RIEGLE. The President was refusing to allow them to go into effect.

Mr. SARBANES. That is right. Michael Boskin later in July said the recession would have been considerably shorter and shallower than the average postwar recession. But this goes on and on.

It carries right into November. We go right into November and the President himself is denying that there is a recession. They are still talking about it being shallow, that we have no problem ahead of us.

For most of 1991 the President kept saying no problem. There is no problem. We knew there was a problem.

The President now wants action. We want action. There is going to be action. In fact the Congress has already passed the extension of the unemployment insurance benefits bill and the committees are now working on some of the tax proposals. But three times we had to go to the President in order to get the President to extend the unemployment benefits. He rejected it in August, and he rejected it in October. Millions of people across the country were then confronted with how to provide for their families.

This administration has been a day late and many dollars short in trying to address this economic situation which we find ourselves in.

Mr. SASSER. If the Senator will yield on that point, I ask unanimous consent we be allowed to continue for another 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Reserving the right to object, I will not object, conditional on availability of time, 5 minutes on this time for a rejoinder.

The PRESIDING OFFICER. Does the ask unanimous consent include equal time for the Senator from Pennsylvania?

Mr. SASSER. Certainly, we will be pleased to enter into an agreement to extend an additional 5 minutes to the Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from Tennessee. With that agreement, I have no objection.

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

Mr. SASSER. Just on the point that the distinguished Senator from Maryland raised, I just happen to have a chart here which outlines the length of the post World War II recession.

We see here in 1948, we had one that went for 11 months; 1954, one that went for 10 months; we even had one in the Reagan years, 1982, that went for 16 months. But look at the recession of the Bush administration here. President Bush has presided over 18 months, the longest recession since World War II.

Mr. SARBANES. Will the Senator yield?

Mr. SASSER. I am pleased to yield.

Mr. SARBANES. The other thing that the administration itself is forecasting is that we will come out of this recession. We will just have to see.

I am skeptical. But even on their forecast they are predicting very low, anemic, weak growth for the economy. Ordinarily, in these other recessions when we have come out of them, the economy has grown at a 5- to 6-percent rate.

So you are really starting to come out of the recession with some thrust to get the economy back up to its capabilities.

The administration, by its own predictions released just this afternoon—the most they can muster is about a 2-percent growth from the last quarter of last year to the last quarter of this year, and a 6.9-percent average unemployment rate.

So the point that needs to be understood is that even if technically you should get out of the recession, even by their own forecast, they foresee a very weak and anemic economy which will leave us with all of the economic ills that we are trying to confront.

And that is assuming, by their own forecast, that they get every bit of the program that they put in. It has to be understood about this program. It is not as though the administration was saying we have this program that is going to get this economy moving. Even by their own forecast, we are going to have weak, anemic growth that will leave us with these very serious economic problems, including a 6.9-percent average unemployment rate.

Mr. SASSER. The distinguished Senator from Maryland is correct in that. Usually coming out of recession, you get what the economists might call a slingshot approach. You get a burst of economic growth, a lunge up as high as 4, 5, 6 percent, a robust economic growth. But assuming the passage of this so-called economic growth plan, with its tax bonanza for the wealthy and the capital gains tax rate, the passive loss relief, the pension fund real estate investment, I do not see much on there for the average middle-income American. But assuming the passage of that, you still have this anemic, weak economic growth, even under the administration's own projections. So, clearly, if we are going to jump start this economy, we are going to have to have something better than this thing they offered us now.

Mr. SARBANES. The administration's own projection is that the economy will grow 1.6 percent without their program. It will grow 2.2 percent with their program. Even if you accept all of their assumptions—which obviously one has to have some skepticism—they are talking about a six-tenths of 1 percent contribution to growth, and we

are coming out of the longest recession in the postwar period, with the weakest growth that we have experienced coming out of any recession, and an unemployment rate predicted to average at 6.9 percent.

Mr. SASSER. The Senator from Maryland is quite right, and I am reminded that just the other day—and the distinguished chairman of the Senate Banking Committee is on the floor—the Chairman of the Federal Reserve Board, Alan Greenspan, appeared before the Banking Committee, and he reiterated what he said before the Banking Committee in the House of Representatives, and he said and I quote him: "I have never seen so much fear and anxiety about the long-term economic prospects of this country in my lifetime." That is what the Chairman of the Federal Reserve Board said.

What is the reason for this anxiety and fear? The average middle-income American has seen——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SASSER. Mr. President, I ask for an additional 30 seconds.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. I have no objection, providing we get the same amount of time.

The PRESIDING OFFICER. The Senator is recognized for an additional 30 seconds.

Mr. SASSER. The average middle-income American, over the past 12 years, has seen real disposable income shrink by 3 percent. The average middle-income American has been in a recession or a depression for the past 12 years. And the reason there is such widespread fear and anxiety is that this 18-month recession we are in now is simply the straw that broke the camel's back. The average Americans out there cannot see their way out of this. And that is why you have this terrible plunge in consumer confidence. That is why you have this widespread fear across this land.

Why should it not be? As we speak on the floor of the Senate this afternoon, 1 out of every 10 of our fellow countrymen are on food stamps—people who never in their lives contemplated accessing food stamps.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania holds 6 minutes, 2 seconds.

Mr. SPECTER. Mr. President, during the course of the past hour, I believe we have finally begun discussion of the No. 1 problem facing America, which is, how we move to stimulate an economic recovery.

I disagree with just about everything which has been said by my three distinguished colleagues on the Democratic side of the aisle, but without taking those issues up one by one—although we shall in due course, but not in 6½ minutes—I would ask the question: Where do we go from here?

There has been a very extensive statement of blame and responsibility, which I think is not well founded, but even if it is well founded, what do we do next?

My distinguished colleague from Michigan talks about a "swiss cheese plan." Let us have an "American cheese plan." American cheese does not have holes in it. If there is a better plan, let us hear about it.

I believe that when the American people who are watching C-SPAN II hear what has been going on in the course of the past hour, they are going to say what are those Senators arguing about? A plague on both their houses. But a plague on both their houses would be insufficient, because there are more than two houses. There is a House of Representatives. There is the Senate, a separate House, separate body, and then there is the White House. There are three houses. Within the Congress there are two parties.

I believe that the American people are tired of hearing blame attached and want to hear answers presented. Where do we go from here? Let us argue the issue of blame in the Presidential election, or in the congressional—the Senate and House—elections.

I suggest that the most constructive thing we can do now is to say where do we go from here? If all this is true, so what? What is next?

I ask the distinguished chairman of the Budget Committee who has perhaps the most generalized responsibility in this field, why not start Monday morning? Instead of being on recess, let us not leave from the 7th of February until the 18th of February, but let us come in Monday morning and take up the details of the President's plan, and vote, or amend and vote?

Senator DOMENICI and I have made a very material suggestion on the IRA's, and I do not ask for a response in a few moments, but I say to my colleague from Tennessee, the distinguished chairman of the Budget Committee, the Senator has presided over hearings to a substantial extent, as has the distinguished Senator from Michigan on the Banking Committee, as has the distinguished Senator from Maryland on the Joint Economic Committee. Why do we need more hearings? Why not come in, take this proposal up, debate it, amend it, and move ahead with a plan of action?

Mr. SASSER. Does the Senator wish a response, or is that a rhetorical question?

Mr. SPECTER. I do not ask rhetorical questions.

Mr. SASSER. As far as this Senator is concerned, we can take up this so-called plan tomorrow. The Senator from Maryland and I have advanced what we perceive to be a genuine economic stimulus plan that would put some money, some funds, back into the hands of the mayors of this country, and in the hands of the Governors of this country, and would provide some genuine economic stimulus.

I say to my friend from Pennsylvania that I am discouraged when I look at this proposed plan here, and learn that even if we accept it at face value, it is only going to add a quarter of 1 percent of GNP of growth, if we pass it in its entirety.

I simply say that this plan, it appears to me—using the administration's own figures, and their own judgments of this program—simply is not going to get this economy moving.

Mr. SPECTER. The Senator from Louisiana may object if we start tomorrow. He wants to move ahead with his bill, but there is nothing on the Senate docket for Monday.

Would the Senator from Tennessee be agreeable on Monday morning to start with the President's legislative proposal, with the first amendment being in order, the proposals advanced by the Senator from Tennessee and the Senator from Maryland?

Mr. SASSER. Of course, as the Senator knows, there is no way that I can. I could simply agree to do that, but it would have no effect whatsoever because the way this body has been constituted now for almost 200 years, as the Senator knows, those various tax proposals have to originate in the House of Representatives, and we simply do not have the constitutional power to entertain the revenue proposals that are in the so-called economic growth plan that is being advanced here.

The Ways and Means Committee, I am advised, will be meeting all next week in the House of Representatives. They will be staying there to put forward a revenue proposal that will address the economic recovery needs of the country. But it would simply be a waste of time for this body to try to move into the area of developing revenue policy because we simply cannot do it under the Constitution.

Mr. SPECTER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SPECTER. Mr. President, is it not possible for the Senate to debate issues such as contemplated by the President's proposal as long as we do not move to a third reading?

Mr. President, let me refine my parliamentary inquiry if I may and ask to what extent may there be discussions, debate, consideration by the U.S. Senate on at least some part of the President's proposal as introduced by Senator DOLE?

The PRESIDING OFFICER. The period of time in which germaneness is a requirement for Senate debate, the Pastore rule, has expired for today. Therefore, debate for today is not governed by an obligation of germaneness.

Mr. SPECTER. Is that a yes or no, Mr. President?

The PRESIDING OFFICER. The Senators may discuss any subject that they desire.

Mr. SPECTER. That is what I thought.

So that we could take up this issue—and I know the Senator from Tennessee does not control the calendar. But might I ask my colleague from Tennessee, having started the discussion with him, if he at least personally thinks it is a good idea to move ahead on Monday and go as far as we can.

(Mr. BINGAMAN assumed the chair.)

Mr. SARBANES. If the Senator will yield, where is it we are going, where is it we are going? the revenue measure has to originate in the House. The House Ways and Means Committee has announced that they are going to stay in session all of next week to work on a tax bill. A tax bill may or may not encompass those items. But those items that the Senator has listed, they would certainly be on the agenda to be considered by the tax-writing committee in the House of Representatives which must act first and sent the matter over to the Senate.

So Congress is moving expeditiously.

We had an administration here that would not recognize a recession until December of last year and who twice turned down the extension of unemployment insurance.

I will say to the credit of the Senator from Pennsylvania, he perceived the need, as I recall—I think I am correct in the position he took—for those benefits from the very beginning and supported the effort to provide extended benefits. But, unfortunately, the President did not share that perception and, in fact, he vetoed the bill, and we failed to override it here, as the Senator will recall, on a 65-to-35 vote with the Senator, I believe I am correct, joining in the effort to override the veto, and, of course, it was not until Thanksgiving that we got an extension.

Then the President in his State of the Union Message came out in favor of a further extension. It is wonderful the way the election year will focus the mind on the issues that are before the country. It is almost miraculous. Of course, I welcomed the President coming out for it because I think we needed it and we moved very quickly on that. As a matter of fact, we acted just yesterday in this body, and the matter has been taken care of this week.

But my understanding is that the House Ways and Means Committee is going to address that, and they have to address it first, obviously, under the Constitution under their jurisdiction and is going to address marking up a tax measure next week.

Mr. SPECTER. I would be glad to respond to my colleague from Maryland recognizing that we can come back to the question which I have asked my friend from Tennessee as to whether he would be willing to move ahead on Monday and take the lead on that.

But let me respond. What the distinguished Senator from Maryland has asked is a relevant question. He asked, where are we going on Monday? And my direct response to that is we are going to take up these measures which we can debate and move forward on as long as we do not come to a final resolution. And when the issue is before the House of Representatives Ways and Means Committee, let them proceed to do their work.

But there is a great deal of work and a great deal of discussion and a great deal of debate which has already been framed by many of the points which have been made here today even before we start to take up this list.

I would say further to my distinguished colleague from Maryland that to talk about the President's failure to recognize the recession, to talk about the failure to give unemployment compensation, or to talk about the politics of the State of the Union speech is more focused on the fixing of blame for which we have plenty of time.

On Monday, I would like to see this body address these specific proposals. I would like to see this body address the suggestion that the distinguished chairman of the Budget Committee has articulated as I reviewed it in the media sometime ago, a $55 billion expenditure which would move in the direction of the cities, or whatever the specifics may be, and we have to consider the Budget Act, we have to consider waivers. But we could spend our time very usefully dealing with those specific issues and could make a lot of progress.

Mr. RIEGLE. Will the Senator yield on that point?

Mr. SPECTER. As soon as I finish my sentence.

When the House has acted, we are in a position to go to final passage.

I am glad to yield to the Senator from Michigan.

Mr. RIEGLE. I appreciate the Senator's yielding.

Let me just say looking at that list, put me down for the investment tax credit. The Senator and I years ago fought for that as members of the Northeast-Midwest Coalition and fought for it year after year, trying to get more investment in the industrial base to bring our industries back, and so forth.

Let me say this: As members of the Budget Committee, we met today on this very subject. There was a presentation made by the chairman of the Appropriations Committee, Senator BYRD—I think one of the finest presentations I have heard in the time I have been here. And we met today for about 3½ hours in the Budget Committee on precisely these questions and issues.

The chairman of the Budget Committee may be too modest to point that out because he was presiding today.

But I want to assure the Senator from Pennsylvania that these issues are not only under active review and work within the Budget Committee but as recently as this morning we were meeting in public session on these very matters.

Mr. SPECTER. I thank my colleague from Michigan and would acknowledge the very laborious efforts which we undertook for 4 years as cochairmen of the Northeast-Midwest Coalition. And the work of the Budget Committee is very important.

But my view is that we ought to focus on the specifics and to the extent we need debate, let us debate and then let us vote, withholding the ultimate action which would run afoul of the constitutional prohibition.

But we have had many, many committee hearings, and I am told the Finance Committee is going to meet next week.

I am ready to vote, as is the distinguished Senator from Michigan, in favor of the investment tax credit. We have debated capital gains again and again and again. I think we are ready to vote.

I think we ought to take up the suggestions that the distinguished Senator from Tennessee has made about help for the cities, and it may be as the Senator from Maryland has said. I will be in support of many, many of those provisions. Surely we will need to consider the matters on both sides of the aisle and then come to a conclusion.

Mr. President, I think Americans are crying out for action. Americans want us to decide these issues. They do not want us to take a recess.

I remember one of the most telling speeches was made at the beginning of the August recess by the distinguished Senator from Michigan on the Social Security issue. Check the CONGRESSIONAL RECORD. It was the last day. He said, "Why are we taking a recess? Why don't we decide this issue? Why can't we come to grips with it and not take a recess?" The problem of the recession today is much more serious than that one was in 1981. The problem of the recession today is the most serious problem the Senate must face in decades. And that is why I think we ought to take up the specifics, debate, and move ahead.

Mr. SARBANES. Will the Senator yield?

Mr. SPECTER. Yes.

Mr. SARBANES. That is exactly what is going to happen. I am informed that the Senate Finance Committee is also going to be holding hearings next week to consider what ought to compose a tax package. That is exactly the kind of work that has to be done. So they are going ahead with their work and the House Ways and Means Committee is going ahead with its work.

I just want to make this point to the Senator because he said, well, you

know, we should not be trying to fix blame. I agree with that. We have important problems ahead of us and the country is feeling the pain of this recession and this economic downturn.

The only thing I am addressing is the reasonableness of the President—because the 44 days the Senator is using are the President's deadline. The Senator did not evolve it himself. It was not as though the Senator had figured out a deadline that was reasonable under the circumstances. The Senator took the President's, who made his State of the Union Message and laid out this deadline.

We may beat the deadline, as a matter of fact, on some of these issues. We have already beaten it on extending the unemployment insurance benefits, I want to notice, an issue on which the President was very laggard through all of last year.

But you know the reasonableness of this deadline is suspect when it is coming from someone who as late as December of last year was telling us that there was really no problem. That is the problem. In November, the President said, "I don't believe this country is in a recession." All of last year, we tried to get the President to recognize the problem. He said, "No problem." Finally, it got so bad, the reality gap between what the President was saying and what the people were feeling across the country became so great that the administration finally had to admit it.

Marlin Fitzwater said, "Well, we have to utter the 'R' word—recession." And so they began to come to grips with the thing, which is obviously what needs to be done. Then the President shows up, having delayed submitting a package. We urged the President back in November to submit an economic package then. The President says no; he delays it, delays it, all of December, and all of January, let alone the failure to come to grips with it earlier in 1991. He puts it off to the State of the Union Message and then comes in and says, "Well, now, this is the proposal and I am putting this deadline on it." That is all.

It just goes to the reasonableness of this course coming from an administration which has denied the existence of a recession and, once they admitted the recession, then said, well, we are not going to submit our proposal for at least another couple of months, at least another couple of months, and at that period of time the unemployment rate went to the highest it has been. We have gone 18 months with no major proposal.

Mr. RIEGLE. Will the Senator yield?

Mr. SPECTER. Let me reply, then I would be glad to yield to the distinguished Senator from Michigan.

The Senator from Maryland says he does not want to assess blame, or words to that effect, and then he does precisely that. "The President was very laggardly on unemployment compensation," "the deadline was suspect," "there was a delay in submitting the package."

In November, Mr. President, this Senator took the floor and said we ought not even to be in recess in December and January.

When you talk about an economic package, Mr. President, I do believe that the best procedure is for it to come from the President. But if some Senators feel that the President has not acted reasonably in submitting an economic package, the economic package can come from the Senate. Leadership can originate in this body as well as in the White House. Leadership can originate in the House of Representatives as well as in the White House.

When the Senator from Maryland says that the deadline is suspect, I frankly do not know what he is talking about. If you do not like the March 20 deadline, what deadline would be suggested? I believe we ought to move in advance of a March 20 deadline. We know how to act with dispatch when we want to. And that is why I say, let us move ahead next Monday.

Mr. RIEGLE. Will the Senator yield?

Mr. SPECTER. I yield to the Senator.

Mr. RIEGLE. I think if the Senator from Pennsylvania and I would go off in a room somewhere and work out an economic growth plan for America, we might be able to get one hammered out within a fairly short period of time and it would be big and it would have muscle in it and put an awful lot of people to work in a hurry.

Mr. SPECTER. Let us go.

Mr. RIEGLE. That is an assumption on my part. With respect to your idea about putting the recess aside, let me just take that another step.

Years ago, as the Senator knows, I used to serve in the other party on that side of the aisle. And I know we are in the month of February; we are into the Lincoln Day dinner period and I know a lot of colleagues have plans to go out during this recess for that purpose.

I think that if the minority leader wants to aggressively pursue the Senator's idea and send a letter, formalize a request to the majority leader, I think the majority leader would entertain that. That probably would be the way to proceed if the idea is a serious one to set the recess aside.

I am quite prepared to do it. I am one Senator. You are another. But I think in terms of moving ahead, to get it done other than rhetorically, but to really try to set it aside, I think you would have to have a procedure like that taken.

I do not know whether the minority leader would be prepared to formally put such a suggestion or not. I have no way of knowing one way or the other. Obviously, the Senator has stated his views and I have stated mine. I do feel very strongly this way, that we have to get an economic growth plan in place for this country. It has to be big enough to do the job because we have a very serious problem out there. We have it in real facts in terms of the unemployment, as we see it, all of these job reductions and the confidence of people with respect to a lack of confidence in the economic future. So we have to have a plan that is big enough and strong enough and put it in place as promptly as possible that can really make a big difference.

I would love it if tomorrow morning the President would invite the top business and labor leaders and the key leaders here in the Congress down to the White House to meet in the Cabinet Room and in adjacent rooms tomorrow, the next day, the next day, on into next week, on into next month.

We spend plenty of time on foreign policy issues. Our Government today, the executive branch, has an economic plan for every country in the world, literally. I would assert that we do not really have one yet for America.

I realize this has been rolled out just a week ago. But in terms of our real needs, we do not have a plan yet, and we desperately need one.

I would happily attend such a meeting. I do not presume to feel that I would necessarily be invited to that meeting, but as chairman of the Banking, Housing, and Urban Affairs Committee, I certainly would be prepared to participate nonstop—I do not care how long it takes—because it is the most urgent item.

I notice the majority leader is on the floor and I think he wishes to be recognized.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I am advised that the Senator from Pennsylvania has just asked if I, the majority leader, would entertain a request from the Republican leader to cancel the Lincoln Day recess scheduled for next week. And if that in fact was the question, I would like to respond to it.

Mr. SPECTER. If I may interrupt.

Mr. MITCHELL. Yes.

Mr. SPECTER. The Senator has been incorrectly advised. I have not—I have made my suggestion that the February recess be canceled, very much as I did last Friday and on Tuesday, Monday, and in a private conversation which I had with the distinguished majority leader.

What I asked of the Senator from Tennessee was whether he would be willing to work next Monday and cancel the recess. I have not involved either the Republican leader or the majority leader, but I am not reluctant to do so.

The majority leader is on the floor, I would ask the majority leader publicly, as I discussed with the majority leader yesterday, why not cancel the Feb-

ruary recess and go to work on the President's economic plan?

Mr. MITCHELL. Mr. President, I will be pleased to respond.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Last Tuesday at my request, Republican Senators at their caucus discussed the question of whether or not the February recess should be canceled. The Republican leader reported to me after that meeting that the Republican Senators unanimously supported having the recess; that not a single Republican Senator at that caucus asked that the recess be canceled.

Three days later, the Senator from Pennsylvania took the Senate floor and publicly asked that the recess be canceled. He has advised me privately, since then, that he missed that part of the Republican caucus. So he was not present when the vote was taken.

Therefore, we can now assume that among Republican Senators, the votes now are 42 in favor of having the recess and 1 against it.

I will say to the Senator from Pennsylvania, I suggest that you talk with your colleagues. And if the Republican leader, on behalf of Republican Senators, asks me to cancel next week's recess, I will give that request the serious consideration that I give to every request made of me by the Republican leader.

But as of now, the information available to me is that, of the 43 Republican Senators, the only one who wants to cancel next week's recess is the Senator from Pennsylvania. And that is the information upon which I must now act to make my decision.

If the Senator discusses it with his Republican colleagues, and if there is a request by more than the Senator from Pennsylvania, then I will certainly consider it. I will consider it, even he making the request.

But I merely want to point out one other fact. The Constitution prohibits the Senate from enacting tax legislation initiated in this body. It requires that it be initiated in the House. The House Ways and Means Committee is going to mark up the tax bill next week. The Senate Finance Committee, the counterpart committee of jurisdiction in the Senate, is going to hold hearings on it.

The House is expected to act on a tax bill the following week, and I hope we can get to it and act on it promptly thereafter. So the schedule is underway for prompt action on these measures.

The reality is that the Senate remaining in session next week would be as symbolic and meaningless a gesture as that chart up there right next to the Senator from Pennsylvania. It would be a phony gesture, as phony as that chart is, up there by the Senator from Pennsylvania. It would not contribute anything to moving forward on this legislation. And everybody knows that.

We would do other business. We would continue on the energy bill, which we hope sometime today to get back to.

So I am prepared to entertain any request. The information I have as of this moment is that there is only one Republican Senator who wants to cancel next week's recess, and that is the Senator from Pennsylvania. If he has information to the contrary, then I urge him to develop it—or if he has support to the contrary—and bring it to my attention.

Mr. JOHNSTON. Will the Senator yield at that point for an inquiry?

Mr. MITCHELL. Yes, sir.

Mr. JOHNSTON. When once we do get back on this bill, and that will be sometime today, will we not stay on this bill through Friday and work Friday?

Mr. MICTHELL. Yes.

Mr. JOHNSTON. Because I understand some people are trying to get out of town tonight, tomorrow morning, whatever. We are going to stay here and work on the energy bill through Friday?

Mr. MITCHELL. We are going to work on this bill, right. I hope, frankly, that we could finish Thursday night—all but the ANWR provision—and work it out the way that has been discussed by the Senator from Louisiana to accommodate Senators.

But if need be, if we are not at that point, we will stay in Friday, and we will just stay right here and move this bill forward. I hope we can get back to it soon, so that we can get another amendment up and consider it.

Mr. JOHNSTON. I thank the leader.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, by way of relatively brief reply to the distinguished majority leader, it is true that I was not present during most of the Republican caucus on Tuesday, January 28, because I appeared in the third circuit court of appeals arguing the navy yard case. We can try to keep open Senator MITCHELL'S air force base and Pennsylvania's navy yard.

When I returned to the Republican caucus at the tail end, there was no discussion of this issue about canceling the February or the March recess. But I think the majority leader is incorrect if he assumes that there was any 42-to-nothing vote. There are not 42 Republican Senators there, at any time.

When the majority leader suggests or requests that come from the Republican leader, the thought that crossed my mind at the time was that it is the majority leader's responsibility to make the judgment as to when this body is in session. The Republican leader did that when he was the majority leader.

But then I was pleased to hear the distinguished majority leader say that he would entertain the request from this Senator, as well as from the Republican leader.

Mr. President, I disagree categorically with the distinguished majority leader's comment that a session next week would be symbolic and meaningless and phony. Perhaps, if it is as phony as Senator DOLE'S chart, then it is not phony at all. But the distinguished majority leader and I had a discussion yesterday as to whether anything could be done, meaningfully, in this body, constitutionally, before there had been action by the House of Representatives. When we talked yesterday, I did not know that the President's package was going to be submitted today; that there would be a vehicle which would provide the opportunity for us to take up the issue of an economic recovery.

The distinguished majority leader said on the floor a few moments ago that the Senate cannot enact legislation. That is correct. I agree with that statement which he made—cannot enact legislation.

But earlier in this proceeding, I asked a parliamentary inquiry as to what the Senate could do; and as best as I understood the recitation, it was that the Senate could take up these issues, and there is considerable that we could accomplish by way of debate and discussion and, as I understand the rules, have amendments and votes, and do a great deal.

So that my request, my position, is that we ought to be in session. The distinguished Senator from Michigan started off this debate talking about the unemployment lines and the pain and suffering across America in every State—not just my State, which I know in detail because I spent virtually the entire recess from Thanksgiving until we returned here on January 21 in my State. I think the American people want action, and I think there is a lot we can accomplish next week.

I do not think we ought to be bound by a March 20 date. If we could finish by February 20, so much the better.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, every Senator has a public responsibility to act in the manner consistent with the interests of this country. Any Senator can come out here and make statements for public consumption, to create an impression of action. But it would be the height of irresponsibility for the U.S. Senate to begin debate and voting on an economic program on which the future of our economy and Nation may rest, of that magnitude and complexity, without a single moment's hearings; without a single effort of anyone to evaluate the program; without the kind of thoughtful legislative consideration that the legislative process demands of all legislation, and especially of legislation of that magnitude.

It is irresponsible to suggest that the Senate should commence on Monday to debate and vote on a measure of that magnitude.

This requires, at the least, hearings to give the President's representatives the opportunity to explain and seek to gain support for the package; to give those who disagree the opportunity to seek to explain the reasons for their opposition and to suggest alternatives; to give the members of the committee the opportunity to study and evaluate the legislation. That is the legislative process.

To suggest that it should be avoided in this case; that we should commence debate on the floor of the Senate before there are any hearings that have been held, before any evaluation has been made, is irresponsible. We will deal with that legislation promptly, but consistently with fair and thorough and responsible consideration. And the schedule setup permits that. The plan was just announced today.

Has the Senator from Pennsylvania read the entire plan of the President?

Mr. SPECTER. No.

Mr. MITCHELL. Then, I submit that, before the Senate begins debating it and before the Senate starts demanding votes on it, the Senator ought to read the plan, he ought to evaluate it, he ought to make a judgment whether it is in the best interest of the country and let other Senators do the same.

I want to respond to the Senator's comment about the Republican leader. It is my responsibility to make the decision on the schedule. I have made that decision, I will make that decision, but I have also told the Republican leader on the day I was elected majority leader that I would not ever make such a decision without prior consultation and discussion with him. I have given him, in every instance, the courtesy of requesting his advice and his recommendation as the representative of all Republican Senators before I make such decisions. That is what I have done in this case and that is what I will do in every other case. I do not believe that I should, although I represent the majority of Senators, disregard or not take into account the views of Republican Senators.

So I accept full responsibility for the decision, but I also make clear that I do solicit the Republican leader's advice and recommendation, and I trust him completely and often accept his advice and recommendations. There have been many cases in which I thought I would take a course of action and discussed it with Senator DOLE and found that he suggested some alternative, which I then accepted.

So I want to make clear that I am responsible for this decision. I will make this decision, but as in every case in the past and so long as I am majority leader, I solicit and give great weight to the views of the Republican leader. And when he tells me that he believes we should continue with the recess and that it was unanimous in the Republican caucus that there should be a recess, that has weight in my making my decision and it did have weight in making my decision, although the responsibility and decision were mine.

Mr. SASSER. Will the Senator yield?

Mr. SPECTER addressed the Chair.

Mr. MITCHELL. Mr. President, I still have the floor. I yield to the Senator from Tennessee.

The PRESIDING OFFICER. The majority leader.

Mr. SPECTER. Parliamentary inquiry, Mr. President. Does any Senator have the right to yield to any other Senator?

The PRESIDING OFFICER. Senators may yield for a question, and that is what has happened.

Mr. MITCHELL. Does the Senator have a question?

Mr. SASSER. Yes, I do.

Mr. MITCHELL. I yield for a question.

Mr. SPECTER. Parliamentary inquiry. Did the Senator from Tennessee ask for the floor for the purpose of asking a question, or is this something which is coming up now?

Mr. SASSER. Mr. President, I intended to, although I was interrupted. I asked if the majority leader would yield and then I was interrupted. I meant to say would the majority leader yield for a question.

The PRESIDING OFFICER. The Senator from Tennessee is recognized to ask a question.

Mr. SASSER. On the point of the majority leader's statement here about the necessity for hearings and a calm and careful evaluation of the proposal that has been made, I must say I could not agree with the majority leader more on that point. It is my understanding—the majority leader will correct me if I am wrong—but it is my understanding that the Finance Committee, which has primary responsibility of jurisdiction over all revenue matters, which is, I think, the significant portion of this package, will be meeting all of next week; is that correct?

Mr. MITCHELL. That is correct. The committee has public hearings scheduled for next Wednesday and Thursday.

Mr. SASSER. I will further ask the majority leader, I was advised that there is an article in the Washington Post just today in which the distinguished chairman of the Finance Committee indicates that following the conclusion of these hearings which will be held next week when the Senate is in recess, if we go forward with the planned recess, that he will begin assembling the committee for a markup of a tax bill on February 19. Does the majority leader understand that to be the case?

Mr. MITCHELL. I do not know whether or not the chairman has made a decision on when markup may begin. He may have. It has not been communicated to me.

Mr. SASSER. But it is fair to say we could not act on a revenue measure next week in this body until first it comes from the House of Representatives, and certainly it would be imprudent to try to do so unless we had some hearings in the Finance Committee and some dispassionate view or analysis of the tax proposals.

Mr. MITCHELL. That is correct.

Mr. SASSER. I thank the majority leader.

Mr. MITCHELL. Mr. President, I will be glad to yield to the Senator from Pennsylvania if he has a question now or, if he does not, I will just yield the floor.

Mr. SPECTER. Mr. President, I seek recognition in my own right.

Mr. MITCHELL. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I answered the question of the majority leader candidly that I had not read the President's proposals. There has not been time to do that. When the majority leader says that the bill ought to be read before we start debating it, I quite agree with him about that, and that poses no problem to read that bill and analyze it in advance of a Monday session.

When the majority leader goes into some detail about his consultation with the Republican leader, I understand all of that, but I believe a fair interpretation of what the majority leader was saying earlier was not about consultation at all; it was about a consensus of the Republican caucus that we ought to have the February recess and that the Republican leader had told him that no one in the caucus, myself being absent, had asked that the recess be canceled.

When the majority leader asked this Senator to consult with the Republican leader to see if the Republican leader would make the request, it had nothing to do with the majority leader's characteristic practice of consulting with the Republican leader. It was an effort to see if I could persuade Senator DOLE or a majority of the Republican Senators to state that they wanted to cancel the recess.

I understand the practicalities of canceling a February recess. I have a lot of plans myself at that time, and I am prepared to stay here and work on this legislation. But what I had commented about had nothing to do with the majority leader's customary practice of consulting with the Republican leader.

When the majority leader makes the characterization of height of irresponsibility, I will not return that comment in kind. I will simply say that the items on that list have been considered in detail, not the precise formula-

tion of language but, if you take up the capital gains rate reduction, that has had hearings and hearings and hearings, passed the House of Representatives in the 101st Congress. We had 56, 57 votes here and could not get it up in the 101st Congress, and I submit that we could use next week very responsibly on the capital gains issue. It might well take up the full week, judging from the length of time this little colloquy has taken.

We have the issue of the IRA's. There is a super IRA bill which is pending now and has 74 cosponsors in the U.S. Senate. We have the issue of the investment tax allowance, which is about the same thing as matters which we have considered before. Senator RIEGLE and I were discussing that a few moments ago. And you could go over that list of items and find on virtually all, if not all, that there have been hearings and hearings and hearings and hearings. So that when the majority leader talks about the height of irresponsibility, Mr. President, I think that Senators are prepared to debate these issues and vote. When the Senator from Tennessee asks about legislation constitutionally, we come back to the point that I had quoted the majority leader on, that we could not enact legislation.

I ask that the American people, Mr. President, judge responsibility or irresponsibility based on what has happened in Washington, DC, for the past days and weeks and months.

Now we have a proposal which can be held at the desk as many measures are held at the desk in this body and are acted on in accordance with established legislative procedures without having committee hearings.

I believe the American people are sick and tired and disgusted with the inaction out of Washington, DC, and it is laid right here today in the Senate. I will not characterize the majority leader on the question of responsibility or irresponsibility. I will let the American people judge that.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield the floor?

Mr. SPECTER. I do.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, for 18 months President Bush denied there was a recession. Then when he finally admitted what was obvious to all Americans, he asked the American people to wait 3 months until he figured out what to say and propose.

I do not recall in that 3 month period a single public statement by the Senator from Pennsylvania criticizing the President for delaying action. He said the Congress ought to stay in session and deal with it. He criticized the Congress but not once the President.

Now, the American people do know certain things, and the one thing they know is that there are a lot of people in public office who will stand up and say something, make a proposal for the sake of making a proposal, which they know is not going to occur.

That is what we have seen today. The Senator from Pennsylvania knows the Senate is not going to be in session next week. He is confident of that. He is secure in that. He probably already has a lot of plans to be in Pennsylvania next week. He knows that his colleagues on the Republican side of the aisle want the recess to go forward and communicated it to me. He knows that the same is true here. He knows that acting next week in the manner he suggested will not advance the Senate or the country one whit toward achieving the objective of getting a meaningful economic plan.

So he is free, of course, to get up and make this speech about we ought to stay in session next week, secure in the knowledge that it is not going to happen.

It is commonplace in American politics. It happens a lot in the Senate. It is happening here today. We understand it. I hear it a lot as a Senator. With respect to the schedule, I hear it almost everyday and everybody should understand that.

I hope we can now proceed to get to the energy bill because at the rate we are going, we are going to be on the energy bill into the weekend. I know the Senator from Louisiana has been sitting here patiently trying to proceed on his bill, and I hope that we can now do so.

Mr. JOHNSTON. Mr. President, will the leader yield?

Mr. MITCHELL. Yes.

Mr. JOHNSTON. I wonder if we could change that 44 up there to 44½, since about half the day has been taken up out of the energy bill. Does the Senator think it would be proper for me to put one-half next to it?

Mr. MITCHELL. Mr. President, I hope the Senator from Louisiana will proceed now with the bill.

Mr. SPECTER. Mr. President, I ask for 2 minutes.

Mr. JOHNSTON. Mr. President, reserving the right to object, and I shall not, is time all gone except for that 2 minutes?

The PRESIDING OFFICER. Does the leader still retain the floor?

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

The PRESIDING OFFICER. Who seeks recognition at this point?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. JOHNSTON. I will not object to the 2-minute request.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, when the majority leader says this Senator knows that action by the Senate next week will not advance the interests of the country, I say he is categorically wrong. How he can say what this Senator knows is a little surprising. I think there is a great deal that could be accomplished next week and I have specified the reasons why I say that.

When the majority leaders talks about an 18-month recession which the President denied, we have been over the issue of blame and I think the time has come for what ought to be done at this stage.

When he says that there was not a single statement by the Senator from Pennsylvania criticizing the President, he is wrong. This Senator made a comment publicly that was aired on national television categorically disagreeing with the President, when this Senator said there was a recession. And the President took note of that and was expressive of a number of objections to what this Senator said. I have not hesitated to criticize the President of my party where I thought it was warranted.

When the majority leader says the Senator from Pennsylvania has plans next week, you bet I have plans. I have a 20-county tour planned to move through the State. But I am very serious in saying that my plans do not amount to a whit when it comes to the issue of what the Senate ought to be doing.

I am not confident or secure at all as to what will happen next week. If I were majority leader, the Senate would be in session.

THE ECONOMIC GROWTH ACCELERATION ACT OF 1992

Mr. CHAFEE. Mr. President, I am pleased to join my colleagues in introducing this bill containing the President's short-term agenda to improve our economy.

I believe the proposals in this bill will help to address two out of the three main concerns of the American people. Reducing the cost of capital and encouraging new investment in plant and equipment will help to alleviate their concern about retaining their job or finding a new one. By stimulating growth in America's small businesses, the real engine of job creation in this country, these proposals will help to put hundreds of thousands of unemployed Americans back to work.

Four of the proposals will address the second concern of the American people—to maintain the value of their home. These proposals are designed to restore confidence in the real estate industry by eliminating some of the penalties that were enacted in 1986. They will also assist Americans who were not able to purchase a first home as a result of the skyrocketing prices of the 1980's.

I believe Americans have a third main concern that is not addressed by

this package—keeping their health insurance and controlling rising health care costs. The President is preparing his health care reform proposals that will address that concern, and I look forward to reviewing those proposals.

Our goal should be to improve America's economic health and international competitiveness; boost the value of real estate; and control the costs of our health care system. The President and the Congress must work together to develop a legislative package to address these real concerns of the American people. We must not compound our current economic problems by seeking quick fixes which have no lasting effect and which may greatly add to the Federal budget deficit.

While I support the efforts of the President to put together a short-term growth package, I believe we must also repeal the so-called luxury tax on boats. This tax has devastated the boatbuilding industry in Rhode Island and must be repealed as part of any job creation package.

I look forward to working with my colleagues on a short-term growth package that repeals the luxury tax on boats and addresses the first two concerns of the American people—retaining their jobs or finding new ones and maintaining the value of their homes. Thank you, Mr. President.

THE PRESIDENT'S ECONOMIC GROWTH PROPOSAL

• Mr. STEVENS. Mr. President, I am pleased to join as an original cosponsor of the economic growth legislation our Republican leader has introduced today on behalf of the President.

The President strongly supports legislation to permit environmentally sensitive exploration of the vast oil and gas potential of the Arctic National Wildlife Refuge.

If enacted, it would create 735,000 jobs in 47 States in every sector of our economy. It would add a whopping $50 billion to our gross national product. It would save this country a staggering $250 billion in payments to foreign governments and oil producers. And at a time when the Federal deficit is spinning out of control because of a tax-and-spend Congress, it would provide $125 billion in revenues for Federal and State governments.

But the party which controls the Congress has objected to that provision—and in doing so has objected to the jobs it would create, the reduction in the trade deficit it would produce, and the revenues it would generate.

I am supporting the President's economic growth package because we need a plan to deal with the economic crisis we face—a plan supported by the President and acceptable to the Congress. The President's plan would create as many jobs as developing the Arctic coastal plain. The Congress has turned its back on the hundreds of thousands of Americans who could have filled the jobs ANWR would create. It is my hope that it will not turn its back on our President as he works to restore and revitalize our economy.

There are portions of this package that I would not support standing alone and reserve the right to vote against such provisions if they remain in the proposal. But I applaud the President for his leadership and his initiative. His approach would create 12,795 jobs in Alaska. At a time when our unemployment rate hovers around 10 percent, I am confident that Alaskans will join me in supporting this package.

I will do all I can to meet the March 20 deadline for approving this legislation which the President has asked us to meet. If Congress can approve aid to the Kurdish people in 19 days, surely the American people deserve the same consideration.•

NATIONAL ENERGY SECURITY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, are we back on the bill at this time?

The PRESIDING OFFICER. The bill is the pending business.

AMENDMENTS NO. 1532–1542

Mr. JOHNSTON. Mr. President, I have a series of 11 amendments which have been cleared on both sides which I will shortly send to the desk. I will briefly describe these amendments. These have been very thoroughly negotiated with all the parties at interest.

The first is on behalf of myself, Senators WIRTH and WALLOP. Section 1201(c) currently sets forth guidelines for the reduction of chlorofluorocarbons in accordance with the Montreal protocol. The amendment deletes section 1201(c). This provision was previously included in S. 324, the National Energy Strategy Act of 1991. However, the subsequent passage of title VI of the Clean Air Act makes inclusion of the CFC phaseout guidelines in S. 2166 unnecessary.

The second amendment, on behalf of myself and Senator WIRTH, clarifies the selection of joint venture projects under Public Law 101–218 and adds a provision to the Renewable Energy and Energy Efficiency Technology Competitiveness Act to expand the authority of the Secretary to fund joint venture projects as required under the act.

Public Law 101–218 provides DOE with authority to accelerate the commercialization of renewable energy and energy efficiency technologies.

This amendment: Clarifies the process by which joint ventures within a given technology area are chosen; adds to the criteria for the selection and funding of renewable energy joint ventures; promotes strategies for attracting investment funds for high risk renewable energy projects; and identifies impediments to non-Federal participation in the commercialization of renewable energy technologies.

Renewable energy is an important component of a comprehensive national energy strategy based on domestic production, alternative fuels, and energy efficiency. According to figures supplied by Department of Energy and industry sources, nonhydro renewable energy resources currently comprise approximately 1 percent of the Nation's total energy use—or an estimated 394,000 barrels of oil equivalent a day.

The renewable provisions in the National Energy Security Act are designed to promote the development of commercially sound renewable energy systems in order to overcome the artificial economic and regulatory barriers that have prevented wide-scale adoption. S. 1220 promotes the most promising renewable technologies, helping U.S. manufacturers to maintain their leadership role in renewable technology.

The third amendment, on behalf of myself and Senator WIRTH, provides for an energy efficient mortgage pilot program. It directs the Department of Housing and Urban Development and the VA to develop and implement a pilot program to help prospective home buyers and existing home owners finance energy-efficient improvements.

The amendment provides the following measures to help overcome the major obstacles to obtaining financing for energy efficient mortgages:

First, allows borrowers to exceed the normal FHA and VA loan limits by the amount of the cost-effective energy efficiency improvements;

Second, provides timely information to both borrowers and lending agencies on availability and benefit of efficient mortgage programs; and

Third, establishes a training program for personnel at relevant lending agencies, real estate companies, and other organizations regarding the benefits of these energy efficient mortgages.

Currently 90 percent of the Nation's 94 million homes use 50 to 100 percent more energy than they would if homeowners and builders installed cost-effective energy efficiency measures.

Energy efficient mortgages have been in existence for over a decade, however, many of these programs are difficult to understand, poorly advertised, and not widely used. To date, only 20,000 home applicants—out of the last 70 million—have been able to use existing energy efficient mortgage guidelines to add the cost of needed energy improvements to their first mortgage.

The fourth amendment, on behalf of myself, Senators FOWLER and WIRTH, is a second-degree amendment to that amendment to establish an energy-effi-

cient mortgage pilot program and clarifies a definition in that energy-efficient mortgage pilot program by adding solar technologies to the list of eligible energy efficiency technologies. That is a second-degree amendment to the described third amendment.

This amendment recognizes the effectiveness of solar technologies—such as solar water heaters, photovoltaic assisted ventilation and cooling, and insulating glass and film—to conserve energy in buildings.

The Environmental Protection Agency has recently recognized solar energy technologies as demand-side management measures. An amendment by my distinguished colleague from Hawaii also seeks to recognize the importance of solar technologies in energy conservation by including solar-water heaters as eligible under DOE's Weatherization Assistance Program.

The five States chosen to participate in the energy efficient mortgage pilot program will serve as a model for other States seeking to provide energy efficient mortgages. I hope by expanding the provision to include solar technologies, even more homeowners will be able to take advantage of the financial and environmental benefits of energy efficient mortgages.

The next amendment, on behalf of myself, Senators WIRTH and WALLOP, assures competition in demand side management programs. Section 6301 currently requires State regulatory authorities to consider new standards to encourage utilities to undertake energy efficiency programs. This amendment would modify section 6301 so that the implementation of such new standards would assure that utility actions would not provide utilities with unfair competitive advantages over small businesses.

The amendment would also expand the report under subsection (b) to include an analysis by the Federal Trade Commission of the competitive impact of implementation of energy efficiency programs on small businesses engaged in similar lines of work.

Utility energy efficiency or demand-side management programs can have a very detrimental impact on small businesses engaged in similar lines of work. For example, utilities may initiate subsidized weatherization programs to supply and install insulation and storm windows. Such a utility program could push private-sector insulation and window small businesses out of business.

This amendment responds to this problem by requiring regulatory authorities to implement new standards to encourage utility energy efficiency programs in such a way as to assure that utilities don't unfairly compete with small businesses. For example, utilities can contract with small businesses to supply, install and service energy efficiency equipment instead of competing directly with small businesses.

In many areas where utilities have aggressive energy efficiency programs they have developed a mutually beneficial relationship with small businesses. The utilities provide the advertising and financing for energy efficiency programs, but contract the supply, installation and servicing of equipment with small businesses. It is a "win-win" situation because the potential energy efficiency market in this Nation is so large that it can provide plenty of work for both utilities and small businesses working in partnership.

This amendment was developed in cooperation with the Alliance for Fair Competition, a collection of national heating, plumbing, air-conditioning and electrical design, supply and installation contractor associations. The Alliance supports the amendment and supports title VI of S. 1220 as strong energy efficiency legislation.

Mr. President, title VI of S. 2166 would further develop this Nation's energy efficiency potential through enactment of a range of policies and programs. Subtitle C would promote energy efficiency by requiring State utility regulatory authorities to consider setting new utility standards that would encourage aggressive utility energy conservation programs.

However, whenever there are efforts to promote utility involvement in energy conservation there is one problem that arises—potential unfair competition between utilities and small businesses. Many small businesses are engaged in selling or servicing energy equipment such as furnaces, waterheaters or other residential appliances. Others are in the energy efficiency business, installing storm windows or thermal insulation. The problem arises if the local utility is authorized or directed by a State regulatory authority to enter these energy related markets. The effects on such small businesses can be devastating. A utility, afterall, is a regulated monopoly which has tremendous opportunities and resources with which to exploit such a market. While utilities can substantially increase energy efficiency in this Nation, care must be taken to assure that their programs are implemented in a way that supports, not destroys, small businesses.

Fortunately, utility energy efficiency programs don't have to be unfair to small businesses. The energy efficiency market potential in this Nation is large enough that utilities and small businesses need not be in competition, they can work together. In many jurisdictions where utilities have been authorized or directed to implement demand-side management programs, small businesses are protected from unfair utility competition by requiring those utilities to subcontract with small businesses whenever possible. For example, small businesses are usually available to supply, install and service energy efficient equipment. Utilities need not develop these businesses "in-house" and compete with existing small businesses. Such an arrangement creates new work for small businesses, and it allows utilities to concentrate on the marketing and financing of energy efficiency—these are areas in which small businesses are less effective than utilities.

Mr. President, this amendment to section 6301 of S. 2166 is designed and intended to protect small businesses from the kind of potential unfair competition I have described, and to encourage utilities to work in partnership with small businesses in developing the energy efficiency potential of this Nation.

This amendment would require that if a State utility regulatory authority implements a new standard to promote energy efficiency, as proposed under section 6301, then that authority is required to consider the impact of the implementation of that standard on small businesses which are engaged in similar lines of work. The amendment would further require that authority to implement such standard so as to assure that utility actions would not provide utilities with unfair competitive advantages over small businesses.

The implementation of a new standard consistent with this amendment is not intended to require the creation of any new administrative or regulatory process or procedure beyond those that currently exist. Instead, State regulatory authorities are encouraged to utilize their authority through existing processes and procedures, such as compliance procedures, competitive bidding for demand-side management resource procedures, and program design and review procedures, to ensure that demand-side management or other energy efficiency or energy conservation programs do not foster situations which result in unfair competition.

Finally, Mr. President, this amendment would require the Federal Trade Commission to conduct an analysis of the competitive impact of implementation of energy conservation, energy efficiency and other utility demand-side management programs on small businesses engaged in similar lines of work. The results of this analysis are to be reported to Congress as a part of the report made pursuant to subsection 6301(b).

It is intended that the term "competitive impact," as used in this amendment be construed broadly to mean overall, long-term impacts. There are examples of utility programs that may be construed as being anti-competitive but which, in fact, have a positive long-term impact on small business. For example, some utilities have energy audit programs or limited high efficiency light bulb give-away programs. While these programs offer

services or products that small businesses could conceivably also provide, the long-term effect of these programs, and their intent, is to develop consumer awareness and to develop the energy efficiency market. Small businesses gain in the long run from this increased awareness as customers follow-up on the energy audits by undertaking the improvements identified in the audit, or as customers decide to purchase additional energy saving light bulbs or products. Again, the intent is to achieve the most effective energy efficiency programs through a partnership between utilities and small businesses—to expand the market so that small businesses can grow. Utility programs that promote long-term expansion of the energy efficiency market for small businesses are to be encouraged.

Mr. President, I am very pleased that the committee has been able to resolve this matter with the Alliance for Fair Competition, and I would particularly like to thank Mr. Anthony Ponticelli, Mr. Stanley Kolbe and Ms. Christy Day of the alliance for their contributions. The alliance is an association of several national associations representing businesses that supply, install and service, energy and energy efficiency equipment. Improving the Nation's energy efficiency represents a tremendous potential market to the members of the Alliance and I appreciate their recognition and support for S. 2166 as a strong energy efficiency bill. I ask unanimous consent that a copy of their letter of support for S. 2166 be placed in the RECORD.

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

ALLIANCE FOR FAIR COMPETITION,
Bethesda, MD, October 14, 1991.

Mr. BEN COOPER,
Majority Staff Director, Senate Energy and Natural Resources Committee, Dirksen Senate Office Building, Washington, DC.

DEAR BEN: On behalf of the members of Alliance for Fair Competition (AFC), I wish to convey our most sincere gratitude for the timely response and diligent efforts of your staff, especially those of Allen Stayman, in resolving our problems with those portions of Title VI of S. 1220 dealing with PURPA reform and demand side management (DSM).

Because of the diligence of the staff, language has been devised which will accord small businesses in the energy contracting, servicing, and supply fields an opportunity, at the state level, to discuss and devise methods of implementing energy conservation plans which can avoid the harsh consequences of unfair competition.

With the changes agreed upon, AFC and its members believe that S. 1220 deserves consideration by the full Senate as soon as possible and we shall support those efforts designed to achieve that objective.

We recognize that The National Energy Security Act contains several highly controversial provisions. While AFC has no position on those sections of this legislation outside of those on which we have already commented, we can see no reason why resolution of the disputed sections of S. 1220 cannot be resolved on the Senate floor by amendment and compromise. Whatever the outcome might be with regard to the controversial portions, there is much that remains in the bill which should be enacted.

A comprehensive national energy policy is essential for the continuing security and economic future of America. Senators Johnston and Wallop are to be commended for their initiation and pursuit of legislation designed to achieve a balanced and comprehensive approach to our energy needs. We believe that the National Energy Security Act merits consideration now and that the American people deserve to have the full Senate debate and vote upon this proposal in the remaining weeks of this Session.

Sincerely,

TONY PONTICELLI,
Executive Director, AFC.

Mr. JOHNSTON. Mr. President, the next amendment, by myself, Senators WIRTH and WALLOP, provides for the periodic review of the Federal Building Energy Code.

The current provision of section 6101 of our bill regarding energy efficiency standards requires the Department of Energy to develop energy efficiency standards for Federal buildings that are technologically feasible and economically justified.

This clarifying amendment would require the Department to review these standards at least every 5 years and if significant national energy savings would result to upgrade the standards to include all new energy efficiency measures that are technologically feasible and economically justified.

This is a clarifying amendment. It is consistent with the intent of section 6101, which is to establish a Federal building energy code. The amendment would strengthen the current provision by assuring that the Department of Energy will regularly review, and if appropriate, update the Federal building energy code.

This amendment was suggested by the Alliance to Save Energy and the American Council for an Energy Efficient Economy and I am unaware of any opposition.

Mr. President, the next amendment on behalf of myself, and Senator AKAKA would add solar water heaters as an authorized low-income weatherization measure.

The amendment would add a new section to title VI of S. 2166. This section would amend the existing Low-Income Weatherization Program to authorize solar thermal water heaters as a weatherization measure which may be installed in a low-income household using a weatherization program grant.

In 1976, Congress established the Low-Income Weatherization Program which provides block grants to States which, in turn, provide grants to low-income households to install weatherization measures—insulation, caulking, storm windows, etc. These measures generally reduce energy consumption, and they also reduce the cost of energy in households where scarce money is needed for higher priorities.

This amendment was developed by the Senator from Hawaii, DANIEL AKAKA, because in the moderate climate of Hawaii, the traditional weatherization measures authorized under the program are inappropriate. An alternative use of these funds in moderate climates would be for the installation of solar thermal water heaters. Such heaters significantly reduce the demand for purchased energy, and thus meet the original program objectives of reducing energy demand and reducing utility costs.

ALLOWING THE USE OF SOLAR THERMAL WATER HEATERS UNDER THE LOW-INCOME WEATHERIZATION PROGRAM

Mr. AKAKA. Mr. President, under the Department of Energy's Weatherization Assistance Program, low-income households that face difficulty meeting high energy costs can receive assistance to improve the energy efficiency of their homes. Special emphasis is given to weatherizing the homes of the elderly and the handicapped under this program.

The amendment I have offered would add solar thermal water heaters to the list of weatherization technologies that can be funded under the Weatherization Program. Examples of the technologies currently funded under this program include furnace efficiency modifications, installation of energy efficient heat exchangers, replacement of leaky windows and doors, and water heater insulation. My amendment simply adds solar water heaters to this list.

Solar water heaters are not new technology. In fact, the effectiveness of solar water heaters was first demonstrated as early as the 18th century.

Nor are solar water heaters experimental. Over 30 companies manufacture solar water heating devices or their components. This activity is responsible for $65 million in sales annually.

Today, over 1 million American homes use solar equipment to heat water for household use. This is a technology with worldwide acceptance. In many Third World countries, solar collectors are the primary source of hot water.

As I have explained, solar water heaters are neither new, nor experimental. Years of experience has demonstrated they are an energy efficient and economical means of generating hot water for residential use.

About 25 percent of the energy used in homes each year is consumed by water heaters. This percentage varies from region to region throughout the country and tends to be considerably higher in the Sun Belt States. In Hawaii, for example, water heaters consume over 40 percent of the household energy budget.

Although the initial price of a solar hot water system is somewhat higher than conventional systems, life-cycle

costs make solar systems very competitive. Typically, solar water heaters will pay for themselves within 6 to 8 years.

One of the most important concerns about potential weatherization technologies is the reliability of these energy systems; namely, will the proposed technology yield the energy savings promised and will the system have a useful life that allows the technology to pay for itself. These are valid considerations, since under the low-income weatherization program we want to encourage a wise investment of Federal dollars.

The Department of Energy should have no fears about the reliability of solar thermal water heater technology. A comprehensive certification process for these systems has been established by a consortium of organizations representing solar equipment manufacturers, State governments and utilities. With the assistance of the Department of Energy, the nonprofit Solar Ratings and Certification Corporation, or SRCC, was established to certify and rate the installation and performance of solar technology.

Fortunately, solar water heaters are among the systems that have been tested and certified by the SRCC. This certification process gives the Department of Energy an easily verifiable means of determining the reliability and performance characteristics of the equipment produced by the various manufacturers. The Department of energy and low-income households can rely on the certification process to accurately determine which solar water heating systems would yield meaningful energy savings and therefore should be utilized in the weatherization program.

Mr. President, given the many years of experience with this technology, and the high reliability of systems that have been certified by SRCC, their inclusion in the low-income weatherization program is long overdue. I urge the adoption of this amendment.

Mr. JOHNSTON. Mr. President, the next amendment on behalf of myself and Senator WIRTH would authorize the States to use Federal assistance for the development of building retrofit standards.

This amendment would add a new section to subtitle E of title VI of S. 2166. The new section would amend the existing State Energy Conservation Program [SECP].

First, it would authorize States to use Federal funds currently received through their SECP Program for the establishment and operation of State programs for the development of building retrofit—energy renovation—standards and regulations.

Second, the amendment would authorize the Department of Energy to provide technical assistance to the States to develop and implement such programs, including reports on programs in other States and model State laws and regulations.

In 1975, Congress established the State Energy Conservation Program [SECP] to provide grants to each of the States to develop and operate an energy office. Since that time, Congress has consistently increased the scope of activities which States may undertake using these funds. This increased flexibility was granted to accommodate changing energy policy opportunities, and to accommodate the diversity among the States in the needs and opportunities which they each face.

Any meaningful energy policy must address the building sector where roughly one-quarter of the Nation's energy is used. However, it is difficult to improve the efficiency of the building sector because of the slow rate of turnover in the Nation's building stock. The useful life of a building is measured in decades. Therefore, to compliment this bill's provisions to promote energy efficiency standards for new buildings, this amendment would encourage States to develop energy efficiency standards to apply during building renovations.

This program is voluntary. The amendment simply authorizes States to use Federal funds provided under the SECP Program to develop and implement an energy retrofit standards program, if the State wishes, and it authorizes DOE to provide technical assistance to the States.

This amendment was proposed by the American Council for an Energy Efficient Economy and the Alliance to Save Energy. I am unaware of any opposition.

Mr. President, the next amendment on behalf of myself, Senators MIKULSKI and SARBANES would study the energy efficiency potential of vibration reduction technologies.

This amendment would require the Secretary of Energy to study and submit a report to Congress on the energy efficiency potential and other benefits of certain noise and vibration technology.

Recent studies suggest that vibration-reduction technologies, based on the use of advanced microprocessors to cancel machinery vibrations, have substantial energy efficiency benefits. A study by DOE validating such savings would help to promote the commercialization of such technologies, and would therefore increase the Nation's overall energy efficiency.

Mr. President, the next amendment on behalf of myself and Senator WALLOP would provide for low-income participation in the development of State utility integrated resource plans.

This amendment would amend section 6302 to provide that the funds made available in grants to State regulatory authorities may be used to provide financial assistance to Low-Income Weatherization Program subgrantees in order to facilitate their participation in integrated resource planning proceedings.

The DOE Weatherization Program is the largest single direct Federal investment in residential energy conservation.

However, the State weatherization programs do not have the resources to participate in State regulatory commission proceedings to develop integrated resource planning.

In California, Montana, Wisconsin, and in the Pacific Northwest planning partnerships between regulatory commissions and weatherization programs have resulted in major utility investment in low-income residential energy efficiency improvements.

This amendment would promote such planning partnerships by authorizing State commissions to use funds received under these section 6302 grants for DOE program participation in the planning process.

Mr. President, I will offer these amendments en bloc, keeping in mind that the fourth discussed amendment was a second-degree amendment to the third discussed amendment, and if there is any confusion about that, I will further clarify it.

Mr. President, I submit those amendments and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, reserving the right to object, as I walk down through these things I did not hear but I am certain he did offer the Fowler second-degree to title VI, the energy efficiency. Was that a part of it?

Mr. JOHNSTON. Yes.

Mr. WALLOP. Mr. President, I shall not object.

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

The question occurs on the amendments en bloc. Is there debate?

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. Mr. President, I want to take a moment to thank the Senator and the distinguished ranking minority member of the committee. This package represents, along with the other amendments that we will do later and what is in the bill, a sweeping energy efficiency commitment. I think it is enormously important.

We have all talked about this. Now we are getting down to it.

This is one of the major pieces of the bill, and Senator JOHNSTON has done a brilliant job in my opinion of working its way thorugh all of the thickets and land mines that are out there. I want to thank the Senator from Louisiana for doing such a good job. This really launches us into the 21st century in energy.

I thank the Chair.

Mr. JOHNSTON. Mr. President, I would be remiss if I did not denote the dominant role that the Senator from Colorado has played in this bill in effecting the energy efficiency and conservation provisions.

We discussed these provisions very quickly because now they have been agreed to after months, and months, and months of deep and efficient and very skilled work of the staff of the Energy Committee, and Senator WIRTH, and of others involved, but in particular Senator WIRTH who has led in this area.

It is safe to say, Mr. President, we would not have the very strong, far-reaching, and effective provisions of this bill with respect to energy efficiency and conservation were it not for the energy of the Senator from Colorado.

In this area, the devil is in the details. The conservation and the efficiency are in the details because you do not paint with a broad brush for the most part when you are dealing with these provisions. But you have to deal with a mass of things which collectively are very effective, and collectively these provisions are very effective. But there sure is a lot of detail, and there sure was a lot of work. The Senator from Colorado deserves the substantial part of the credit, and I thank him for it.

The PRESIDING OFFICER. Is there further debate on the amendments? If not, without objection, amendments 1532 through 1542 are considered en bloc and agreed to.

The amendments (Nos. 1532 through 1542) were agreed to, as follows:

AMENDMENT NO. 1532

(Purpose: To conform title I with Clean Air Act language regarding phaseouts of chlorofluorocarbons)

On page 12, lines 9 through 14, delete subsection (c) and designate subsection (d) as subsection (c).

AMENDMENT NO. 1533

(Purpose: To clarify selection of joint venture projects under Public Law 101-218)

On page 83, line 24, amend section 5201 by inserting a new subsection (b) as follows, and redesignating subsections (b) and (c) as subsections (c) and (d) accordingly:

"(b) Section 6(d)(1) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended as follows:

(1) after the semicolon by deleting the word "or"; and

(2) by inserting after paragraph (B) a new paragraph (C) as follows: "; or (C) there is insufficient Federal funding to adequately fund each of the joint venture technologies as required under subsection (b)(1),"."

Amend page 84, line 19, by inserting a new paragraph (4) to read as follows:

"(4) By inserting after the word "shall" in paragraph (b)(5), the word "not"."

Amend page 87, line 22 by inserting a new subsection (d) as follows:

"(d) ADDITIONAL DUTIES OF JOINT VENTURE ADVISORY COMMITTEE.—Section (b)(3) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended by adding a new subparagraph as follows:

"(C) Not later than 18 months after the date of the enactment of the National Energy Security Act of 1991, the Advisory Committee shall provide the Secretary with a report assessing the implementation of the joint venture program under this section including specific recommendations for improvements or changes to the program and solicitation process.".".

AMENDMENT NO. 1534

(Purpose: To provide for an energy efficient mortgage pilot program)

On page 117, after line 14, amend Section 6102 by adding the following new subsection (d):

"(d) ENERGY EFFICIENT MORTGAGE PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Veterans Affairs shall, within six months after the date of enactment of this Act, jointly establish an energy efficient mortgage pilot program in five States, to promote the purchase of new and existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

"(2) PILOT PROGRAM.—The pilot program established under this subsection shall include the following criteria, where applicable:

"(A) the lender shall originate an otherwise normal VA or FHA home loan;

"(B) the mortgagor's income and credit record is found to be satisfactory and his base loan application is approved; and

"(C) the cost of cost-effective energy efficiency improvements do not exceed five percent of the property value (not to exceed $8,000) or $4,000, whichever is greater.

"(3) ADDITIONAL.—When granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority to:

"(A) permit the final loan amount to exceed the normal VA, FHA, loan limits by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, provided that the mortgagors request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

"(B) hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

"(C) transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

"(4) PROMOTION OF PILOT PROGRAM.—The Secretary of Housing and Urban Development and the Secretary of Veteran's Affairs shall encourage participation in the energy efficient mortgage pilot program by:

"(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

"(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

"(C) requiring all applicants for VA and FHA mortgages in those States participating under this pilot program to sign a statement stating that they have been informed of the program and understand the benefits of energy efficient mortgages.

"(5) TRAINING PROGRAM.—Not later than nine months after the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with the Secretary of Veteran's Affairs and the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

"(6) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Housing and Urban Affairs and the Secretary of Veteran's Affairs shall prepare a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, as well as an assessment of the potential for expanding the pilot program nationwide.

"(7) EXTENSION OF PROGRAM.—Not later than two years after the date of the implementation of the Energy Efficient Mortgage Pilot Program, the Secretary of Housing and Urban Development and the Secretary of Veteran's Affairs shall extend the pilot program nationwide unless the Secretaries can demonstrate to Congress that such an extension would not be practicable.

"(8) DEFINITIONS.—As used in this subsection the term—

"(1) 'energy efficient mortgage' means a mortgage on a residential property that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan;

"(2) 'cost-effective' means those energy efficiency improvements to an attached or unattached single family residence that will produce an immediate and quantifiable positive cash flow and will result in monthly energy savings greater than the resulting increase in the monthly loan payment when 100 percent of the cost of improvements is added to the base loan;

"(3) 'base loan' means any FHA or VA loan that does not include the cost of cost-effective energy improvements; and

"(4) 'residential buildings' means any attached or unattached single family residence.".

AMENDMENT NO. 1535

(Purpose: To amend the amendment which provides for an energy efficient mortgage program to include solar technologies)

Amend the amendment which provides for an energy efficient mortgage program by inserting the following text in the first definition, in subparagraph (d)(8)(1), after the phrase, "recognizes the energy savings of a home that has cost-effective energy saving construction or improvements": "(including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film)"

AMENDMENT NO. 1536

(Purpose: To assure competition in demand side management programs)

On page 159, after line 9, redesignate subsections (b) and (c) as subsections (c) and (d), respectively, and add the following new subsection:

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"(b) The Public Utility Regulatory Policies Act of 1978 is further amended by inserting the following new paragraph at the end of subsection 111(c):

"'(3) If a State regulatory authority implements a standard established by subsection (d)(7), such authority shall (A) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy conservation, energy efficiency or other demand side management measures, and (B) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.'"; and

On page 160, after line 8, insert the following new paragraph:

"(4) an analysis by the Federal Trade Commission of the competitive impact of implementation of energy conservation, energy efficiency and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation or servicing of similar energy conservation, energy efficiency or other demand side management measures and whether any unfair, deceptive or predatory acts or practices exist, or are likely to exist, from implementation of such programs.".

AMENDMENT NO. 1537

(Purpose: To provide for periodic review of the Federal building energy code)

On page 109, after line 2, insert the following new subsection (d) and reletter the existing subsection (d) as (e).

"(d) The Secretary shall periodically, but no less than once every five years, review the Federal building energy code and shall, if significant energy savings would result, upgrade such code to include all new energy efficiency measures that are technologically feasible and economically justified."

AMENDMENT NO. 1538

(Purpose: To add solar water heaters to the list of authorized Low Income Weatherization measures)

On page 176, lines 22, insert the following new section:

"SEC. 6508. USE OF SOLAR THERMAL WATER HEATERS FOR LOW INCOME WEATHERIZATION.—Section 412(9)(e) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)(E)) is amended by inserting a new clause as follows and relettering accordingly: 'solar thermal water heaters'."

AMENDMENT NO. 1539

(Purpose: To authorize States to the Federal assistance for the development of building retrofit standards)

Amend subtitle E of title VI by adding a new section as follows:

"SEC. 6508. BUILDING RETROFIT STANDARDS.—(a) Section 462(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by renumbering paragraph (13) as paragraph (14) and inserting before the "; and" in paragraph (12) a new paragraph (13) as follows:

"(13) programs for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of the building;"

"(b) Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323) is amended by adding a new subsection (f) as follows:

"(f) Technical assistance pursuant to subsection (a) may include: (i) reports on experience with existing retrofit programs; and (ii) model State laws and proposed regulations relating to the development of building retrofit standards and regulations, including retrofit ordinances."

AMENDMENT NO. 1540

(Purpose: To study the energy efficiency potential of vibration reduction technologies)

On page 144, after line 17, add the following new section:

"SEC. . VIBRATION TECHNOLOGY STUDY.—(a) The Secretary of Energy shall, in consultation with the appropriate industry representatives, conduct a study to assess the cost-effectiveness, technical performance, energy efficiency, and environmental impacts of active noise and vibration cancellation technologies that use fast adapting algorithms.

(b) In carrying out such study, the Secretary shall—

(1) estimate the potential for conserving energy and the economic and environmental benefits that may result from implementing active noise and vibration abatement technologies in demand-side management; and

(2) evaluate the cost effectiveness of active noise and vibration cancellation technologies as compared to other alternatives for reducing noise and vibration.

(c) The Secretary shall transmit to the Congress, within 12 months after the date of the enactment of this Act, a report containing the findings and conclusions of the study carried out under this subsection.

(d) The Secretary may, based on the findings and conclusions of such study, carry out at least one project designed to demonstrate the commercial application of active noise and vibration cancellation technologies using fast adapting algorithms in products or equipment with a significant potential for increased energy efficiency.

AMENDMENT NO. 1541

(Purpose: To provide for low-income participation in the development of State utility integrated resource plans (IRP's)

Amend section 6302 on page 161,

(1) by adding at the end of line 5, "Such grants may be utilized by a State regulatory authority to provide financial assistance to subgrantees of the Department of Energy's Weatherization Assistance Program to facilitate participation by such subgrantees in proceedings of such regulatory authority to examine least-cost planning."; and

(2) by adding at the end of line 10, "Such actions—

"(1) shall include procedures to facilitate the participation of subgrantees of the Department of Energy's Weatherization Assistance Program in proceedings of such regulatory authority to examine least-cost planning, and

"(2) may include provision for utility coverage of the costs of such subgrantees participation in such proceedings.".

AMENDMENT NO. 1542

(Purpose: To strike the section exempting Federal Energy Regulatory Commission meetings from the Government in the Sunshine Act)

On page 303, strike line 15 and all that follows through line 21.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the amendments en bloc were agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENTS NUMBERED 1543, 1544, 1545, AND 1548 EN BLOC

Mr. JOHNSTON. Mr. President, next I want to submit a package of four amendments by Senator GLENN which I ask to consider en bloc along with cosponsors, Senators KOHL, FOWLER, LAUTENBERG, COHEN, SEYMOUR, GRASSLEY, LEVIN, DODD, WIRTH, and myself. These have been discussed on yesterday.

The first Glenn amendment would expand the management plan under Public Law 101–218.

The second amendment by Senator GLENN would amend title 4(a) regarding Federal fleets.

The third amendment, to improve Federal Government energy efficiency, contains a second-degree amendment by Senator KOHL, also discussed yesterday, to increase the authorization of the Federal energy management fund; a second-degree amendment by Senator KASTEN to encourage Federal agency participation in the Green Lights Program; a third second-degree amendment on behalf of Senators GLENN and WIRTH would facilitate the use of shared energy savings contracts by Federal agencies. This was also discussed at length yesterday.

The fourth Glenn amendment would allow the GSA into refueling agreements with private refueling facilities.

As I say, Mr. President, these amendments were submitted and held at the desk yesterday and discussed.

Mr. President, I have copies of these four amendments, and I now submit them and ask unanimous consent that these amendments along with the second-degree amendments as described be considered en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, I will not object, but I will observe that the chairman and the ranking member have worked pretty hard, with the Senator from Colorado in particular, on numbers of his conservation procedures.

I would also observe that the cooperation has been not so forthcoming in the other direction. I hope maybe as we go on through these things that we might find that there is a little work coming in this direction as well.

But I will not stand in the way of these four amendments.

Mr. WIRTH. Mr. President, reserving the right to object, and I shall not object, I have two questions that I would want to propound as part of my reservation, if I might.

First, it is my understanding that included in the four amendments offered by the Senator from Louisiana is the amendment that we have worked out on energy performance contracts as a result of a colloquy of the day before

yesterday with Senator GLENN to make sure that we are dealing with all of the various contractual requirements with GSA.

Mr. JOHNSTON. That is correct. There is a Glenn-Wirth second-degree amendment to facilitate the use of shared energy savings contracts by Federal agencies.

Mr. WIRTH. If I might ask unanimous consent that Senator DURENBERGER be added as a cosponsor of that amendment, and that a statement by Senator DURENBERGER be included in the RECORD at the appropriate point.

The PRESIDING OFFICER. Before acting on that——

Mr. WIRTH. Further reserving the right to object, if I might.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request that is pending as stated by the Senator from Louisiana?

The Senator from Colorado is recognized.

Mr. WIRTH. Parliamentary inquiry, Mr. President.

Is it appropriate now to ask unanimous consent that Senator DURENBERGER be included as a cosponsor and a statement be included in the RECORD at the appropriate point?

The PRESIDING OFFICER. The Chair advises the Senator that the correct procedure is to complete action on the pending unanimous-consent request, and then we can entertain additional unanimous-consent requests.

Mr. WIRTH. If I might then, Mr. President, I would like to make sure I understand the statement made by the Senator from Wyoming. I had thanked the distinguished chairman of the committee and the distinguished ranking Republican member for their cooperation. I was not quite sure what the Senator from Wyoming was referring to. I wanted to, if I might, get an understanding of that. Maybe I missed the point made by the Senator from Wyoming.

Mr. WALLOP. Mr. President, I would be happy to explain the details to the Senator. I appreciated his thanks to both me and the Senator from Louisiana on the other thing.

I am simply saying that there are lots of what we have already done on this bill, speaking in particular reference to the amendment upon which we voted today, in which it seems that all the give is in the direction of the Senator from Colorado, and I am trying to urge him to give in our direction a little bit on some other things, and I will explain the details.

Mr. WIRTH. I look forward to hearing about that. This has been a cooperative venture, and I appreciate the help of the leadership of the committee on both sides.

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

Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to the four amendments, with the three second-degree amendments, that were sent to the desk.

The amendments (Nos. 1543, 1544, 1545, 1546, 1547, 1548, and 1549) were agreed to en bloc.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The amendments, agreed to en bloc, are as follows:

AMENDMENT NO. 1543

(Purpose: Expand the Management Plan required under P.L. 101–218)

On page 87, line 22, amend section 5201 of subtitle B of title V by inserting at the end thereof the following new subsection (d):

"(d) NATIONAL RENEWABLE ENERGY AND ENERGY EFFICIENCY MANAGEMENT PLAN.—Section 9(b) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101–218) is amended:

"(A) in paragraph (1) by inserting "three-year" before "management plan"; and

"(B) by deleting paragraph (5) and inserting the following new paragraphs (5) and (6) in lieu thereof:

"(5) In addition, the Plan shall—

"(A) contain a detailed assessment of program needs, objectives, and priorities for each of the programs authorized under sections 4, 5, and 6 of this Act;

"(B) use a uniform prioritization methodology to facilitate cost-benefit analyses of proposals in various program areas;

"(C) establish milestones for setting forth specific technology transfer activities under each program area;

"(D) include annual and five-year cost estimates for individual programs under this Act;

"(E) identify program areas for which funding levels have been changed from the previous year's Plan.

"(6) Within one year after the date of the enactment of this paragraph, the Secretary shall submit a revised management plan under this section to Congress. Thereafter, the Secretary shall submit a management plan every three years at the time of submittal of the President's annual budget submission to the Congress.".

Mr. JOHNSTON. Mr. President, this amendment expands the requirements of the Department of Energy in their development of a management plan for renewable energy and energy efficiency technologies to include detailed program review, annual 5-year cost-benefit analyses, and the establishment of technology transfer milestones.

This amendment is based on language in S. 1040 as introduced by Senator GLENN and provides directions to the Department in carrying out the provisions of the renewable energy and energy efficiency management plan. The management plan is an important indicator of what is expected from private sector parties who wish to become participants in the Department's joint venture program.

The Department is currently engaged in various types of collaborative research and development efforts under the Federal Nonnuclear Research and Development Policy Act of 1974 and other existing laws. This amendment further clarifies the duties and purposes of these efforts as well as develop specific timetables for review of the programs under the act.

AMENDMENT NO. 1544

(Purpose: Amendments to title IV Subtitle A)

Amend page 9, line 23, by deleting the word "and", and on line 25 by inserting a new subsection (16) before the period as follows: "; and (16) encourage the Federal government to play a lead role in the widespread commercialization of alternative fuel vehicles.".

Amend page 18, section 4101 by adding the following new definitions (1) and (4) and renumbering the existing definitions accordingly:

"(1) "Administrator" means the Administrator of the General Services Administration;

"(4) "comparable conventionally fueled vehicle" means a commercially available vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source and provides passenger capacity or payload capacity comparable or similar to an alternative fuel vehicle as determined by the Secretary.".

Amend page 21, line 15, by inserting the following new subsection (b) and redesignating subsequent subsections accordingly:

"(b) PROGRAM CRITERIA.—The Secretary, the Administrator, in consultation with the head of each Federal agency, shall consider the following criteria in the procurement and placement of alternative fuel vehicles:

"(1) the procurement plans of State and local governments and other public and private institutions;

"(2) the current and future availability of refueling and repair facilities;

"(3) the reduction in emissions of the Federal motor vehicle fleet;

"(4) whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act of 1990;

"(5) the needs of Federal, State, and local agencies; and

"(6) the contribution to the reduction in the consumption of oil in the transportation sector.

Amend page 46, line 21, by inserting the following new subsection (g) and redesignating subsequent subsections accordingly:

"(g) ACQUISITION REQUIREMENT.—Federal agencies, to the extent practicable, shall obtain alternative fuel vehicles form original equipment manufacturers.".

Amend page 26, line 17, by deleting "4102, 4103," and inserting in lieu thereof "4103".

Amend page 29, by redesignating sections 4110 and 4111 as sections 4118 and 4119 respectively and inserting on page 29, after line 19, the following new sections 4110, 4111, 4112, 4113, 4114, 4115, 4116, and 4117:

"SEC. 4110. RESALE OF ALTERNATIVE FUEL VEHICLES.

(a) Not less than three years from the date of purchase, the Administrator may resell any alternative fuel passenger automobile purchased pursuant to this subtitle. For purposes of this subsection, a "passenger automobile" means any passenger automobile as defined in section 501(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(2).

"(b) Not less than six years, or 60,000 miles from the date of purchase, the Administrator

may resell any alternative fuel light truck purchased pursuant to this subtitle. For purposes of this subsection, a "light truck" means any light truck as defined in section 501(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(15).

"(c) The Administrator may resell or dispose of an alternative fuel passenger automobile or light truck at an earlier date if such vehicle is damaged in an accident, or if the Administrator determines selling such alternative fuel passenger automobile or light truck is in the best interests of the Federal alternative fuel vehicle program.

"(d) The Administrator shall take all feasible steps to ensure that all alternative fuel vehicles sold under the provisions in (a) and (b) of this section shall remain alternative vehicles at time of sale.

"SEC. 4111. FEDERAL AGENCY PROMOTION, EDUCATION, AND COORDINATION.

(a) PROMOTION AND EDUCATION.—The Administrator shall institute a program to promote programs and educate officials and employees of Federal agencies on the merits of alternative fuel vehicles. The Administrator shall provide and disseminate information to Federal agencies on the:

"(1) location of refueling and maintenance facilities available to alternative fuel vehicles in the Federal fleet;

"(2) range and performance capabilities of alternative fuel vehicles;

"(3) State and local government and commercial alternative fuel vehicle programs;

"(4) Federal alternative fuel vehicle purchases and placements;

"(5) operation and maintenance of alternative fuel vehicles in accordance with the manufacturer's standards and recommendations; and

"(6) incentive programs established pursuant to sections 4112 and 4113 of this Act.

"(b) ASSISTANCE IN PROCUREMENT AND PLACEMENT.—The Administrator shall provide guidance, coordination and technical assistance to Federal agencies in the procurement and geographic location of alternative fuel vehicles purchased through the Administrator. The procurement and geographic location of such vehicles shall comply with the purchase requirements under section 4102 of this Act.

"(c) INTERGOVERNMENTAL COORDINATION.—The Administrator shall identify other Federal, State, and local effort to promote and use alternative fuel vehicles. To the maximum extent practicable, the Administrator shall coordinate Federal alternative fuel vehicle procurement, placement, refueling and maintenance programs with those at the State and local level.

"SEC. 4112. AGENCY INCENTIVES PROGRAM.

"(a) REDUCTION IN RATES.—To encourage and promote use of alternative fuel vehicles in Federal agencies, the Administrator may offer a five percent reduction in fees charged to agencies for the lease of alternative fuel vehicles below those fees charged for the lease of comparable conventionally fueled vehicles.

"(b) FEDERAL EMPLOYEE POOLING AND DRIVER PROGRAM.—Notwithstanding the provisions of section 1344(a) of title 31, United States Code, Federal agencies may authorize Federal employees to use alternative fuel vehicles from their residence to their place of employment for purposes of:

"(1) Federal employee carpooling of not less than four Federal employees for each trip; and

"(2) refueling and maintenance, if the Federal agency head, or the designee of the agency head, determines that such services are not convenient to the location of place of employment.

"SEC. 4113. RECOGNITION AND INCENTIVE AWARDS PROGRAM.

"(a) AWARDS PROGRAM.—The Administrator shall establish an annual cash awards program to recognize those employees of the General Services Administration and other Federal agencies who demonstrate the strongest commitment to the use of alternative fuels and fuel conservation in Federal motor vehicles.

"(b) CRITERIA FOR GENERAL SERVICES ADMINISTRATION EMPLOYEES.—The Administrator shall provide annual cash awards of not more than $2,000 each to three General Services Administration employees who best demonstrate a commitment:

"(1) to the success of the Federal alternative fuels vehicle program through—

"(A) exemplary promotion of alternative fuel vehicle use within the General Services Administration and other Federal agencies;

"(B) proper alternative fuel vehicle care and maintenance;

"(C) coordination with Federal, State, and local efforts;

"(D) innovative alternative fuel vehicle procurement, refueling and maintenance arrangements with commercial entities; and

"(2) to fuel efficiency in Federal motor vehicle use through the promotion of such measures as increased use of fuel-efficient vehicles, carpooling, ride-sharing, regular maintenance and other conservation and awareness measures.

"(c) LIMITATIONS ON AWARDS.—The three awards under paragraph (b) shall be awarded to three different employees each year. No employee may win a cash award in more than two consecutive years.

"(d) AWARD TO REGIONAL GENERAL SERVICES ADMINISTRATION EMPLOYEES.—(1) In each standard Federal region where the General Services Administration operates alternative fuel vehicles, the Administrator shall offer two annual cash awards of not more than $1,000 to the regional General Services Administration employees who meet the criteria under paragraph (b).

"(2) Employees who receive an award under section (b) may not receive an award under this section in the same fiscal year. No more than two awards shall be awarded under this subsection in each region in any fiscal year.

"(e) AWARD TO FEDERAL AGENCY EMPLOYEES.—In each region where the General Services Administration operates alternative fuel vehicles, the Administrator shall provide one annual $2,000 cash award to the Federal employee (other than an employee of the General Services Administration) who demonstrates the greatest interest and commitment to alternative fuel vehicles by—

"(1) making regular requests for alternative fuel vehicles for agency use;

"(2) maintaining a high number of alternative fuel vehicles used relative to comparable conventionally fueled vehicles used;

"(3) promoting alternative fuel vehicle use by agency personnel; and

"(4) demonstrating care and attention to alternative fuel vehicles.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000 in fiscal year 1992, $35,000 in fiscal year 1993, and $45,000 in fiscal year 1994 to carry out the purposes of this section.

"SEC. 4114. MEASUREMENT OF ALTERNATIVE FUEL USE.

The Administrator shall use such means as may be necessary to measure the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator.

"SEC. 4115. INFORMATION COLLECTION.

The Secretary, in consultation with the Administrator, shall determine a representative sample of alternative fuel vehicles in the Federal fleet. Such a sample shall be sufficient to address at a minimum—

"(1) the performance of such vehicles, including performance in cold weather and at high altitudes;

"(2) the fuel economy, safety, and emissions of such vehicles; and

"(3) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of other passenger vehicles and light duty trucks.

"SEC. 4116. GENERAL SERVICES ADMINISTRATION REPORT.

Not later than one year after the date of the enactment of this Act, and annually thereafter, the Administrator shall report to the Congress on the General Services Administration's alternative fuel vehicle program under this Act. The report shall contain information on—

"(1) the number and type of alternative fuel vehicles procured;

"(2) the location of alternative fuel vehicles by standard Federal region;

"(3) the total number of alternative fuel vehicles used by each Federal agency;

"(4) arrangements with commercial entities for refueling and maintenance of alternative fuel vehicles;

"(5) future alternative fuel vehicle procurement and placement strategy;

"(6) the difference in cost between the purchase, maintenance and operation of alternative fuel vehicles and the purchase, maintenance, and operation of comparable conventionally fueled vehicles;

"(7) coordination among Federal, State, and local governments for alternative fuel vehicle procurement and placement;

"(8) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator as measured under section 4114;

"(9) a description of the representative sample of alternative fuel vehicles as determined under section 4115; and

"(10) award recipients under this subtitle.

"SEC. 4117. UNITED STATES POSTAL SERVICE REPORT.

Not later than one year after the date of the enactment of this Act, and annually thereafter, the Postmaster General shall submit a report to the Congress on the Postal Service's alternative fuel vehicle program. The report shall contain information on—

"(1) the total number and type of alternative fuel vehicles procured prior to the date of the enactment of this Act (first report only);

"(2) the number and type of alternative fuel vehicles procured in the preceding year;

"(3) the location of alternative fuel vehicles by region;

"(4) arrangements with commercial entities for purposes of refueling and maintenance;

"(5) future alternative fuel procurement and placement strategy;

"(6) the difference in cost between the purchase, maintenance and operation of alternative fuel vehicles and the purchase, maintenance, and operation of comparable conventionally fueled vehicles;

"(7) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Postmaster General;

"(8) promotions and incentives to encourage the use of alternative fuels in flexi-fueled vehicles; and

"(9) an assessment of the program's relative success and policy recommendations for strengthening the program.".

TECHNICAL AND CONFORMING AMENDMENT.—On page 2, delete items 4110 and 4111, and add the following items in lieu thereof:

"Sec. 4110. Resale of Alternative Fuel Vehicles.
"Sec. 4111. Federal Agency Promotion, Education, and Coordination.
"Sec. 4112. Agency Incentives Program.
"Sec. 4113. Recognition and Incentive Awards Program.
"Sec. 4114. Measurement of Alternative Fuel Use.
"Sec. 4115. Information Collection.
"Sec. 4116. General Services Administration Report.
"Sec. 4117. United States Postal Service Report.
"Sec. 4118. Enforcement.
"Sec. 4119. Implementation.".

Mr. JOHNSTON. Mr. President, this amendment:

Establishes program criteria for the procurement and placement of alternative fuel vehicles;

Directs Federal agencies to obtain alternative fuel vehicles from original equipment manufacturers, whenever practical;

Provides guidelines for the resale of alternative fuel vehicles and light trucks;

Establishes educational and incentive programs for officials and employees of Federal agencies to promote the merits and procurement of alternative fuel vehicles; and

Requires reports from GSA and the Postal Service as to the rate of participation in the Federal fleet program and the costs of maintaining such a fleet.

AMENDMENT NO. 1545

(Purpose: To improve Federal Government energy efficiency)

Beginning on page 144, line 19, strike the text of subtitle B of Title VI, and insert the following in lieu thereof.

SEC. 6201. DEFINITIONS.

For purpose of this subtitle—

(1) the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, any agency of the judicial branch of Government;

(2) the term "facility energy supervisor" means the employee with responsibility for the daily operations of a Federal facility, including the management, installation, operation and maintenance of energy systems in Federal facilities which may include more than one building;

(3) the term "trained energy manager" means a person who has demonstrated proficiency, or who has completed a course of study in the areas of the fundamentals of building energy systems; building energy costs and applicable professionals standards; energy accounting and analysis; life-cycle cost methodology; fuel supply and pricing; and instrumentation for energy surveys and audits; and

(4) the term "Task Force" means the Interagency Energy Management Task Force established under section 547 of the National Energy Conservation Policy Act (42 U.S.C. 8257).

SEC. 6202. FEDERAL ENERGY COST ACCOUNTING AND MANAGEMENT.

(a) GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Office of Management and Budget, in cooperation with the Secretary, the General Services Administration, and the Department of Defense, shall establish guidelines to be employed by each Federal agency to assess accurate energy consumption for all buildings or facilities which the agency owns, operates, manages or leases, where the Government pays utilities separate from the lease and the Government operates the leased space. Such guidelines are to be used in reporting quarterly and annual energy consumption and energy cost figures as required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253). Each agency shall implement such guidelines no later than 120 days after their establishment. Each facility energy manager shall maintain energy consumption and energy cost records for review by the Inspector General, Congress and the general public.

(b) CONTENTS OF GUILDELINES.—Such guidelines shall include the establishment of a monitoring system to determine—

(1) which facilities are the most costly to operate when measured on an energy consumption per square foot basis or other relevant analytical basis;

(2) unusual or abnormal changes in energy consumption; and

(3) the accuracy of utility charges for electric and gas consumption.

(c) FEDERALLY LEASED SPACE ENERGY REPORTING REQUIREMENT.—Not later than December 31, 1992, and on each December 31 thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate and the House of Representatives on the estimated energy cost of leased buildings or space in which the Federal Government does not directly pay the utility bills.

(d) POSTAL SERVICE.—The United States Postal Service shall adopt regulations to ensure the reliable and accurate accounting of energy consumption costs for all buildings or facilities which it owns, leases, operates or manages. The regulations shall include establishing a monitoring system to determine which facilities are the most costly to operate; identify unusual or abnormal changes in energy consumption; and check the accuracy of utility charges for electricity and gas consumption.

SEC. 6203. FEDERAL ENERGY COST BUDGETING.

The President shall include in each budget submitted to the Congress under section 1105 of title 31, United States Code, a separate statement of the amount of appropriations requested, on an agency basis, for—

(1) energy costs to be incurred in operating and maintaining agency facilities; and

(2) compliance with the provisions of part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), the Energy Policy and Conservation Act, and applicable Executive orders, including Executive Orders No. 12003 and No. 12579.

SEC. 6204. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.

(a) AUDIT SURVEY.—Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the Inspector General Act of 1978 (5. U.S.C. App.) as amended, and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E.(a)(2) of the Inspector General Act Amendments of 1988 (PL 100-504) shall—

(1) identify agency compliance activities to meet the requirements of such section and any other matters relevant to implementing the goals of the National Energy Conservation Policy Act; and

(2) assess the accuracy and reliability of energy consumption and energy cost figures required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(b) PRESIDENT'S COUNCIL ON INTEGRITY AND EFFICIENCY REPORT TO CONGRESS.—Not later than 150 days after the date of the enactment of this Act, the President's Council on Integrity and Efficiency shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives, on the review conducted by each Inspector General of each agency carried out under this section.

(c) INSPECTOR GENERAL REVIEW.—Each Inspector General established under section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is encouraged to conduct periodic reviews of agency compliance with the National Energy Conservation Policy Act, the provisions of this subtitle, and other laws relating to energy consumption. Such reviews shall not be inconsistent with the performance of the required duties of the Inspector General's office.

SEC. 6205. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.

(a) CONFERENCE WORKSHOPS.—The General Services Administration, in consultation with the Secretary and the Task Force, shall hold regular, biennial conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy. The General Service Administration shall work and consult with other Federal agencies to plan for particular regional conferences. The General Services Administration shall invite State, local, and county public officials who have responsibilities for energy management or may have an interest in such conferences and shall seek the input of, and be responsive to, the views of such State, local and county officials in the planning and organization of such workshops.

(b) FOCUS OF WORKSHOPS.—Such workshops and conferences shall focus on the following, but may include other topics:

(1) developing strategies among Federal, State, and local governments to coordinate energy management policies and to maximize available intergovernmental energy management resources within the region;

(2) the design, construction, maintenance, and retrofitting of Federal facilities to incorporate energy efficient techniques;

(3) procurement and use of energy efficient products;

(4) alternative fuel vehicle procurement, placement, and usage;

(5) coordinated development with the private sector for the servicing, refueling, and maintenance of alternative fuel vehicles;

(6) dissemination of information on innovative programs, technologies, and methods which have proven successful in government; and

(7) technical assistance to design and incorporate effective energy management strategies.

(c) ESTABLISHMENT OF WORKSHOP TIMETABLE.—As a part of the first report to be submitted pursuant to section 6214 of this Act, the Administrator shall set forth the schedule for the Regional Energy Management Workshops. Not less than five workshops shall be held by September 30, 1993, and at least one such workshop shall be held

in each of the 10 Federal regions every two years beginning on September 30, 1993.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $300,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purpose of this section.

SEC. 6206. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.

(a) PROCUREMENT.—The General Services Administration, in consultation with the Department of Defense and the Defense Logistics Agency, shall undertake a program to include energy efficient products on the Federal Supply Schedule and the New Item Introductory Schedule.

(b) IDENTIFICATION PROGRAM.—The General Services Administration, in consultation with the Department of Energy and the Defense Logistics Agency, shall implement a program to identify and designate on its respective Supply Schedules those energy efficient products which offer significant potential savings, as calculated using the life cycle cost methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254), unless such life cycle cost information is not readily available.

(c) GUIDELINES.—The Office of Federal Procurement Policy, in consultation with the General Services Administration, the Department of Energy, and the Department of Defense, shall issue guidelines to encourage the acquisition and use by all Federal agencies of products identified pursuant to this section. The Department of Defense and the Defense Logistics Agency shall consider, and place emphasis on, the acquisition of such products as part of the Agency's ongoing review of military specifications.

(d) UNITED STATES POSTAL SERVICE GUIDANCE.—The USPS shall undertake a program to identify and procure energy efficient products for use in its facilities. The USPS shall, to the maximum extent practicable, incorporate energy efficient information available on Federal Supply Schedules maintained by GSA and DLA to carry out the purpose of this section.

(e) REPORT TO CONGRESS.—As a part of the report to be submitted pursuant to Section 6214 of this Act, the Administrator of General Services, in consultation with the Defense Logistics Agency and the Department of Energy, shall report on the progress, status, activities, and results of the programs under subsections (b) and (c) of this section. The report shall include, but not be limited to—

(1) the number, types, and functions of each new product under subsection (a) added to the Federal Supply Schedule and the New Item Introductory Schedule during the previous fiscal year, and the name of the product manufacturer;

(2) the number, types, and functions of each product identified under subsection (b), and efforts undertaken by the General Services Administration and the Defense Logistics Agency to encourage the acquisition and use of such products;

(3) the actions taken by the General Services Administration and the Defense Logistics Agency to identify products under subsection (b), the barriers which inhibit implementation of identification of such products, and recommendations for legislative action, if necessary;

(4) whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C. 1701j-2), have been added to the Federal Supply Schedule or New Item Introductory Schedule;

(5) an estimate of the potential cost savings to agencies and the Federal Government, taking into account the quantity of energy efficient products which could be utilized throughout the Government, that would be realized through implementation or installation of products identified in this section; and

(6) the actual quantity of such products acquired and an estimate of the energy savings achieved by the use of such products.

SEC. 6207. GENERAL SERVICES ADMINISTRATION FEDERAL BUILDINGS FUND.

Section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), is amended—

(1) in paragraph (1), by inserting "(to be known as the Federal Buildings Fund)" after "a fund"; and

(2) by adding at the end thereof the following new paragraphs:

"(7)(A) The Administrator is authorized to receive amounts from rebates or other cash incentives related to energy savings and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (D). Amounts deposited in the Federal Buildings Funds under this subparagraph shall be used to implement energy efficiency programs.

"(B) The Administrator may accept such goods or services, consistent with approved Federal energy management objectives, provided in lieu of any rebates or other cash incentives for energy savings under subparagraph (A).

"(C) In the administration of any real property for which the Administrator leases and pays utility costs, the Administrator may assign all or a portion of energy rebates to the lessor to underwrite the costs incurred in undertaking energy efficiency improvements in such real property.

"(D) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate for energy management improvement programs—

"(i) amounts received and deposited in the Federal Buildings Fund under subparagraph (A);

"(ii) goods and services received under subparagraph (B); and

"(iii) amounts the Administrator determines are not needed for other authorized projects and are otherwise available to implement energy efficiency programs.

"(8)(A) The Administrator is authorized to receive amounts from the sale of recycled materials and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (B).

"(B) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate amounts received and deposited in the Federal Buildings Fund under subparagraph (A) for programs which—

"(i) promote further source reduction and recycling programs; and

"(ii) encourage employees to participate in recycling programs by providing funding for child care, fitness, or other employee benefit programs.".

SEC. 6208. FEDERAL ENERGY MANAGEMENT TRAINING.

(a) ENERGY MANAGEMENT TRAINING.—(1) Each executive department described under section 101 of title 5, United States Code, the Environmental Protection Agency, the National Aeronautics and Space Administration, the General Services Administration, and the United States Postal Service shall establish and maintain a program to ensure that facility energy managers are trained energy managers as defined under section 6201(3). Such programs shall be managed—

(A) by the agency representative on the Task Force; or

(B) if an agency is not represented on the Task Force, by the designee of the head of the agency.

(2) Agencies shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study covering the areas described under section 6201(3) including, but not limited to courses offered by:

(A) a private or public educational institution;

(B) a Federal agency; or

(C) a professional association.

(b) AGENCY REPORT.—(1) Each agency listed in 6208(a) shall, no later than 60 days following the enactment of this Act, report to the Task Force the following information:

(A) those individuals employed by the agency on the date of the passage of this Act who qualify as trained energy managers as defined under section 6201(3);

(B) the General Schedule (GS) or grade level at which each of these individuals are employed; and

(C) the facility or facilities for which these employees are responsible or otherwise stationed.

The Task Force shall provide a summary of these agency reports to the Committee on Governmental Affairs of the U.S. Senate and the Committee on Energy and Natural Resources of the U.S. Senate.

(c) REQUIREMENTS AT FEDERAL FACILITIES.—(1)(A) Not later than September 30, 1992, the departments and agencies described under subsection (a)(1) shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201 (2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in 6201 (3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies described under subsection (a)(1) shall ensure that, no later than September 30, 1992, no fewer than two trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under (c)(1)(B) shall not include those employees listed in the report in 6208(b).

(2)(A) Not later than September 30, 1993, the departments and agencies described under subsection (a)(1) shall further upgrade their energy management capabilities by ensuring that no fewer than five trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under (c)(2)(A) shall not include those employees listed in the report in 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count those new personnel toward the goals established in (c)(1)(B) and (c)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(i) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(d) DEPARTMENT OF DEFENSE REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the Department of Defense shall upgrade its energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in 6201(3); and

(3) increasing the overall number of trained energy managers within the Department.

(B) The Department shall insure that, no later than September 30, 1992, no fewer than twenty trained energy managers are employed by the Department.

(C) Federal employees designated for energy training and counted under (d)(1)(B) shall not include those employees listed in the report in 6208(b).

(2)(A) Not later than September 30, 1993, the Department shall further upgrade its energy management capabilities by ensuring that no fewer than forty trained energy managers are employed by the Department.

(B) Federal employees designated for energy training and counted under (2)(A) shall not include those employees listed in the report in 6208(b).

(3) The Department may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goal established in (d)(1)(B) and (d)(2)(A). Trained energy managers shall focus their efforts on improving energy efficiency in the following facilities:

(i) Department facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the Secretary of Defense as having significant energy savings potential.

(e) SPECIFIED AGENCY REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the General Services Administration, the Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in 6201(3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies identified in (e)(1)(A) shall insure that, no later than September 30, 1992, no fewer than ten trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under (e)(1)(B) shall not include those employees listed in the report 6208(b).

(2)(A) Not later than September 30, 1993, the General Services Administration, Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall further upgrade their energy management capabilities by ensuring that no fewer than twenty trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under (e)(2)(A) shall not include those employees listed in the report in 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goals established in (e)(1)(B) and (e)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(i) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(e) REPORTS OF AGENCIES.—Each agency shall report to the Secretary on the status and implementation of the requirements of this section. The Secretary shall include a summary of each agency's report in the annual report to Congress as required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258).

SEC. 6209. FEDERAL FACILITY ENERGY MANAGER RECOGNITION AND INCENTIVES AWARD PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall, in consultation with the Office of Personnel Management and the Task Force, establish a financial award program to reward outstanding facility energy managers in Federal agencies, including the United States Postal Service, and other individuals making outstanding contributions toward the reduction of energy consumption or costs in Federal facilities.

(b) SELECTION CRITERIA.—Not later than June 1, 1992, the Secretary shall issue procedures for implementing and conducting the award program, including the criteria to be used in selecting outstanding energy managers and contributors. Such criteria shall include—

(1) improved energy performance through increased energy efficiency;

(2) implementation of proven energy efficiency and energy conservation techniques, devices, equipment, or procedures;

(3) effective training programs for facility energy managers, operators, and maintenance personnel;

(4) employee awareness programs;

(5) success in generating utility incentives, shared energy savings contracts, and other federally approved performance based energy savings contracts;

(6) successful efforts to fulfill compliance with energy reduction mandates, including the provisions of section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253); and

(7) success in the implementation of the guidelines under section 6202 of this Act.

(c) AWARD LIMIT.—No single award shall be greater than $2,500.

(d) REPORT.—Each year the Secretary shall publish and disseminate to Federal agencies, and to Congress as a part of the report required under Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258) a report of highlight and recognize the achievements of bonus award winners.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $250,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purposes of this section.

SEC. 6210. IDENTIFICATION AND ATTAINMENT OF AGENCY ENERGY REDUCTION AND MANAGEMENT GOALS.

Section 3 of the Federal Energy Management Improvement Act of 1988 (42 U.S.C. 8253 note; Public Law 100-615 is amended—

(1) in subsection (a)—

(A) by striking out "using funds appropriated to carry out this section," and inserting in lieu thereof "in consultation with the Task Force.";

(B) in paragraph (1) by striking out "and" after the semicolon;

(C) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(D) by adding at the end thereof the following new paragraph:

"(3) determining barriers which may prevent an agency's ability to comply with section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) and other energy management goals.";

(2) in subsection (b)—

(A) in paragraph (1) by striking out "Congress, within 180 days after the date on which funds are appropriated to carry out this section," and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, and the House of Representatives, within 180 days after the date of the enactment of the National Energy Security Act of 1992,"; and

(B) by adding at the end thereof the following new paragraph:

"(4) For the purpose of this section, a representative sample shall include, where appropriate, the following types of Federal facility space:

"(A) Housing;

"(B) Storage;

"(C) Office;

"(D) Services;

"(E) Schools;

"(G) Research and Development;

"(F) Industrial;

"(H) Prisons; and

"(I) Hospitals.";

"(3) in subsection (d)—

(A) by striking out "Congress" and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, the Committee on Energy and Commerce of the House of Representatives, the Committee on Government Operations of the House of Representatives,"; and

(B) by adding at the end thereof "The report shall include an analysis of the probability of each agency achieving the 20 percent reduction goal by January 1, 2000 established under Executive Order No. 12759.".

SEC. 6211. UNITED STATES POSTAL SERVICE BUILDING ENERGY SURVEY AND REPORT.

(a) IN GENERAL.—The USPS shall conduct an energy survey, as defined in section 549(5) of the National Energy Conservation Policy Act, for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the USPS in different areas of the country;

(2) making recommendations to the Postmaster General for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar USPS buildings; and

(3) determining barriers which may prevent USPS compliance with energy reduction goals, including Executive Orders No. 12003 and 12579.

(b) IMPLEMENTATION.—(1) The Postmaster General shall transmit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Post Office and Civil Service Committee, within 180 days of enactment of this Act, a plan for implementing this section.

(2) The Postmaster General shall designate buildings to be surveyed in the project so as to obtain a sample of Postal facilities of the types and in the climates that consume the major portion of the energy consumed by the Postal Service.

(3) For the purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of the Postal facility or the remaining term of a lease of a building leased by the Postal Service.

(c) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Postmaster General shall transmit a report of the findings and conclusions of the project to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on Post Office and Civil Service.

SEC. 6212. FEDERAL BUILDING ENERGY CONSUMPTION TARGETS.

Not later than two years after the date of the enactment of this Act, the Secretary shall consider, in consultation with the Administrator of General Services and the Task Force, establishing energy consumption targets for January 1, 2000, for each Federal agency to reduce energy consumption per square foot in Federal buildings based upon the information provided in the report under section 6210 of this Act. The United States Postal Service shall independently consider establishing its own energy consumption targets for January 1, 2000 based upon the information provide in the report under section 6211.

SEC. 6213. UTILITY INCENTIVE PROGRAMS.

(a) IN GENERAL.—Federal agencies are authorized and encouraged to participate in programs for energy conservation or the management of electricity demand conducted by gas or electric utilities and generally available to customers of such utilities.

(b) ACCEPTANCE OF FINANCIAL INCENTIVES.—Federal agencies may accept any financial incentive, generally available from any such utility, to adopt energy efficiency technologies and practices that the Secretary determines are cost effective for the Federal Government.

(c) NEGOTIATIONS.—Each Federal agency is encouraged to enter into negotiations with electric and gas utilities to design special demand management and conservation incentive programs to address the unique needs of facilities used by such agency.

(d) USE OF CERTAIN FUNDS.—(1) Fifty percent of funds from utility energy efficiency rebates shall, subject to appropriation, remain available for expenditure by the agency for additional energy efficiency measures which may include related employee incentive programs, particularly at those facilities at which energy savings were achieved.

(2)(A) Agencies shall maintain strict financial accounting and controls for savings realized and all expenditures made under this section.

(B) Records maintained under subparagraph (A) shall be made available for public inspection upon request.

SEC. 6214. REPORT BY GENERAL SERVICES ADMINISTRATION.

Not later than six months after the date of enactment of this Act, and on each December 31, at least six months thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives on the activities of the General Services Administration conducted pursuant to this subtitle. Such reports shall include, but not be limited to, the information requested under sections 6205(c) and 6206(d).

SEC. 6215. UNITED STATES POSTAL SERVICE ENERGY MANAGEMENT REPORT.

Not later than one year after the date of the enactment of this Act, and on each January 1 thereafter, the Postmaster General shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Post Office and Civil Service of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate on the Postal Service's building management program as it relates to energy efficiency. The report shall include, but not be limited to, the following:

(1) actions taken to reduce energy consumption;

(2) future plans to reduce energy consumption;

(3) an assessment of the success of the energy conservation programs;

(4) energy costs incurred in operating and maintaining all postal facilities; and

(5) the status of the energy efficient procurement program established under section 6206(e).

SEC. 6216. AMENDMENTS TO PART 3, TITLE V OF NECPA.

Part 3 of Title V of the National Energy Conservation Policy Act (NECPA) (Public Law 95-619), 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 1992, 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 VII 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 and promulgated pursuant to Section 304 of the Energy Conservation and Production Act (Public Law 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 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).

(e) Renumber section 549 as section 551 and insert the following two new sections:

"SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.

"(a) DEMONSTRATION PROGRAM.—Not later than January 1, 1993, the Secretary, in cooperation with the Administrator of the General Services Administration, shall establish a demonstration program to install, in Federally owned facilities, energy efficiency technologies which the Secretary has determined are ready for commercial demonstration and which were developed by entities that have received or are receiving Federal financial assistance for energy conservation research and development.

"(b) EVALUATION.—The Secretary and the Administrator shall evaluate the commercial viability of each type of energy effi-

ciency technology so installed, including its technical feasibility, operational feasibility, and economic effectiveness. Installations of each technology shall include a sufficient number of applications to produce statistically reliable evaluation results based on the technologies' application in various climates and building situations.

"(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section no more than $2,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $4,000,000 for fiscal year 1995.".

"SEC. 550. 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 1992, the Secretary shall establish guidelines for the transfer of up to $1,000,000 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 $50,000,000.".

(f) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for the National Energy Conservation Policy Act is amended to read as follows:

"SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.
"SEC. 550. FEDERAL ENERGY EFFICIENCY PROJECTS FUNDING.
"SEC. 551. DEFINITIONS.".
"SEC. 6217. CONGRESSIONAL OFFICE BUILDING ENERGY IMPROVEMENT ASSESSMENT.

The Architect of the Capitol shall undertake a study to determine the feasibility and costs associated with compliance with part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq), and Executive Orders No. 12003 and No. 12579 for all facilities under the Architect's jurisdiction, taking into account particular needs with respect to the security and physical operation of the legislative branch of the Government. The Architect shall report the results of such study to the appropriate committees of Congress.

SEC. 6218. STUDY OF FEDERAL PURCHASING POWER.

(a) STUDY.—The Secretary shall conduct a study to evaluate the potential use of the purchasing power of the Federal Government to promote the development and commercialization of energy efficient products. The study shall identify products for which there is a high potential for Federal purchasing power to substantially promote their development and commercialization, and shall include a plan to develop such potential. The study shall be conducted in consultation with utilities, manufacturers, and appropriate nonprofit organizations concerned with energy efficiency.

(b) REPORT.—The Secretary shall report to Congress on the results of the study within two years of the date of the enactment of this Act.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 6219. ENERGY MANAGEMENT GOALS FOR THE UNITED STATES POSTAL SERVICE.

(a) ENERGY PERFORMANCE GOAL FOR POSTAL FACILITIES.—(1) Not later than January 1, 2000, the United States Postal Service shall, to the maximum extent practicable, install in all facilities under its control, energy conservation measures with payback periods of less than ten years as calculated using methods and procedures developed pursuant to section 544 of the National Energy Conservation Policy Act. Within two years after the date of enactment of the National Energy Security Act of 1992, the USPS shall submit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on the Post Office and Civil Services 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) The USPS may exclude from the requirements of paragraph (1) any facility or collection of facilities, and the associated energy consumption and gross square footage, if the Postmaster General 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 facility or collection of facilities, the type and amount of energy consumed, or the technical feasibility of making the desired changes. The USPS shall identify and list in the report made under sec 6215 the facilities designated by it for such exclusion. This section shall not apply to the USPS facilities that generate or transmit electric energy.

(b) IMPLEMENTATION STEPS.—To achieve the goal established in subsection (a), the USPS shall—

(1) prepare or update, within 1 year after the date of the enactment of this Act, a plan describing how the USPS intends to meet such goal. The plan may be submitted as part of the report under section 6215. The plan shall include how the USPS will implement this part, designate personnel primarily responsible for achieving such goal, and identify high priority projects;

(2) perform energy surveys of USPS facilities and update such surveys periodically, but not less than every three years;

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

(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544 of the National Energy Conservation Policy Act; and

(5) ensure that the operation and maintenance procedures applied under this section are continued.

Mr. JOHNSTON. Mr. President, this amendment is a substitute text for subtitle B which improves Federal Government energy efficiency. It combines the original provisions of S. 1220, subtitle VI–B, with the Federal energy management provisions of S. 1040, the Government Energy Efficiency Act of 1991, as reported by the Committee on Government Affairs on August 2, 1991.

More specifically, this amendment updates the original sections of subtitle B and adds the following new provisions:

Requiring OMB to establish energy cost accounting guidelines;

Requiring the President to include energy costs and energy savings information in the annual budget;

Requiring each agency's inspector general to review energy efficiency goal compliance;

Requiring GSA to hold regular regional workshops on energy management;

Clarifies the operation of the GSA Federal Buildings Fund, to receive funds and to implement energy efficiency programs;

Requires agencies to upgrade their energy management capabilities by training or hiring trained energy managers;

Requires the establishment of energy consumption targets for Federal agencies;

Requires the Architect of the Capitol to study the feasibility and costs of Capitol Hill compliance with Federal energy goals; and

Clarifies and strengthens procedures under which Federal agencies shall use energy savings performance contracts.

Both the Office of Technology Assessment and the Alliance to Save Energy have completed reports identifying the substantial opportunity that exits to improve the Federal Government's energy efficiency.

OTA estimates that the Federal Government spent nearly $4 billion in fiscal year 1989 for energy in Federal facilities. OTA further estimates that cost-effective improvement could save 25 percent of that cost without any sacrifice in comfort or productivity.

This amendment will reinvigorate the Federal Government's efforts to achieve this energy efficiency potential. I know of no objection, and thank Chairman GLENN for his commitment to developing this amendment.

AMENDMENT NO. 1546

(Purpose: Second degree amendment to the Glenn amendment, to improve Federal government efficiency)

On page 30 amend Subsection 6216(e) by inserting after the word "transfer", the words "or loan"; and

On page 31, strike the amount "$50,000,000" and insert in lieu thereof "$200,000,000".

AMENDMENT NO. 1547

(Purpose: To Assist Federal Agencies in Promoting the Green Lights Program)

Amend section 6216 of the Glenn amendment on Federal Energy Management Programs by inserting the following sentence after "pursuant to section 544" on page 25:

"Federal agencies may participate in the Environmental Protection Agency's 'Green Lights' program for purposes of technical assistance in complying with the requirements of this section.".

Mr. KASTEN. Mr. President, this amendment is quite simple, it provides that one of the tools Federal agencies may use in implementing the energy conservation provisions required in this bill is to utilize the Green Lights Program.

The Green Lights Program is already in widespread use in the private sector. It is a program where the Environmental Protection Agency [EPA] provides technical expertise on energy conservation.

Over 300 organizations are already participating in this program. These include 5 State governments and 15 percent of the Forbes 500 list of Nation's largest companies. However, the Federal Government is not yet pursuing this initiative.

The Green Lights Program uses minimum life-cycle cost analysis to determine where investments in energy efficiency should be made. What that means, is that the savings from energy conservation must exceed the costs of investments in efficiency for those investments to be made.

This is a provision that will reduce energy consumption, reduce pollution, and reduce Federal spending.

Mr. JOHNSTON. Mr. President, this amendment provides an option to Federal agencies in their implementation of the energy conservation provisions required under this bill.

This amendment is designed to encourage Federal agencies to share in the enormous energy and financial savings currently being enjoyed by the private sector, including hundreds of major corporations and State and municipal agencies.

The Green Lights Program uses minimum life-cycle cost analysis to determine where investments in energy efficient lighting systems should best be made.

Federal participation in this very successful program will provide national and even international visibility for the enormous environmental, pollution, and fiscal benefits of the Green Lights Program.

AMENDMENT NO. 1548

(Purpose: To amend the Glenn amendment in the nature of a substitute to Title VI–B, to facilitate private sector financing of Federal government energy efficiency projects)

Amend the Glenn amendment in the nature of a substitute to Subtitle VI–B, by inserting at the end the following new section:

"SEC. 6220. ENERGY PERFORMANCE CONTRACTS."

(a) Title VIII of the National Energy Conservation Policy Act (Public Law No. 99–412) is amended by striking "TITLE VIII—SHARED ENERGY SAVINGS" and inserting in lieu thereof "TITLE VIII—ENERGY SAVINGS PERFORMANCE CONTRACTS".

(b) Section 801 of such Act (42 U.S.C. 8287) is amended by striking the word "may" the first place it appears and inserting "shall, to the extent practicable," in lieu thereof; and by redesignating such section as subsection 801(a)(1) and adding the following new text:

"(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any government payments and performance guarantees. Such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

"(B) Aggregate annual payments by the government may not exceed the guaranteed energy savings during each contract year.

"(C) Federal agencies may incur obligations to finance a project provided guaranteed savings exceed the debt service requirements.

"(b) IMPLEMENTATION.—(1)(A) The Secretary, in consultation with the Secretary of Defense, the Administrator of the General Services Administration, and the Administrator of NASA, within 90 days after the date of the enactment of the National Energy Security Act of 1992, shall develop appropriate procedures and methods for use by Federal agencies to select energy savings service contractors that will achieve the intent of this section in a cost-effective manner. The procedures and methods used for the calculation of energy savings shall be based on sound engineering practices, consideration of relevant variables such as applicable utility rate schedules, and fuel and utility billing cycles.

"(B) Notwithstanding any other procurement laws and regulations, such procedures and methods shall apply to the selection by each Federal agency of a contractor to provide energy savings services.

"(C) The process developed pursuant to this section may constitute adequate price competition, no cost justification shall be required.

"(2) In carrying out paragraph (1), the Secretary may:

"(A) request statements of qualifications, including financial and performance information, from firms engaged in providing energy saving services;

"(B) designate from the statements received, with an update at least annually, those firms that are qualified to provide energy savings services;

"(C) select at least three firms from the list of qualified contractors to conduct discussions concerning a particular proposed energy savings 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 energy savings services pursuant to such energy savings contractual arrangement that the Secretary determines is fair and reasonable, taking into account—

"(i) the qualifications, prior experience and capabilities of a contractor to perform the proposed type of energy savings services; and

"(ii) the estimated value of the energy savings services to be rendered and the scope and nature of the project.

"(3) In carrying out paragraph (1), the Secretary also may provide for direct negotiations by Federal agencies for energy savings services with contractors that have been selected competitively and approved by any gas or electric utility serving the agency involved.

"(c) DEFINITION.—For the purpose of this title, the terms 'energy savings contract' or 'energy savings performance contract' means a contract which provides for the performance of services for the design, acquisition, installation, testing, operation and, where appropriate, maintenance and repair, of an identified energy savings measure. Such contracts may provide for appropriate software licensing agreements.

"(d) SUNSET AND REPORTING REQUIREMENTS.—

"(A) The authority to enter into new contracts under this provision shall cease to be effective three years from date of enactment of this Act.

"(B) Beginning six months after the date of enactment of this Act, and every six months thereafter, for a period of three years from enactment of this Act, the General Accounting Office shall report on the implementation of this section to the Senate Committee on Governmental Affairs and the Senate Committee on Energy and Natural Resources. These reports shall include, but not be limited to, an assessment of the following issues:

"(i) the quality of the energy audits conducted for the Agencies.

"(ii) the government's ability to maximize energy savings.

"(iii) the total energy cost savings accrued by the agencies that have entered into such contracts.

"(iv) the total costs associated with entering into such contracts and having them performed.

"(v) a comparison of the total costs incurred by agencies under such contracts and the total costs incurred under similar contracts performed in the private sector.

"(vi) the number of firms selected as qualified firms under this section and their respective shares of awarded contracts.

"(vii) the number of firms engaged in similar activity in the private sector and their respective market shares.

"(viii) the number of applicant firms not selected as qualified firms under this section and the reason for their non-selection.

"(ix) the frequency with which agencies have utilized the services of government labs to perform any of the functions specified in this section.

"(C) Two years from enactment of this Act, the General Accounting Office shall provide a summary report to the Committee on Governmental Affairs and the Senate Committee on Energy and Natural Resources on the efficacy of this section. In addition, the General Accounting Office shall provide recommendations for statutory or regulatory changes that may be necessary. In making such recommendations, the General Accounting Office shall consider whether the contracting procedures utilized under this section by agencies have been effective and whether continued use of those procedures, as opposed to the procedures provided by existing public contract law, is necessary for implementation of successful energy performance contracts.".

Mr. GLENN. Mr. President, the amendment offered by Senator WIRTH contains a provision which will help enable Federal facility managers take advantage of energy savings performance contracts. These innovative contracts, widely used in the private sector, allow an energy service contractor to analyze and retrofit a given facility in order to reduce its energy use. The contractor is reimbursed based on the energy savings that actually occur as a result of the efficiency improvements.

Due to the unique nature of these type of contracts, it is necessary to waive several aspects of Federal procurement law, including cost and price justification and some competitive bidding procedures. It is my hope that such a waiver will benefit the Federal Government by reducing the Government's energy consumption. However I am also very concerned that waiving such provisions could also leave the Federal Government open to abuse and fraud. Due to these concerns, I have added strict reporting and review requirements to be performed by the General Accounting Office as well as a 3-year sunset provision on authorization of such contracts. I believe that these oversight measures will help protect the Federal Government's interest, while at the same time allowing adequate time for energy savings performance contracts to be implemented. I can also assure my colleagues that these provisions will allow thorough congressional review of the implementation of such contracts and ensure that they are properly managed.

Mr. President, I would also like to make clear that I believe that options are available to Federal managers to improve energy consumption in facilities for which they are responsible. In particular, I believe that the personnel and technical capabilities available in our national laboratories should be utilized by facility managers for energy auditing purposes, and to make recommendations for energy improvements. I intend to pursue this idea and hopefully expand the ability of the labs to advise and assist Federal agencies in their energy reduction efforts.

Finally, Mr. President, I would like to thank my colleague, Senator WIRTH and his staff for their work in this matter.

Mr. JOHNSTON. Mr. President, this amendment would provide greater flexibility for the Federal Government to negotiate such contracts for a limited 3-year trial period, and it would require the General Accounting Office to report to Congress on the results of such activities.

Mr. President, current efforts by the administration to promote the use of so-called shared savings contracts has been hampered by Federal procurement procedures. These contracts are extremely important to our efforts to improve Federal energy efficiency because they would allow private sector parties to finance Federal Government energy efficiency projects. Such parties would then be repaid from a portion of future energy cost savings. Given current Federal fiscal limitations, the opportunity to use private sector funds to meet our efficiency objectives is an opportunity we cannot afford to miss.

This amendment would provide greater flexibility in Federal procurement procedures for a 3-year trial period in an effort to determine how to overcome the regulatory barriers to implementing these contracts. The amendment would also require a GSA report to Congress on the results of this effort.

AMENDMENT NO. 1549

(Purpose: To authorize the Administrator of the General Services Administration to enter into commercial arrangements for fueling alternative fuel vehicles if publicly available fueling facilities are not convenient or accessible)

On page 22, line 2, add after the period "If publicly available fueling facilities are not convenient or accessible to the location of Federal alternative fuel vehicles purchased under this title, the Administrator is authorized to enter into commercial arrangements with commercial fueling operators for the purpose of fueling Federal alternative fuel vehicles.".

Mr. JOHNSTON. Mr. President, this amendment authorizes the Administrator of GSA to enter into commercial arrangements for fueling alternative fueled vehicles if publicly available fueling facilities are not convenient or accessible.

This important amendment adds a provision to the refueling language in S. 2166 to allow the GSA to enter into agreements with private commercial fueling facilities if publicly accessible facilities are not geographically convenient.

This provision will provide the General Services Administration with expanded flexibility in expanding the refueling options of Federal alternative fuel fleet program.

If refueling facilities are not readily available or convenient for Federal fleet vehicles, employees may be unwilling to use these vehicles, opting instead for traditionally fueled or flexi-fueled vehicles.

This provision is in no way intended to compromise the security or safe operation of military installations or other private refueling facilities whereby access by GSA or other Federal agency alternative fuel vehicles may prove a problem. Rather, the amendment is designed to increase the refueling options available to dedicated alternative fuel vehicles under the Federal fleet.

Mr. President, I yield the floor.

ADDITIONAL COSPONSOR

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senator from Minnesota [Mr. DURENBERGER] be included as a cosponsor to the Wirth-Glenn amendment.

Mr. DURENBERGER. Mr. President, today I join my colleagues in adding provisions to S. 2166, the National Energy Security Act of 1992, that outline initiatives for Federal agencies to conserve energy in their own facilities. In other words, Mr. President, the amendment that we are offering will make the very buildings that you and I use every day more energy efficient. Indeed, many States have already experienced significant cost savings as a result of the utilization of these energy performance service contracts in schools and other public buildings within their communities, and I am glad that today the Federal Government will finally join them.

Mr. President, I want to commend my colleagues from Ohio and Colorado, Senators GLENN and WIRTH, for their vision in presenting the Senate with the opportunity to support a mechanism for Federal agencies to benefit from savings guaranteed by those commercial companies with expertise in the field of energy efficiency. I want to especially commend my friend from Ohio [Mr. GLENN] for his willingness to support a competitive acquisition process that is not constrained artificially by rules and regulations that currently prohibit the Federal Government to take advantage of the combined technological advances and engineering systems that enhance energy conservation in the commercial world.

Mr. President, because of our amendment, the Secretary of Energy will consult with the three agencies who head the Federal Acquisition Regulation Council—the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration and the Administrator of the General Services Administration—in developing qualifications-based selection procedures for Federal agencies to utilize in obtaining these long-term energy performance services. The language in our amendment also authorizes the Secretary to waive, change and/or override any existing procurement laws and regulations that impede the ability of commercial companies to provide their performance based services to the Federal marketplace, including those procedures related to the submission of cost and pricing data, and to the cost accounting standards requirements. It is appropriate that these provisions be excluded from the contracts as there are no net out-of-pocket costs to the Government, and significant custom design work is necessary for each building.

In addition, our amendment assures that Federal agencies can enter into these long-term service agreements and make payments from annual appropriations for these ongoing services. It is anticipated that the contract will guarantee that the energy savings generated by the system will exceed the payments; otherwise the contractor will pay the difference to the Federal agency. Once the contract term is completed, all savings thereafter would be available to the agency. Further, under our amendment, contractors would finance their investment in the energy efficient systems through a financial institution. The debt service amounts would not exceed the amount of the savings to the agencies. It is essential that agencies understand that utilization of this approach had no net cost to

them and indeed guarantee them savings compared to level of energy costs.

Wisely, Mr. President, our amendment provides for monitoring of these special procedures by the General Accounting Office and requires regular reports to the Congress on the costs related to this program, the energy savings accounting, and the impact of the new acquisition procedures as compared to existing law. These oversight protections will allow the 3-year test period to proceed in order to provide maximum energy savings to the Federal Government.

Mr. President, with the adoption of our amendment, the people of Minnesota, as well as all American taxpayers benefit. I look forward to the reports of progress on this program and again thank my colleagues for their cooperation in bringing this matter to the Senate floor.

AMENDMENT NO. 1550

(Purpose: To establish energy efficiency standards for certain lamps)

AMENDMENT NO. 1551

(Purpose: To establish energy efficiency standards for certain electric motors)

Mr. WIRTH. Mr. President, I send to the desk two amendments and ask that they be considered en bloc.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH], for himself, Mr. METZENBAUM, and Mr. DODD, proposes amendments, en bloc, numbered 1550 and 1551.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1550

(a) On page 126, lines 4, 11 and 13, strike "lamps and";

(b) On page 126, lines 15, and 22, and on page 127, lines 1 and 9, strike "lamps and";

(c) On page 127, line 6, strike "lamps or";

(d) On page 127, line 23, strike paragraph (1) and renumber the following paragraphs accordingly;

(e) On page 128, line 24, strike the word "lamps,";

(f) On page 129, line 18, strike the word "lamps,";

(g) On page 131, line 9, strike the word "lamps,"; and

(h) On page 144, after line 17 insert the following two new sections:

SEC 6112. ENERGY CONSERVATION STANDARDS FOR CERTAIN LAMPS.

(a) DEFINITIONS.—Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended—

(1)(A) by striking the designation subsection "(a)"; and

(B) in the material following subparagraph (B), by striking out "ballasts distributed in commerce for personal or commercial use or consumption" and inserting in lieu thereof the following: "ballasts, general service fluorescent lamps, and incandescent reflector lamps distributed in commerce for personal or commercial use.";

(2) by adding at the end the following new paragraphs:

"(30)(A) Except as provided in subparagraph (E), the term 'fluorescent lamp' means a low pressure mercury electric discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

"(i) Any straight shaped rapid start lamp (commonly referred to as four foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

"(ii) Any U-shaped lamp (commonly referred to as two foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

"(iii) Any rapid start lamp (commonly referred to as eight foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1–1978 and related supplements.

"(iv) Any instant start lamp (commonly referred to as eight foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3–1978 (R1984) and related supplement ANSI C78.3a–1985.

"(B) the term 'general service fluorescent lamp' means fluorescent lamps which can be used to satisfy the majority of fluorescent applications, but excluding any lamp described in subsection (E) and any lamp designed and marketed for non-general lighting applications as follows—

"(i) fluorescent lamps designated to promote plant growth;

"(ii) fluorescent lamps specifically designed for cold-temperature installations;

"(iii) colored fluorescent lamps;

"(iv) impact-resistant fluorescent lamps;

"(v) reflectorized or aperture lamps;

"(vi) fluorescent lamps designed for use in reprographic equipment;

"(vii) lamps primarily designed to produce radiation in the ultra-violet region of the spectrum, and

"(viii) lamps with a color rendering index of 82 or greater.

"(C) Except as provided in subparagraph (E), the term 'incandescent lamp' means a lamp in which a light is produced by a filament heated to incandescence by an electric current, including only the following:

"(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.

"(ii) Any lamp (commonly referred to as reflector lamp), which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, or similar bulb shapes (excluding "ER" or "BR") with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.75 inches, and is either—

"(I) a low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

"(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts; and

"(III) any general service incandescent lamp (commonly referred to as a high- or higher wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

"(D) the term 'general service incandescent lamp' means incandescent lamps (other than miniature or photographic lamps) which can be used to satisfy the majority of lighting applications, but excluding any lamp described in subparagraph (E) and any lamp specifically designed for—

"(i) traffic signal or street light service;

"(ii) airway, airport, aircraft, or other aviation service;

"(iii) marine or marine signal service;

"(iv) photo, projection, sound reproduction, or film viewer service;

"(v) stage, studio, or television service;

"(vi) mill, saw mill, or other industrial process service;

"(vii) mine service;

"(viii) headlight, locomotive, street railway, or other transportation service;

"(ix) heating service;

"(x) code beacon, marine signal, lighthouse, reprographic, or other communication service;

"(xi) medical or dental service;

"(xii) microscope, map, microfilm, or other specialized equipment service;

"(xiii) swimming pool or other underwater service;

"(xiv) decorative or showcase service;

"(xv) producing colored light;

"(xvi) shatter resistance which has an external protective coating; or

"(xvii) appliance service.

"(E) The term 'lamp' does not include any lamp manufactured or assembled in the United States for export and use outside the United States, or any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or special characteristics not available in reasonably substitutable lamp types.

"(F) The term 'average lamp efficacy' means the lamp efficacy readings taken over a twelve-month period of manufacture with the readings averaged over that period.

"(G) The term 'base' means the portion of the lamp which connects with the socket described in ANSI C81.61–1990.

"(H) The term 'bulb shape' means the shape of the lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1–1980(R1984).

"(I) The term 'color rendering index' or 'CRI' means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

"(J) The term 'correlated color temperature' means the absolute temperature of a black body whose chromaticity most nearly resembles that of the light source.

"(K) The term 'IES' means the Illuminating Engineering Society of North America.

"(L) The term 'lamp efficacy' means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

"(M) The term 'lamp type' means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

"(N) The term 'lamp wattage' means the total electrical power consumed by the lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode watts.

"(O) The term 'life' and 'lifetime' mean length of operating time of a statistically

large group of lamps between first use and failure of 50 percent of the group in accordance with test procedures as described in the IES Lighting Handbood—Reference Volume.

"(P) The term 'lumen output' means total luminous flux (power) of a lamp in lumens, as measured in accordance with applicable IES standards as determined by the Secretary.

"(Q) The term 'tungsten-halogen lamp' means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

"(R) The term 'manufacturer' means anyone who makes, assembles or imports any covered product.

"(S) The term 'medium base compact fluorescent' means an integrally ballasted fluorescent lamp with a medium screw base and a rated input voltage of 115 to 130 volts and which is designed as a direct replacement for general service incandescent lamps.

"(T) The term 'transition period' means the period of time between the enactment of the National Energy Security Act of 1991 and the date on which the standard shall take effect."

(b) COVERAGE.—Section 322(a) of such Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (15); and

(2) by inserting after paragraph (13) the following new paragraph:

"(14) General service fluorescent lamps and incandescent reflector lamps.

(c) TEST PROCEDURES.—Section 323 of such Act (42 U.S.C. 6293) is amended by adding the following new paragraph at the end of subsection (b):

"(6) With respect to fluorescent lamps and incandescent lamps to which standards are applicable under subsection (i) of section 325, the Secretary shall prescribe test procedures, to be implemented by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.

(d) LABELING.—Section 324 of such Act (42 U.S.C. 6294) is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraph:

"(C) The Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Such rules shall provide that the labeling of any general service fluorescent lamps, medium base compact fluorescent lamps and general service incandescent lamp manufactured, assembled or imported after the 18-month period beginning on the date of the publication of such labeling rule will include conspicuously on the packaging of the lamp in a manner prescribed by the Commission under subsection (b), such information as the Commission deems necessary for the consumers to select the most energy efficient lamps to meet their requirements. Labeling information for incandescent lamps will be based upon performance when operated at 120 volts input, regardless of the rated lamp voltage.

(2) in subsection (a)(3), by striking out "(14)" and inserting in lieu thereof "(15)";

(3) in paragraphs (1)(B), (3), and (5) of subsection (b), by striking out "(14)" and inserting in lieu thereof "(15)"; and

(4) in subsection (c)(7), by striking out "paragraph (13) of section 322" and inserting in lieu thereof "paragraphs (13) and (14) of section 322(a).".

(e) STANDARDS.—Section 325 of such Act (42 U.S.C. 6295) is amended—

(1) by redesignating clauses (i) through (q) as clauses (k) through (s); and

(2) by inserting after clause (h) the following:

"(i) GENERAL SERVICE FLUORESCENT AND INCANDESCENT REFLECTOR LAMPS.—(1) Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured, assembled or imported after the transition period for each category of lamps beginning on the date of the enactment of this subsection shall meet or exceed the following lamp efficacy and CRI standards. Beginning twelve months after the expiration of the transition period for each of the listed categories of lamps, no lamp in such category may be sold which does not meet or exceed the following lamp efficacy and color rendition index standards:

"FLUORESCENT LAMPS

"Lamp type	Nominal lamp wattage	Minimum average CRI	Minimum average lamp efficacy (LPW)	Transition period (months)
4 foot Medium bi-pin	>35W	69	75.0	36
	≤35W	45	75.0	36
2 foot "U" shaped	>35W	69	68.0	36
	≤35W	45	64.0	36
8 foot Slimline	65W	69	80.0	18
	≤65W	45	80.0	18
8 foot High Output	>100W	69	80.0	18
	≤100W	45	80.0	18

"INCANDESCENT REFLECTOR LAMPS

"Nominal lamp wattage	Minimum average lamp efficacy (LPW)	Transition period (month)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

"(2) Not less than 36 months after the date of enactment of the National Energy Security Act of 1991, the Secretary shall initiate a rulemaking proceeding and shall publish a final rule no later than 54 months after this section is enacted to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if warranted, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(3) Not less than eight years after the date of enactment of the National Energy Security Act of 1991, the Secretary shall initiate a rulemaking proceeding and shall publish a final rule no later than nine and one-half years after this section is enacted to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if warranted, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(4) Twenty-four months after any labeling required by subsection (d) shall have taken effect, the Secretary shall initiate a rulemaking to determine if additional fluorescent and incandescent lamps should be subject to standards, and to publish, within 18 months of initiating such a rulemaking, a final rule including such standards, if warranted.

"(5) Any amendment prescribed under paragraph (4) shall apply only to products manufactured, assembled or imported after a date which is 36 months after the date the final rule is published.

"(6) In establishing or modifying any standard under this subsection, the Secretary shall use the criteria contained in section 325(n) of the Energy Policy and Conservation Act, as redesignated by the National Energy Security Act of 1991.

"(7) With regard to any lamp covered by this subsection or section 6113 of the National Energy Security Act of 1991, it shall be the responsibility of the Secretary to inform any Federal entity proposing actions which would adversely impact the energy consumption or energy efficiency of any covered product of the energy conservation consequences of such action. It shall be the responsibility of such Federal entity to carefully consider the Secretary's comments.

Any other provision of Federal law or regulation to the contrary notwithstanding, the Secretary shall not be prohibited from modifying any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any covered product if such action is warranted as the result of other federal action, such as but not limited to restrictions on materials or processes, which would have the effect of either increasing energy use or decreasing energy efficiency.

"(8) Concurrent with the effective date of lamp standards established pursuant to this subsection or section 6113 of the National Energy Security Act of 1991, a manufacturer shall file with the Secretary the report of the laboratory certifying compliance with the standard for each lamp. Such report shall include the lumen output and wattage consumption as an average of measurements taken over the preceding 12 month period.

SEC. 6113. ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS.

Title III, part C, of the Energy Policy and Conservation Act (42 U.S.C. 6310) is amended by adding the following new section 346, and renumbering section 346 as 347.

"SEC. 346. ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS.—

"(a) IN GENERAL.—(1)(A) The Secretary of Energy shall—

"(i) within 18 months after the date of the enactment of this Act, prescribe testing requirements for those high-intensity discharge lamps for which the Secretary makes a determination that energy conservation standards would result in significant energy savings; and

"(ii) within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to clause (i), prescribe energy conservation standards for those high-intensity discharge lamps for which the Secretary prescribed testing requirements under clause (i).

"(iii) Any standard prescribed under clause (ii) shall apply to products manufactured, assembled or imported 36 months after the date on which the final rule is published.

(B) For purposes of subparagraph (A), the term "energy conservation standard" means—

"(i) a performance standard that prescribed a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(ii) a design requirement for a product.

"(2) In establishing any standard under this section, the Secretary shall use the criteria contained in section 325(n) of the Energy Policy and Conservation Act, as redesignated by the National Energy Security Act of 1991.

"(3) The Federal Trade Commission shall, within six months after the date on which

energy conservation standards are prescribed by the Secretary of Energy pursuant to paragraph (1)(A)(ii) for high-intensity discharge lamps, prescribe labeling requirements for such lamps.

"(b) REQUIREMENT OF MANUFACTURERS.—Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (a)(3), each manufacturer or importer of the product shall begin to label newly manufactured products with a label which meets, and is displayed in accordance with, the requirements of such rule.

"(c) ENFORCEMENT.—(1) After the date on which a manufacturer must begin to label newly manufactured products with a label for a product pursuant to subsection (b), each such product shall be considered, for purposes of paragraph (1) and (2) of section 322(a) of the Energy Policy and Conservation Act, a new covered product to which a rule under section 324 of such Act applies.

"(2) Twelve months after the date on which a nmanufacturer must begin to label newly manufactured products with a label for a product pursuant to subsection (b), it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new high intensity discharge lamps which is not in conformity with the applicable labeling requirement and energy conservation standard prescribed under subsection (a)(1)(A)(ii).

"(3) For purposes of section 333(a) of the Energy Policy and Conservation Act, paragraph (1) of this subsection shall be considered to be a part of section 332 of such Act.".

AMENDMENT NO. 1551

On page 144, after line 17, insert the following two new sections:

"SEC. 6114. ENERGY CONSERVATION STANDARDS FOR COMMERCIAL AND INDUSTRIAL ELECTRIC MOTORS.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (2)(A)(iii), by striking out "as defined in section 321(a)(2)" and inserting in lieu thereof "to which standards are applicable under section 325";

(2) in paragraph (3) by striking "the" and inserting "The" in lieu thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(8)(A) Except as provided in subparagraph (B), the term 'electric motor' means any motor which is a general-purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association (NEMA), Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1-1987.

"(B) The term 'electric motor' does not include any motor excluded by the Secretary, by rule, as a result of a determination that standards for such motor would not result in significant energy savings or that efficiency standards for such motor would not be technically feasible or economically justified.

"(C) The term 'definite-purpose motor' means any motor designed in standard ratings with standard operating characteristics or mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

"(D) The term 'special-purpose motor' means any motor with special operating characteristics or special mechanical construction, or both, designed for a particular application and not falling within the definition of general-purpose or definite-purpose motor.

"(E) The term 'open motor' means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the motor.

"(F) The term 'enclosed motor' means a motor so enclosed as to prevent the free exchange of air between the inside and outside of the case but not sufficiently enclosed to be termed air-tight.

"(G) The term 'small electric motor' means a NEMA general-purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1-1987.

"(H) The term 'efficiency' means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

"(I) The term 'nominal efficiency' means the average efficiency of a large population of motors of duplicate design as determined in accordance with National Electric Manufacturers Association Standards Publication MG1-1987.

"(9) The term 'NEMA' means the National Electrical Manufacturers Association."

"(10) The term 'IEEE' means Institute of Electrical and Electronics Engineers."

"(11) The term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product."

(b) TEST PROCEDURES.—Section 343 of such Act (42 U.S.C. 6314) is amended—

(1) by striking paragraph (a)(1) and inserting in lieu thereof the following:

"(a)(1) The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section.";

(2) by adding at the end of subsection (a), the following new paragraph:

"(4) With respect to electric motors that are manufactured after the end of the 24-month period beginning on the date of the enactment of this paragraph and to which standards are applicable under section 342, the Secretary shall prescribe test procedures that take into consideration NEMA Standards Publication MG1-1987 and IEEE Standard 112 Test Method B for motor efficiency."; and

(3) redesignate the first subsection 343(d) as 343(c).

(c) LABELING.—Section 344 of such Act (42 U.S.C. 6315) is amended by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (e), (f), (g), (h), (i) and (j) respectively, and by inserting a new subsection (d) as follows:

"(d) In the case of electric motors, within 12 months after the Secretary establishes test procedures (as required in Section 343 (a)), manufacturers and importers of covered motors shall establish efficiency ratings for each type of motor in accordance with the applicable test procedures, and—

"(1) include the efficiency rating of the equipment on the permanent nameplate attached to each piece of equipment.

"(2) prominently display the efficiency rating of the equipment in equipment catalogs and other materials used to market the equipment.

"(3) such other markings that the Secretary may determine are needed solely to facilitate enforcement of the efficiency standards established in Section 342(a).

"In developing these labeling requirements for electric motors, the Secretary shall take into consideration NEMA Standards Publication MG1-1987.

(d) STANDARDS.—Section 342 of such Act (42 U.S.C. 6313) is amended to read as follows:

"STANDARDS

"SEC. 342. (a) ELECTRIC MOTORS.—(1) Except for definite-purpose motors, special-purpose motors, and those motors exempted by the Secretary under the provisions of paragraph (2) of this section, any general-purpose electric motor manufactured or imported (alone or as part of another piece of equipment) after the 60-month period beginning on the date of enactment of the Energy Efficiency Standards Act of 1991, or 84-month period in the case of general-purpose motors which require listing or certification by a nationally recognized safety testing laboratory, shall have a nominal full-load efficiency of not less than the following:

"NOMINAL FULL-LOAD EFFICIENCY

"Number of poles	Open motors			Enclosed motors		
	6	4	2	6	4	2
Motor h.p.						
1	80.0	82.5	.....	80.0	82.5	75.5
1.5	84.0	84.0	82.5	85.5	84.0	82.5
2	85.5	84.0	84.0	86.5	84.0	84.0
3	86.5	86.5	84.0	87.5	87.5	85.5
5	87.5	87.5	85.5	87.5	87.5	87.5
7.5	88.5	88.5	87.5	89.5	89.5	88.5
10	90.2	89.5	88.5	89.5	89.5	89.5
15	90.2	91.0	89.5	90.2	91.0	90.2
20	91.0	91.0	90.2	90.2	91.0	90.2
25	91.7	91.7	91.0	91.7	92.4	91.0
30	92.4	92.4	91.0	91.7	92.4	91.0
40	93.0	93.0	91.7	93.0	93.0	91.7
50	93.0	93.0	92.4	93.0	93.0	92.4
60	93.6	93.6	93.0	93.6	93.6	93.0
75	93.6	94.1	93.0	93.6	94.1	93.0
100	94.1	94.1	93.0	94.1	94.5	93.6
125	94.1	94.5	93.6	94.1	94.5	94.5
150	94.5	95.0	93.6	95.0	95.0	94.5
200	94.5	95.0	94.5	95.0	95.0	95.0

"(2)(A) The Secretary may, by rulemaking, exempt certain types or classes of motors from the standards specified in paragraph (b) of this section if the following apply—

"(i) efficiency standards for such motors would not result in significant energy savings because such motors either cannot be used in most general-purpose applications or are very unlikely to be used in most general-purpose applications; and

"(ii) efficiency standards for such motors would not be technically feasible or economically justified;

"(B) Within one year of the passage of this Act, motor manufacturers and importers shall petition the Secretary to request exemptions for motors that meet the criteria specified in paragraph (2)(A) of this section. Each request shall provide evidence that the motor meets the criteria for exemption.

"(C) Within two years of the passage of this Act, the Secretary shall rule on each request for exemption. In reaching his decision, the Secretary shall afford an opportunity for public comment.

"(D) for new motors developed after the date of enactment of this Act, manufacturers may petition the Secretary for exemptions from the standards established under this Act based on the criteria specified in paragraph (2)(A) of this section.

"(3)(A) The Secretary shall publish a final rule no later than the end of the 24-month period beginning on the effective date of the standards established under paragraph

(1) to determine if such standards should be amended. Such rule shall provide that any amendment shall apply to electric motors

manufactured on or after a date which is 5 years after the effective date of the standards established under paragraph (1).

"(B) The Secretary shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such product. Any such amendment shall apply to electric motors manufactured after a date which is 5 years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective.

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT AND PREEMPTION.—Section 345 of such Act (42 U.S.C. 6316) is amended by—

(1) striking the designation "(a)";

(2) in the material preceding paragraph (1), by striking "sections 328" and inserting in lieu thereof ", the provisions of subsections (1) through (q) of section 325, and section 327";

(3) in paragraph (1) by—

(i) striking the words "and 324" and inserting in lieu thereof ", 324, and 325";

(ii) striking the words "343 and 344, respectively" and inserting in lieu thereof "343, 344, and 342, respectively";

(4) in paragraph (3), by striking the word "and" at the end thereof;

(5) in paragraph (4), by striking the period and inserting in lieu thereof a semicolon; and

(6) by adding after paragraph (4) the following new paragraphs (5) through (8):

"(5) As of the date of enactment of the National Energy Security Act of 1991, no State or its subdivisions may enact, prescribe, or revise efficiency standards for any equipment for which efficiency standards are established under this Act.

"(6) As of the date of enactment of the National Energy Security Act, no State or its subdivisions may enact, prescribe, or revise labeling requirements for any equipment for which labeling requirements are established under this Act.

"(7) Notwithstanding paragraphs (5) and (6) of this section, States and their subdivisions may adopt efficiency requirements for new construction provided that such requirements are identical to standards established under this Act.

"(8) With respect to electric motors, the Secretary shall establish a technical performance audit program to ensure compliance with the prescribed testing and labeling standards; and

(7) by striking out the title and inserting in lieu thereof "Administration, Penalties, Enforcement, and Preemption".

(f) AUTHORIZATION FOR APPROPRIATIONS.—Section 346 is amended by striking the existing text and inserting in lieu thereof the following: "There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this part."

"SEC. 6115. ENERGY CONSERVATION STANDARDS FOR SMALL ELECTRIC MOTORS.

Title III, part C, of the Energy Policy and Conservation Act (42 U.S.C. 6310) is amended by adding the following new section 346, and renumbering section 346 as 347.

"SEC. 346. ENERGY CONSERVATION STANDARDS FOR SMALL ELECTRIC MOTORS.

"(a) IN GENERAL.—(1)(A) The Secretary shall—

"(i) within 24 months after the date of the enactment of this Act, prescribe testing requirements for those small electric motors for which the Secretary makes a determination that energy conservation standards would be technically feasible and economically justified, and would result in significant energy savings; and

"(ii) within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to clause (i), prescribe energy conservation standards for those small electric motors for which the Secretary prescribed testing requirements under clause (i). Standards shall not apply to any small electric motor which is a component part of a product or equipment subject to the energy efficiency standards under this title.

"(iii) any standard prescribed under (ii) of this Act shall apply to small electric motors manufactured, assembled or imported, 60 months after the date the final rule is published, or 84 months in the case of small electric motors which require listing or certification by a nationally recognized testing laboratory.

"(B) For purposes of subparagraph (A):

"(i) the term "energy conservation standard" means—

"(aa) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(bb) a design requirement for a product; and

"(ii) the term "small electric motor" is as defined under section 340(8) of the Energy Policy and Conservation Act (42 U.S.C. 6311), as amended.

"(2) In establishing any standard under this section, the Secretary shall use the criteria contained in section 325(1) of the Energy Policy and Conservation Act.

"(3) The Federal Trade Commission shall, within six months after the date on which energy conservation standards for small electric motors are prescribed by the Secretary pursuant to paragraph (1)(A)(ii), prescribe labeling requirements for such electric motors.

"(b) REQUIREMENT OF MANUFACTURERS.—Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (a)(3), each manufacturer of the product shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

"(c) ENFORCEMENT.—(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (b)—

"(A) each such product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a) of the Energy Policy and Conservation Act, a new covered product to which a rule under section 324 of such Act applies; and

"(B) it shall be unlawful for any manufacturer, importer or private labeler to distribute in commerce any new small electric motors for which an energy conservation standard is prescribed under subsection (a)(1)(A)(ii) which is not in conformity with the applicable labeling requirement and energy conservation standard.

"(2) For purposes of section 333(a) of the Energy Policy and Conservation Act, paragraph (1) of this subsection shall be considered to be a part of section 332 of such Act.".

Mr. WIRTH. Mr. President, if I might, I will take a moment to explain these amendments which have gone through a long process of negotiation. These relate to the lamp and electric motor standards which we discussed at great length last fall during the markup of the bill, and which we have been working with the industry and the energy efficiency community on where we have reached agreement.

I thank both of those industry groups. They had significant misgivings on both sides about what could and should be done. We brought everybody together, and I think we now have two very good workable amendments.

The energy legislation before the Senate requires the Secretary of Energy to examine a variety of lamps, and here we are talking about light bulbs to determine what group of lamps are appropriate for energy efficiency.

Mr. President, the energy legislation before the Senate requires the Secretary of Energy to examine a variety of lamps—and here we are talking about light bulbs—to determine those groups of lamps that are appropriate for minimum energy efficiency standards. Originally, the amendment I offered in the Energy Committee would have required the Secretary to undertake a similar proceeding with respect to electric motors. Unfortunately, the motor provision was deleted from the bill by the committee.

In the time since the Energy Committee marked up this legislation, representatives of the lighting and motor industries have been meeting with staff and energy efficiency experts to work out standards for these products. Happily, agreement has been reached and accepted by all sides. I want to commend all of the individuals who worked so hard on this agreement—in particular the representatives of industry, who were very forthcoming and helpful in this process.

Let me say at the outset that those are not technology forcing standards. Instead, the lamp and motor amendments I am submitting will ensure that the least efficient products are gradually removed from the marketplace. Manufacturers produce a wide range of products—some very efficient, some very inefficient. What we are trying to do with these amendments, is move the curve upward by eliminating the least efficient products.

In the area of lamp standards, we have reached a compromise that sets standards for the primary commercial fluorescent lighting tubes and reflector incandescent lamps commencing in 1995. These are the fluorescent tubes typically used in commercial office buildings, as well as incandescent lamps surrounded by a reflective housing to concentrate light—which are typically used in commercial applications.

Further, the compromise allows the Secretary of Energy to set standards for High Intensity Discharge lamps and standard incandescent lamps in the 1998–99 timeframe. Standard incandescents are the normal lightbulbs used in our homes. High In-

tensity Discharge, or HID lamps, the lights typically used in gymnasiums and streetlights.

In summary, the language only includes the most widely used lamps, not speciality products such as grow lights or decorative bulbs; the compromise gives industry the necessary lead-time to make adjustments; and the compromise preempts State standards, which have been set in Massachusetts and New York and are pending in Vermont.

In terms of energy, lamps account for approximately 16 percent of national electricity use. The most energy efficient lamps pay for themselves in less than 2 years. Under the proposed compromise, 6.1 quads of energy will be saved between now and 2010—an amount of energy equivalent to 1 year's use of oil at the rate of 3 million barrels of oil per day. Put another way, this agreement will prevent the need for 17 very large powerplants between now and 2010. Most significantly, it is estimated that these standards will save consumers $25 billion cumulatively through 2010 in saved energy costs.

MOTORS

On electric motors, the compromise language calls for initial standards on multiphase motors of 1 to 200 horsepower—commonly used by industry to run equipment such as conveyor belts and fans—in 1997. Motors of less than one horsepower will receive standards in the 2001-2003 timeframe.

Let me just briefly describe the highlights of the motor standards agreement. First, the standards apply only to the most common types of motors; second, the standards will simply prohibit the manufacturer of the least-efficient motors—again, this provision is intended to get inefficient motors off the market, rather than to push the industry toward producing much more efficient motors; and finally the standards allow plenty of lead-time for industry to adjust.

And like lamp standards, this amendment will save a significant amount of energy. Motors account for 55 percent of national electricity use. Many motors are used by consumers to run appliances and are covered by appliance standards. However, many motors are used in industry to power assembly line functions and small equipment. Higher-efficiency motors are cost effective for applications where they are run more than 500 hours per year. The motors covered by this compromise will result in a savings of about 1.2 quads of energy through 2010—eliminating the need for six very large power plants by 2010. Economic savings over this time period are estimated to be $5 billion.

Taken together, these standards will eliminate the need for 23 large powerplants and save our economy $30 billion—an average of almost $2 billion every year between now and 2010. That is literally money that we would have been throwing away.

I hope this amendment will be supported by all Senators and again, let me thank the industry and their trade association—the National Electrical Manufacturers Association, the efficiency advocates—the Alliance to Save Energy and the American Council for an Energy Efficient Economy and staff for the remarkable job they have all done.

Mr. President, these two amendments have the effect of saving, between now and the year 2010, by industry group estimates, some $3 billion for the American economy. They have the effect of saving the equivalent of building 23 large powerplants or some 23,000 megawatts of electricity.

These are very significant amendments. We are talking about standards for lighting, lamps, and standards for electric motors. Both of these are very significant consumers of electricity. In both areas, we know that significant efficiencies can be built in.

As I pointed out, we have worked with the industry. There had originally been some significant confusion about what could be done and what we might do. That has all come together.

I had the privilege of meeting, shortly before the new year, at the annual convention of all of the electric motor manufacturers, and at that point, everbody came to an agreement on the motor standards legislation.

So I want to make a particular point of thanking them and thanking the lamp industry for their good work.

I hope that my colleagues will agree and we can adopt these two amendments which I believe have been agreed to.

Mr. JOHNSTON. Mr. President, these are not merely amendments. These are very far-reaching, very important and at one time very controversial amendments. Indeed, the amendment on electric motors in a previous reiteration was brought up and debated very heatedly at some length in the Energy Committee and defeated in the Energy Committee on its first vote, and it is only because of, first, his determination, and, second, his reasonableness in working out objections to that, as well as the lighting amendment that we are able to get those two.

They do save an enormous amount of energy over time. They provide standards for many types of commonly used lights—incandescent, as well as fluorescent—standards for all these electric motors. As I say, it is very far-reaching and it has now been worked out.

Mr. President, again, my hat is off to the Senator from Colorado for doing an excellent job in getting this agreed to. They are very important amendments, and from the majority side, we very enthusiastically support the amendments.

Mr. WALLOP. Mr. President, from the minority side, I say that we do, too. And our enthusiasm is based on and limited by the words that are contained within the amendments as they now stand. It has been the understanding of the Senator from Wyoming that the Senator from Colorado has given his assurances that he would stand by the Senate's position right on through conference, and that he is not inclined to support vast new additions to the requirement under these amendments; is that correct?

Mr. WIRTH. The Senator from Wyoming is correct. I think we have come a long way to where we started in our original debates on the Energy Committee. I say that the agreement that we have reached with both industries, with the Senator from Wyoming and through the good work of all of our staffs, I think presents a very good and doable package, and it would be my hope that we can stick with this and not go beyond it—it was hard enough to get here—and raise a whole series of other controversy, and if we can, we can come back in another year and do that. I think this is a good package, and I look forward to working with the Senator from Wyoming in assuring that this is the package we end up with.

Mr. WALLOP. I particularly thank the Senator from Colorado and assure him of my enthusiasm for the package as it now stands and, in particular, my enthusiasm for the assurances he has given us that he would stand by the Senate's position, in trying to hold it, because these are doable.

And beyond this, I think that we begin to have vast effects that are unknown. This is pushing technology, and it is certainly pushing the industry as far as is reasonable at this time, so far as we know. I think that is the position of the Senator from Colorado and certainly the one that we have.

So from the minority standpoint, we support this amendment.

Mr. WIRTH. If the Senator might yield briefly, it was in a thorough spirit of cooperation that we were also in contact with colleagues on the House side and worked with them in an attempt to persuade them of the virtue of these amendments.

Mr. WALLOP. Temper their enthusiasm.

Mr. WIRTH. In a spirit of cooperation, I assure the distinguished Senator from Wyoming, we are doing everything we can.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendments are agreed to.

So, the amendments (No. 1550 and No. 1551) were agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1552

(Purpose: To amend section 11104 to strike subsection regarding Federal Energy Regulatory Commission authority to allow recovery of Gas Research Institute surcharge)

AMENDMENT NO. 1553

(Purpose: To amend the Powerplant and Industrial Fuel Use Act of 1978 to repeal the requirement that the President report to the Congress)

Mr. JOHNSTON. Mr. President, I have two natural gas amendments which I would like to submit en bloc. The first strikes in its entirety section 11104(c) of S. 2166, which authorized FERC to allow recovery by interstate natural gas pipelines of expenditures for the Gas Research Institute's natural gas vehicle and emissions control program. We now propose to strike that because it has been made unnecessary by events that occurred subsequent to its adoption by the committee.

The second amendment, on behalf of Senator WALLOP and myself—both of these are on behalf of Senator WALLOP and myself—amends title XI of S. 166. It would repeal the requirement under section 403(c) of the Power Plant and Industrial Fuel Use Act of 1978, that the President report annually to the Congress regarding actions taken by Federal agencies under the FUA, and in its 1991 annual report to the Congress pursuant to section 403(c) of FUA the Department of Energy requested that the Congress amend the act to provide to remove the reporting requirement; according to DOE the 1987 amendments that narrowed the Fuel Use Act narrowed the statute to baseload electric powerplants that generate electricity for resale and have rendered section 403(c) report moot.

So, Mr. President, I submit those two amendments en bloc along with the statement's report describing more fully those amendments and ask unanimous consent that they be considered en bloc, and that the statements in support thereof be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendments.

The bill clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself and Mr. WALLOP, proposes en bloc amendments numbered 1552 and 1553.

AMENDMENT NO. 1552

On page 285, strike lines 6 through 24 and, on page 286, lines 1 and 2.

AMENDMENT NO. 1553

On page 303, after line 21, insert the following:

"SEC. 11113. FUEL USE ACT AMENDMENT.

Section 403 of the Powerplant and Industrial Fuel Use Act of 1978 as amended (42 U.S.C. 8373) is amended by striking subsection (c) in its entirety."

REGARDING AMENDMENT TO STRIKE GAS RESEARCH INSTITUTE SURCHARGE AUTHORIZATION

Mr. JOHNSTON. Mr. President, this amendment strikes in its entirety section 11104(c) of S. 2166. Section 11104(c) authorized the Federal Energy Regulatory Commission [FERC] to allow recovery by interstate natural gas pipelines of expenditures for the Gas Research Institute's [GRI] natural gas vehicle and emissions control projects, provided that FERC found that the benefits, including environmental benefits, from such activities to both existing and future ratepayers exceeded all direct cost to both existing and future ratepayers. We now propose to strike 11104(c), because it has been made unnecessary by events that occurred subsequent to its adoption by the Committee on Energy and Natural Resources. In a letter to Senator WALLOP and myself, GRI acknowledged that the provision was no longer necessary and asked that we delete it from the legislation.

GRI is a collaborative organization of the natural gas industry which performs extensive research, development, and demonstration [RD&D] activities. GRI's projects are financed almost exclusively by direct FERC-approved surcharges on the jurisdictional throughput of interstate natural gas pipelines. On April 19, 1991, the U.S. Court of Appeals for the District of Columbia Circuit in Process Gas Consumers Group versus FERC held that FERC could not consider general, unquantified environmental benefits in evaluating GRI's natural gas vehicle and emissions control research and development programs. The Committee on Energy and Natural Resources strongly supports RD&D in these areas and in section 11104(c) affirmed FERC's authority to permit the surcharge recovery of expenses for such activities.

Section 11104(c) has been made unnecessary by Public Law 102–104, the enacted energy and water appropriations bill for fiscal year 1992, signed into law by the President on August 17, 1991. Public Law 102–104 included language authorizing FERC to consider environmental benefits when evaluating GRI's natural gas vehicle and emissions control RD&D programs. Since then, FERC in opinion No. 365 used the authority granted in Public Law 102–104 to approve GRI's 1992 natural gas vehicle and emissions control RD&D programs. In opinion No. 365 FERC concluded that, with respect to the natural gas vehicle and emissions control projects, the Congress in Public Law 102–104 enacted a permanent change in the law that is not limited to GRI's 1992 programs. In view of these developments section 11104(c) is now redundant and should be deleted.

REGARDING FUEL USE ACT AMENDMENT

Mr. JOHNSTON. Mr. President, on behalf of Senator WALLOP and myself, I sent to the desk an amendment to title XI of S. 2166. This amendment would repeal the requirement under section 403(c) of the Powerplant and Industrial Fuel Use Act of 1978 [FUA] that the President report annually to the Congress regarding actions taken by Federal agencies under FUA.

In its 1991 annual report to the Congress pursuant to section 403(c) of FUA, the Department of Energy requested that the Congress amend FUA to remove the reporting requirement. According to DOE, the 1987 FUA amendments that narrowed the statute to baseload electric powerplants that generate electricity for resale have rendered the section 403(c) report moot.

Mr. President, I ask unanimous consent that a copy of DOE's 1991 annual report to the Congress pursuant to section 403(c) of FUA be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JOHNSTON. Senator WALLOP and I concur in the Secretary of Energy's recommendation that section 403(c) be repealed. The section 403(c) reporting requirement is a leftover administrative provision that, in hindsight, should have been repealed when the Congress, in 1987, narrowed the scope of FUA. Simply put, the American taxpayer receives no benefit from the continued dedication of Department of Energy resources to the preparation of a meaningless report to the Congress.

EXHIBIT 1

THE SECRETARY OF ENERGY,
Washington, DC, August 27, 1991.

Hon. J. BENNETT JOHNSTON,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As required by section 403(c) of the Powerplant and Industrial Fuel Use Act of 1978, submitted herewith is the Annual Report of the actions taken by Federal agencies under the Act during calendar year 1990. The May 21, 1987, amendment to the Fuel Use Act has narrowed its jurisdiction to cover only baseload electric powerplants. This narrowed jurisdiction has effectively rendered this report moot. The amendment, however, did not remove the requirement for the annual submission of this Report to Congress. Therefore, it is recommended that Congress remove this reporting requirement by deleting section 403(c) of FUA at its earliest opportunity.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

POWERPLANT AND INDUSTRIAL FUEL USE ACT ANNUAL REPORT—FEDERAL FACILITIES

EXECUTIVE SUMMARY

This Annual Report has been prepared for the President's presentation to the Congress as required by section 403(c) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), Public Law 95-620, enacted November 9, 1978. The Report summarizes activities of the Administration to implement the section 403 requirement to conserve petroleum and natural gas in federally owned or operated baseload electric powerplants.

The May 21, 1987, amendment to the Fuel Use Act has narrowed its jurisdiction to cover only baseload electric powerplants. This narrowed jurisdiction has effectively rendered this report moot. The amendment, however, did not remove the requirement for the annual submission of this Report to Congress. Therefore, it is recommended that Congress remove this reporting requirement by deleting section 403(c) of FUA at its earliest opportunity.

This Annual Report is required by section 403 of the Powerplant and Industrial Fuel Use Act of 1978, Public Law 95-620, enacted November 9, 1978. It discusses activities of the Federal Government during calendar year 1990 to comply with requirements of the Act relating to Federal facilities.

BACKGROUND

The Powerplant and Industrial Fuel Use Act (FUA or the Act), as originally enacted in 1978, provided in section 403 that each Federal agency owning or operating any electric powerplant, major fuel-burning installation, or other unit shall comply with any prohibition, term, condition, or other substantial or procedural requirement under this Act, to the same extent as would be the case if such powerplant, installation, or unit were privately owned or operated.

On May 21, 1987, FUA was amended (Pub. L. 100-42) to limit FUA application for new facilities to baseload powerplants that generate electricity for resale. Under the revision, no new electric powerplants may be constructed or operated as a baseload powerplant without the capability to use coal or another alternate fuel as a primary energy source. An electric powerplant has the capability to use coal or another alternate fuel if: (1) the powerplant has sufficient inherent design characteristics to permit the addition of equipment necessary to render the powerplant capable of using coal or another alternate fuel as its primary energy source; and (2) the powerplant is not physically, structurally, or technologically precluded from using coal or another alternate fuel as its primary energy source. The capability to use coal or another alternate fuel does not require any powerplant to be immediately able to use coal or another alternate fuel on its initial day of operation.

The FUA amendment greatly reduced the application of FUA for Federal facilities since Federal agencies do not normally construct or operate baseload powerplants that generate electricity for resale. Further, since the enactment of FUA in 1978, the Department of Energy (DOE) has received no request from any of the Federal Power Marketing Administrations for relief from the Act's prohibitions. In addition, the armed services in recent years have adopted a policy of supplying needed steam and electricity through third-party contracts which leave the construction and operation of the new facility in the hands of non-Federal entities. As such, it is the responsibility of the facility's owner, not the Federal Government, to seek exemptions from the FUA, if necessary.

Pursuant to section 403(b) of FUA, the President issued Executive Order No. 12185 on December 19, 1979, directing Federal agencies to establish rules to achieve conservation of oil and natural gas by recipients of Federal grants, loans, contracts, or other forms of financial assistance. The rules require Federal assistance programs to include energy efficiency standards which offer opportunities for significant conservation of oil and natural gas.

Executive Order No. 12217 (issued June 18, 1980) required that the head of each Executive Agency formally consult with DOE in complying with the purposes of FUA. This requirement was revoked by Executive Order No. 12437, issued August 11, 1983.

Since the issuance of Executive order No. 12437, the DOE has continued to consult with the Department of Defense (DoD) on an informal basis. No Government-owned baseload powerplants were constructed by DoD in 1990.

The May 21, 1987, amendment to the Fuel Use Act has narrowed its jurisdiction to cover only baseload electric powerplants. This narrowed jurisdiction has effectively rendered this report moot. The amendment, however, did not remove the requirement for the annual submission of this Report to Congress. Therefore, it is recommended that Congress remove this reporting requirement by deleting section 403(c) of FUA at its earliest opportunity.

The PRESIDING OFFICER. Is there debate on the amendments?

If not, without objection, the amendments are agreed to.

The amendments (No. 1552 and No. 1553) were agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 1554

(Purpose: To eliminate Federal preemption of manufactured housing energy efficiency standards)

Mr. WIRTH. Mr. President, I have an amendment related to manufactured housing and I would ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 1554.

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

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

The amendment is as follows:

On page 118, line 16, add the following new subsection 6103(c):

"(c) ELIMINATION OF FEDERAL PREEMPTION.—Notwithstanding the provisions of section 943 of the Cranston Gonzalez National Affordable Housing Act (P.L. 101-625), if the Department of Housing and Urban Development has not issued, within one year of the date of enactment of this Act, regulations establishing thermal insulation and energy efficiency standards for manufactured housing promulgated (and effective before 1995) pursuant to section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) then States shall have the authorization to set such thermal insulation and energy efficiency standards for manufactured housing at levels at least as stringent as the thermal performance standards under ASHRAE 90-2.

Mr. WIRTH. Mr. President, I am offering this amendment in hopes of encouraging HUD to issue new energy efficiency standards for manufactured housing.

Energy efficiency standards for manufactured housing have remained virtually unchanged since 1976—more than 15 years ago—despite enormous improvements in technology.

HUD was instructed to revise those standards by the Congress in 1987. HUD has been dragging its feet ever since. HUD's revisions were finally submitted in November 1990, only to languish over at OMB for 13 months. This is absured. As has happened so many times over the past 12 years, the Federal Government has imposed a burden on States.

A number of States are anxious to set their own standards, but the law prevents them from doing so. That is what we often do in the area of national standards—we preempt States from setting standards in exchange for a national standard. However, with manufactured housing standards unchanged for 15 years, the States are getting restless.

What my amendment does is to require the issuance of manufactured housing standards within 1 year. If the standards are not issued, this amendment would authorize States to set their own standards to a level at least as stringent as those promulgated by the industry as a voluntary guide.

This amendment is supported by the National Association of State Energy Officials, who are meeting here in Washington this week, and the National Rural Electric Cooperative Association. I urge my colleagues to support this amendment and to join me in urging HUD to issue new energy efficiency standards for manufactured housing.

Mr. President, the purpose of this amendment is to encourage the Department of Housing and Urban Development, this administration, to issue new energy efficiency standards for manufactured housing. We have for 15 years run under the same standards. We all know that those standards have to be updated. In 1987, the Congress, in legislation, asked the Department of Housing and Urban Development to issue these after 15 years. Finally, in November 1990, the Department sent to OMB these regulations where they have now set for 13 months.

The purpose of this is to urge the administration to issue these regulations and to suggest that if this is not done the States may then go on and set their own standards.

We have always preempted, we hope, to have national standards on this. But if this administration is not going to act, the States certainly know that they must and should act. That is the purpose of this resolution. I believe this has been agreed to on both sides. I hope the amendment will be accepted.

The PRESIDING OFFICER. Is there any further debate?

Mr. JOHNSTON. Mr. President, the Senator correctly described the amendment and we accept it.

The PRESIDING OFFICER. Is there any further debate of the amendment?

If not, without objection, the amendment is agreed to.

So, the amendment (No. 1554) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1555

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1555.

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

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

The amendment is as follows:

On page 21, strike lines 1 through 14 and insert the following:

"SEC. 4102. FEDERAL FLEETS.

"(a) PURCHASE REQUIREMENTS.—

"(1) The Federal Government shall purchase, lease, or otherwise acquire at least—

"(A) 5,000 alternative fuel vehicles in 1993;

"(B) 7,500 alternative fuel vehicles in 1994; and

"(C) 10,000 alternative fuel vehicles in 1995.

"(2) When any Federal agency purchases, leases, or otherwise acquires vehicles for a Federal fleet, in the years specified in this paragraph, at least the following percentage of the vehicles purchased, leased, or otherwise acquired shall be alternative fuel vehicles in the respective years—

"(A) in 1996, 25 percent;

"(B) in 1997, 33 percent;

"(C) in 1998, 50 percent;

"(D) in 1999, 75 percent; and

"(E) in 2000 and each year thereafter, 90 percent."

Mr. JOHNSTON. Mr. President, this amendment accelerates the schedule under which the Federal Government must acquire alternatively fueled vehicles as follows: We accelerate to 1993, 5,000 vehicles, or 10 percent; by 1994, 7,500 vehicles, or 15 percent; by 1995, 10 percent, or 10,000 vehicles.

Mr. President, earlier this afternoon I described what I considered to be a very tough requirement of Federal purchase of Federal fleets for alternatively fueled vehicles. We pointed out that purchase obligation begins in 1995.

After a great deal of work, with Mr. Sam Skinner and with others at GSA wanting to do the maximum amount in the quickest time we could, we were able to get this agreement that we will accelerate that purchase in accordance with the schedule just described.

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

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

So, the amendment (No. 1555) was agreed to.

AMENDMENT NO. 1556

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1556.

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

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

The amendment is as follows:

On page 32, following line 8, insert the following new subsection:

"(d) STATE INCENTIVES.—Within 18 months after the date of enactment of this title, the Governor of each State in which there is located a fleet subject to the alternative fuel vehicle purchase requirements of section 4103 or 4104, shall submit to the Secretary a report concerning the incentives for alternative fuel vehicles considered or approved by the State. Each State subject to the requirements of this section shall consider:

"(1) allowing public utilities to include in rates costs associated with the development and installation of alternative fuel facilities to the extent that such inclusion would not create competitive disadvantages for other market participants;

"(2) exempting alternative fuel vehicles that operate only on alternative fuel from high occupancy vehicle and other such highway vehicle restrictions;

"(3) exempting alternative fuel vehicles from state highway taxes, road tolls, vehicle and fuel sales taxes, and other state taxes or charges otherwise applicable to motor vehicles; and

"(4) providing alternative fuel vehicles special parking at public buildings, airports, and transportation facilities."

EXPLANATION

This amendment, modeled after Title I of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617), requires States to consider various incentives to promote use of alternative fuel vehicles and to report to the Secretary of Energy the results of their consideration. The amendment is limited to States in which State, municipal, or private fleets subject to bill's purchase requirements are located.

Mr. JOHNSTON. Mr. President, this amendment, modeled after title I of the Public Utility Regulatory Policies Act of 1978, called PURPA, requires States to consider various incentives to promote use of alternative fuel vehicles and to report to the Secretary of Energy the results of their consideration. The amendment is limited to States in which State municipal or private fleets subject to the bill's purchase requirements are located.

Mr. WALLOP. I have a question for the Senator from Louisiana. My question is directed to the State incentives position of the amendment.

If a State were to allow its utilities to include in the utilities' general or overall rate base the costs associated with the installation of alternative fuel fueling facilities, would this not result in a unit cost advantage to the utility that would adversely affect the establishment and proper functioning of competitive markets? In other words, would not the utility thereby enjoy a cross-subsidy that would tend to discourage competition from other alternative fuel providers?

Mr. JOHNSTON. I thank the Senator for his question. First, it should be noted that the amendment requires submission of a study only, but does not require implementation of the several items suggested. It is the intent of the amendment that the States study very carefully the potential effects of its regulatory actions upon competition in this emergency industry, and to religiously avoid providing any competitive advantage to traditional regulated utilities. If rate base treatment of such costs are maintained on a separate or incremental basis, presumably no such advantage would insure to the utility. On the other hand, if such costs are rolled into the utilities general or overall customer rate base, it should be at a minimum, required to provide its potential competitors equal access to its services at comparable rates.

Mr. WALLOP. I thank the Senator for that clarification.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

So, the amendment (No. 1556) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1557

(Purpose: To include as eligible expenses in the Surface Transportation Program capital costs related to the purchase of alternative fuel school buses)

Mr. JOHNSTON. Mr. President, the next amendment which I will shortly send to the desk includes as eligible expenses in the Surface Transportation Program capital costs related to the purchase of alternative fuel school buses and it authorizes $10 million for each of the fiscal years 1993, 1994, and 1995, for the purpose of providing financial assistance to States or subdivisions thereof to meet incremental costs attributable to use by school buses of alternative fuels.

Mr. President, I now send that amendment to the desk on behalf of Senator NICKLES.

The PRESIDING OFFICER. The clerk will report.

The bill clerk legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. NICKLES, proposes an amendment numbered 1557.

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

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

The amendment is as follows:

(a) On page 32, after line 8, insert the following new section:

SEC. 4112. SCHOOL BUS FLEET FINANCIAL ASSISTANCE PROGRAM.—There is authorized to be appropriated to the Secretary not more than $10,000,000 for each of the fiscal years 1993, 1994, and 1995 to remain available until expended for purposes of providing financial assistance to any State, including any agency, municipality or political subdivision of a State or the District of Columbia, to meet incremental costs attributable to the use by school buses of alternative fuels, as that term is defined in section 4101(1) of this subtitle, including purchase and installation of alternative fuel refueling facilities to be used primarily for school bus refueling and conversion of school buses to make them capable of using only an alternative fuel (except that diesel school buses may be converted to run on a combination of diesel and natural gas), provided that, any conversion using funds authorized by this section must comply with the warranty and safety requirements for alternative fuel conversions contained in section 247 of the Clean Air Act Amendments of 1990.

(b) In the Table of Contents, on page 2, under Title VI, Subtitle A, list "Sec. 4112. School Bus Fleet Financial Assistance Program."

Mr. NICKLES. Mr. President, I am offering an amendment to the National Energy Security Act of 1992, to establish a program within the Department of Energy to provide financial assistance to States, municipalities, and school districts for grants or loan guarantees for the incremental purchase costs of alternative fuel schoolbuses, the conversion of schoolbuses to dedicated alternative fuels or natural gas with diesel combination bus conversions, and for purchase and installation of the refueling equipment. The funding authorized by this amendment will be subject to appropriations.

It is my intention that the DOE program would respond to applications by the States, municipalities, or school districts for this assistance, and fairly allocate the limited funds that may be appropriated for this program to all deserving applicants, whether or not they may be required purchase or convert alternative-fueled vehicles under the alternative fuel fleets provisions of this bill. The DOE should give an equitable portion of the funding under this program to those school districts that wish to further the goals of this bill, even if they are not within metropolitan areas of over 250,000 persons.

Any schoolbuses that are converted to use alternative fuels using funding provided by this amendment would have to meet the requirements for warranty and safety for alternative fuel conversions established under the Clean Air Act Amendments of 1990.

Specific eligibility is given to conversions to dual fueling with diesel and natural gas to permit conversions of the current, and in many cases relatively new, diesel schoolbuses with clean burning natural gas. The definition of qualifying alternative fuels is taken from subsection 4101(e) of the bill, and includes the entire range of eligible alternative fuels under the bill's fleet program, including natural gas, liquefied petroleum gases, and alcohol fuels.

This program will assist States in meeting their environmental goals as well as national energy security goals. In addition, the program will permit the States to assist school districts in complying with the mandate in S. 1220, the National Energy Security Act of 1991, as reported by the Committee on Energy and Natural Resources, that all school districts in metropolitan areas of 250,000 or more that have a fleet of 20 or more vehicles must purchase increasing percentages of alternative fueled vehicles beginning in 1995, 10 percent escalating to 90 percent for 2000 and thereafter.

The program will also assist school districts that wish to begin converting or purchasing vehicles in the 1993 fiscal year, rather than wait for Clean Air Act and the energy bill's alternative fuel conversion mandates beginning in 1996. Early conversions will not only reduce air pollution and petroleum imports immediately, but will also provide funding and planning flexibility to the school districts during the transition to the 1996 mandate for purchases of new vehicles.

School districts throughout the country are financially strapped. At the same time, schoolbus fleets present one of the best opportunities for alternative fuel fleet programs: Generally centrally fueled, usually short range, parked overnight in central location, large vehicles without heavy-duty load requirements. These school districts need additional resources to finance the relatively high up-front capital costs of refueling pumps, conversion costs, and incremental purchase price of buses. Without the funding this amendment would give the State to assist the school districts in overcoming the high initial costs, the school districts may not be able to take advantage of the long-term cost savings that could be realized by using compressed natural gas or liquefied petroleum gases in their schoolbuses. The program also will help ensure that school districts will have adequate funding to avoid safety shortcuts that might be forced on them under the mandatory purchase program if adequate funding were not available.

The Oklahoma Conservation Commission, in its third year of managing a natural gas conversion program for the Tulsa school district. The Tulsa district has become a national leader in pursuing natural gas schoolbuses, with over 120 schoolbuses in action or on order. The buses generally are a balance between original equipment manufacturer natural gas fueled and conversions from diesel buses. The Tulsa district has calculated the annual fuel savings from the conversions to about $1,000 per bus per year. The conversions are $3,000 per bus, and special arrangements were made to acquire refueling systems. AGA estimates that, excluding land acquisition costs, high-speed natural gas refueling facilities now cost about $3,000 per vehicle. With a useful life for schoolbuses of at least 10 years, the long-term paybacks are excellent. However, assistance is needed for the up-front capital costs, particularly for the refueling systems.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The amendment is considered and agreed to, without objection.

So the amendment (No. 1557) was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1558

Mr. JOHNSTON. Mr. President, I will shortly send to the desk an amendment on behalf of Senator SYMMS which clarifies that fuels derived from vegetable oils or other biomass sources to replace gasoline or diesel fuels are not precluded by definition from being considered alternative fuels under the act.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. SYMMS proposes an amendment numbered 1558.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Section 1. In Title IV of the bill, Section 4101, page 18, delete "and" on line 6, and at the end of line 6 add the following: "and any other fuel that is substantially nonpetroleum, including fuels other than alcohol that are derived from biological materials;"

Section 2. In Title IV of the bill, Section 4304, page 58, delete "and" on line 24, and at the end of line 25 add the following: "and any other fuel that is substantially nonpetroleum, including fuels other than alcohol that are derived from biological materials;"

Section 3. In Title IV of the bill, Section 4304, page 59, following "gasoline" on line 2, delete the comma and insert: "or diesel,"

Mr. SYMMS. Mr. President, high erucic acid oil crops, such as rapeseed and

crambe, have been shown to be a renewable source of alternate diesel fuel. This oil can be processed into a fuel grade product using very simple technology and relatively inexpensive equipment.

Tests have been done at the University of Idaho, North Dakota State University, University of Illinois, and the USDA research station at Peoria, IL, on winter rapeseed, sunflower, and soybean oils and their ability to replace or be mixed with diesel. The tests have shown that winter rapeseed from the Pacific Northwest has had the best energy budget and best engine performance of any oilseed crop yet evaluated. Initial engine tests indicate that the alcohol ester of high erucic acid derived from rapeseed oil could be directly substituted for diesel fuel in unmodified engines. This particular biodiesel fuel would also significantly reduce the air-polluting emissions of diesel engines.

During consideration of the Clean Air Act Amendments of 1990, I sponsored an amendment, which later became law, requiring the Environmental Protection Agency to evaluate the feasibility of using ethanol and high erucic acid rapeseed oil as an alternative to diesel fuel. This amendment has led to the establishment of a National Biodiesel Program. Development of this alternative diesel fuel is progressing.

To my surprise, when I studied S. 1220 and now S. 2166, there was no provision including nonpetroleum components of alternative diesel fuels in the definition of alternative fuels. The amendment I am sponsoring today corrects this omission.

My amendment moves this bill's definition of alternative fuels from simply listing known alternative fuels to a broader, more inclusive definition. Any fuel that is substantially nonpetroleum will be included as an alternative fuel with my amendment.

This amendment also amends the section of the bill defining replacement fuels to include diesel. The committee bill provided only that gasoline was to be defined as a replacement fuel.

There are many reasons to include alternative diesel fuels in the definition of alternative fuels. Diesel is actually more fuel efficient than gasoline, but per engine emissions of SO_x, NO_x, and CO_2, tend to be higher with diesel engines. And, the U.S. Alternative Fuels Council, in their resolution to Congress of December 12, 1990, included "non-petroleum components of reformulated diesel" in their list of alternative fuels. We should take that advice here in the U.S. Senate.

Like most alternative fuels, alternative diesel fuel can help reduce our dependence on foreign oil, can clean the air, and can give American farmers a new cash crop. In fact, some farmers in Idaho are running their tractors on the fuel growing in their fields.

Although I've focused on alternative diesel fuels derived from alcohol esters of vegetable oil, my amendment is not prescriptive. Any fuel that is substantially nonpetroleum will be included as an alternative fuel.

The benefit of this language is that research may discover other fuels which we do not know about or can even imagine today. This amendment provides a level playing field for these newly discovered fuels.

I believe the amendment improves this bill considerably. However, I want to take a moment to complement the managers on the alternative fuels title of S. 2166. The provisions giving the Secretary of Energy flexibility in selecting alternative fuels for different regions of the country is very rational.

I also want to thank Senator JOHNSTON'S and Senator WALLOP'S committee staff who gave my staff help and advice on the drafting of this language.

The PRESIDING OFFICER. Is there further debate? Without objection, the amendment is agreed to.

So the amendment (No. 1558) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, I do have an amendment. We have been running a lot of amendments over here.

Does the Senator from Wyoming have any amendments?

Mr. WALLOP. I have an amendment that has also been agreed to.

Mr. WIRTH. Please go ahead.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 1559

(Purpose: Off-road vehicles)

Mr. WALLOP. Mr. President, I shall shortly send an amendment to the desk and ask that it be stated. It basically includes off-road vehicles in the alternative fuels section.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 1559.

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

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

The amendment is as follows:

In section 4302(4) on page 57, line 6, before "capable" insert "and off-road vehicles".

Mr. WALLOP. Mr. President, I have explained the amendment and it is agreeable, to my knowledge, with the majority.

Mr. JOHNSTON. The Senator is correct.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

So the amendment (No. 1559) was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 1560

Mr. WIRTH. Mr. President, I have an amendment and I ask for its immediate consideration.

Mr. WALLOP. Could I inquire of the Senator from Wyoming what the amendment relates to.

Mr. WIRTH. I have two amendments. They have both been cleared. One is on the Western Hemisphere Consultative Commission.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] for himself and Mr. LIEBERMAN proposes an amendment numbered 1560.

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

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

The amendment is as follows:

At the end of Title VI, add the following new subtitle:

CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT

SEC. . FINDINGS.—The Congress finds that—

(1) there is a growing mutual economic interdependence among the countries of North America and the Western Hemisphere;

(2) energy and environmental issues are intrinsically linked and must be considered together when formulating policy on the broader issue of sustainable economic development for each of these countries and for the Western Hemisphere as a whole;

(3) when developing their respective energy infrastructures, countries in the Western Hemisphere must account for existing and emerging environmental constraints, and do so in a way that results in sustainable long-term economic growth;

(4) the coordination of respective national energy and environmental policies of the governments of Canada, Mexico, Venezuela, the United States and, as appropriate, other countries in the Western Hemisphere could be substantially improved through regular consultation among these countries;

(5) the development, production and consumption of energy can affect environmental quality, and the environmental consequences of energy-related activities are not confined within national boundaries, but are regional and global in scope;

(6) although the Western Hemisphere is richly endowed with indigenous energy re-

sources, an insufficient energy supply would severely constrain future opportunities for sustainable economic development and growth in each of these countries;

(7) the energy sectors of the economies of Canada, Mexico, Venezuela, the United States and other energy producing countries of the Western Hemisphere are interdependent;

(8) the energy markets of the United States are linked with those in other countries of the Western Hemisphere and the world.

SEC. . CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT.

(a) DEFINITIONS.—For purpose of this subtitle—

(1) "Commission" means the Consultative Commission on Western Hemisphere Energy and Environment; and

(2) "participating governments" refers to the governments of Canada, Mexico, Venezuela, the United States of America, and, as deemed appropriate by the President, other Western Hemisphere countries.

(b) NEGOTIATIONS.—The President is authorized and directed to initiate negotiations with the participating governments for the establishment of a multinational Consultative Commission on Western Hemisphere Energy and Environment.

(c) OBJECTIVES OF NEGOTIATIONS.—In the course of the negotiations, the President is encouraged to meet the following purposes—

(1) the objectives of the Commission shall be—

(A) to evaluate from the viewpoint of North America and the Western Hemisphere as a whole, the energy and environmental situations, trends and policies of the countries of the participating governments necessary to support sustainable economic development;

(B) to recommend to the participating governments actions, policies and institutional arrangements that will enhance cooperation and policy coordination among their respective countries in the future development and use of indigenous energy resources and technologies, and in the future development and implementation of measures to protect the environment of the Western Hemisphere; and

(C) to recommend to the participating governments actions and policies that will enhance energy and environmental cooperation and coordination among the countries of the Western Hemisphere and the world;

(2) the Commission shall include representatives of—

(A) the respective energy and environmental ministries or departments of the participating governments;

(B) the parliamentary or legislative bodies with legislative responsibilities for energy and environmental matters;

(C) other governmental and non-governmental observers appointed by the heads of each participating government on the basis of their experience and expertise; and

(D) a small secretariat chosen by the participating governments for their expertise in the areas of energy and the environment; and

(3) the Commission's authority—

(A) shall terminate five years from the date of the agreement under which it was created; and

(B) may be extended for a five-year term at the expiration of the previous term by agreement of the participating governments.

(d) REPORT.—The President shall, within one year of the enactment of this legislation, report to the Congress on the progress toward the establishment of the Commission and achievement of the purposes of this section."

Mr. WIRTH. Mr. President, I am offering this amendment on behalf of myself and Senator LIEBERMAN. This relates to the development of the North American Energy and Environmental Planning Commission. Increasingly, we are working in the United States with Canada and with Mexico. What this amendment does is to authorize and direct the President of the United States to initiate negotiations for the establishment of such a consultative commission on Western Hemisphere environment and energy issues.

Mr. President, this has been cleared on both sides.

Mr. JOHNSTON. Mr. President, this amendment authorizes and directs the President to initiate negotiations with the Governments of Canada, Mexico, Venezuela, and other Western Hemisphere countries, as appropriate, to establish a multinational Consultative Commission on Western Hemisphere Energy and Environment.

This is a worthwhile amendment that recognizes that there is growing interdependence among the countries of North America and the Western Hemisphere as a whole within the spheres of energy and the environment.

The amendment would enhance cooperation and coordination of energy and environmental policies.

The amendment provides that, in the negotiations to establish the Commission, the President is encouraged to meet certain objectives, including: that the purpose of the Commission be to evaluate the energy and environmental situations, trends and policies of the participating countries from the viewpoint of North America and the Western Hemisphere as a whole; and that the Commission recommend to the participating governments actions and policies to enhance cooperation in the development and use of indigenous energy resources and technologies and in the development and implementation of measures to protect the environment of the Western Hemisphere.

Energy and environmental issues figure prominently in ongoing discussions on a North America Free Trade Agreement. Senator WIRTH's amendment will complement these talks, as well as other ongoing initiatives in the Western Hemisphere.

I urge the adoption of the amendment.

Mr. WALLOP. Mr. President, the United States could ease pressure on world oil supplies by encouraging oil exploration and development in areas outside the Middle East. This objective was recognized by President Bush's national energy strategy which also recognized that efforts must also be undertaken to diversify sources of oil supply outside that region.

The amendment of the Senator from Colorado encourages cooperation between the United States and nations in the Western Hemisphere in the development of their energy sources. The OTA report entitled "U.S. Oil Import Vulnerability" discussed the opportunity that exists for U.S. industry to participate in joint ventures to assist "sister nations in the Western Hemisphere in petroleum development." On October 28, 1991, a Forbes article entitled "A Saudi Arabia in our own backyard?", said "one of the largest petroleum reserves in the world, on a par with Saudi Arabia's, the heavy oils in the Orinoco Basin alone could supply the entire world with oil for 10 years at current consumption rates—if researchers could figure out how to efficiently commercialize these tarlike bitumen reserves."

The Government of Venezuela has announced a massive $48 billion, 6-year program designed to increase production by 57 percent—to 3.3 million barrels [MMBD] a day by 1996, and between 4 million to 5 MMBD by the year 2000. Their plan also calls for a fivefold increase in petrochemical refining, a $3 billion liquefied natural gas project, in partnership with Exxon, Shell, and Mitsubishi; and a major push to commercialize the vast reserves of very heavy oil and bitumen in the Orinoco Basin.

Through enhanced cooperation between the United States and Venezuela, this expansion program can provide opportunities for United States service, drilling, and engineering companies. Companies in my own State of Wyoming have expressed interest in working with Venezuela to develop their energy resources.

A report entitled the "Venezuelan-U.S. petroleum Relationship Past, Present, and Future" by G. Henry M. Schuler of the Center for Strategic and International Studies summarizes the relationship in the following manner:

> The close geographic proximity of Venezuela's huge resource base to the gigantic U.S. market has long provided a natural foundation for a mutually rewarding relationship. In building a commercial framework upon that foundation, individuals and corporations have developed extensive links based upon professional associations, university ties, international employment, capital investment, technology exchange, and market interdependence. Shared democratic and human rights values as well as cooperative international and hemispheric policies provide a strategic and political roof over that structure.

We need more than just rhetoric regarding the development of a Western Hemisphere energy policy. This effort supports on-going initiatives by the administration to work with countries of the Western Hemisphere in the development of their energy sources.

Among the benefits of Western Hemisphere economic cooperation is enhanced energy security for the United States. This will lead to enhanced markets for U.S. goods and services and an enlargement of our export markets.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment of senior Senator from Colorado to create a Consultative Commission on Western Hemisphere Energy and Environment. There is, as the amendment indicates, a "growing mutual economic interdependence among the countries of North America and the Western Hemisphere."

This amendment is similar in intent to legislation that I introduced last November, the Western Hemisphere Energy Security Promotion Act. Both the Wirth amendment and my bill strive to increase cooperation between the United States and its neighbors in this hemisphere—North and South—on environmentally sound energy policy.

Senator GLENN and I requested the GAO to do a study on Venezuelan energy early last year which was completed and released by GAO in December. That report highlights the potential for investment by American companies in the Venezuelan oil industry. Private sector investment must be an integral part of such a policy. I hope and believe that we can cooperate not only with Venezuela, but with all with all of our neighbors, on developing an environmentally sound energy policy. The Wirth Commission is a positive first step in achieving this goal.

I was concerned to hear that there was an attempted military coup in Venezuela today, but very pleased that President Carlos Andres Perez was able to defeat the attempt. This action underscores the need for enhanced cooperation between the United States, Venezuela, and the other nations of the hemisphere. By helping Venezuela develop its energy sector, we are, at the same time, helping them develop their economy. A stable economy, in turn, helps create a stable political environment, and that is in all of our best interest.

The Europeans have wisely developed an Energy Charter to help the nations of the former Eastern bloc with energy problems, including such nations as Russia and Kazakhstan. I have advocated United States participation in the development and implementation of the European Energy Charter, and I also strongly advocate United States support for cooperation among the nations of this hemisphere on energy issues. We need both.

Again, I commend the Senator from Colorado for introducing this amendment, and I am proud to cosponsor it. I ask unanimous consent that excerpts from the GAO study on Venezuelan energy be included in the RECORD as part of my statement.

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

VENEZUELAN PETROLEUM INDUSTRY AND CONDITIONS AFFECTING POTENTIAL FUTURE UNITED STATES INVESTMENT

Many factors have made Venezuela attractive to the United States as an alternative oil source to the Persian Gulf. During 1990, Venezuela provided about 13 percent of the crude oil and petroleum products imported by the United States. Venezuela plans to steadily increase its oil production through 1996.

Since 1976, when Venezuela nationalized its oil and gas industry, U.S. petroleum companies have not invested in oil exploration, production, or refining in Venezuela. While Venezuela adopted reforms in 1991 intended to encourage joint venture participation in these areas, impediments to investment exist, and the 1991 reforms have not been sufficient to bring about U.S. investment. Nevertheless, should the existing investment impediments be removed, Venezuela offers several conditions that are attractive for U.S. investment. Through a variety of efforts, the U.S. government has already lent support to Venezuela's energy sector.

FACTORS AFFECTING CONTINUED INCREASES IN VENEZUELAN OIL PRODUCTION

Venezuelan oil production peaked at 3.7 million barrels per day in 1970 and then gradually declined until 1985. This trend has been reversed in recent years. Production increased gradually from approximately 1.7 million barrels per day in 1985 to approximately 2.1 million barrels per day in 1990. By 1996, PDVSA plans to have increased production to approximately 3.3 million barrels per day. Production rates for 1980 through 1990, along with PDVSA's planned increases in production through 1996, are shown in table I.1.

TABLE I.1.—VENEZUELAN OIL PRODUCTION (1980–96)

[Barrels in millions]

	Average number of barrels per day	Percent change from previous year
Year-		
1980	2.2	(1)
1981	2.1	−5
1982	1.9	−10
1983	1.8	−5
1984	1.8	0
1985	1.7	−6
1986	1.8	6
1987	1.8	0
1988	1.9	6
1989	1.9	0
1990	2.1	11
1991 planned	2.5	19
1992 planned	2.7	8
1993 planned	2.9	7
1994 planned	3.0	3
1995 planned	3.1	3
1996 planned	3.3	7

[1] Not applicable.

Sources: The U.S. Department of Energy and PDVSA.

Our review indicates that Venezuela's success in meeting its 1996 production goal will be primarily affected by its ability to obtain investment capital, the cost of producing and refining heavy and extra-heavy crude oil, and the level of production quotas imposed by the Organization of Petroleum Exporting Countries (OPEC).[1]

CAPITAL INVESTMENT

PDVSA stated that it would require about $36 billion to expand its oil production, refining, exploration, and transportation capabilities.[2] As shown in table I.2, most of this investment capital is needed in Venezuela's production and refining sectors.

TABLE I.2—VENEZUELA'S OIL INVESTMENT NEEDS FOR 1991–96

[Dollars in billions]

Investment area	Cost	Percent of total
Production	$16.7	47
Domestic refining	10.1	28
International refining	4.2	12
Exploration	1.7	5
Tanker fleet	1.2	3
Domestic market	.9	3
Other	.7	2
Total	35.5	100

Source: PDVSA.

As shown in this table, PDVSA plans to use about one-half of the required $36 billion to maintain and increase overall production. PDVSA plans to increase its overall production by about 52 percent to meet its 1996 production goal of 3.3 million barrels per day. Most of this production expansion would be directed toward heavy and extra-heavy crude oil: PDVSA plans to increase production in these areas by over 140 percent (to approximately 1 million barrels per day).

PDVSA budgets 40 percent of its oil investment capital to increase domestic and international refining for all crude oil. Its goal is to increase refining by about 34 percent. Most of the capital would be used to expand heavy and extra-heavy crude oil refining by over 380 percent.

PDVSA also intends to expand its exploration activities to add approximately 5 billion barrels of lighter crude oils to its proven reserves.[3] Further, the company intends to purchase 22 new oil tankers to increase its earnings by transporting its own crude oil and petroleum products.

PDVSA plans to finance its investment needs through internal cash flow, international borrowing, and investment capital obtained from foreign or Venezuelan private investors. For part of its investment needs, PDVSA will assume direct international debt for the first time since the company was founded in 1975. PDVSA would also like foreign and private investors to provide about 5 percent of its oil investment needs through joint ventures.

COST OF PRODUCING AND REFINING HEAVY AND EXTRA-HEAVY CRUDE

To meet its 1996 production target, PDVSA will have to more than double its 1990 output of heavy and extra-heavy crude oil. PDVSA officials stated that achievement of this goal depended on the company's ability to develop and secure additional domestic and international refining capacity; there is a shortage of worldwide refining capacity for these crude oils. Achievement of this goal is also contingent upon PDVSA's ability to cover the higher costs of producing and refining heavy and extra-heavy oil. PDVSA pointed out that it was more expensive to produce and refine heavy and extra-heavy oil than lighter crude oils.

The differential in the cost of producing and refining heavy and lighter crude oils is due to the costly and sophisticated technologies needed to (1) pump heavy crude oil

[1] OPEC was established in 1960 to negotiate with oil companies on matters of oil production, price, and future concession rights. It is made up of oil producing and exporting countries including Algeria, Ecuador, Gabon, Indonesia, Iran, Iraq Kuwait, Libya, Nigeria, Qatar, Saudi Arabia, the United Arab Emirates, and Venezuela.

[2] This figure is included in PDVSA's overall capital needs of $48 billion for its 6-year investment plan involving oil, petrochemicals, bitumen, coal, and liquid natural gas activities. PDVSA's 1991–96 investment plan was approved at its shareholders' meeting in December 1990. The 1992–97 investment plan will be decided on at the December 1991 shareholders' meeting.

[3] PDVSA plans to increase reserves by a total of 9 billion barrels: 5 billion barrels through exploration activities and 4 billion barrels through secondary recovery and extension of existing fields.

out of the ground (2) remove heavy oil's high sulfur and metal content, and (3) perform the special processes required to convert heavy oils into conventional petroleum products, such as gasoline. PDVSA's 1990 average production costs for heavy crude oil were $2.07 per barrel, compared with $1.40 per barrel of light crude oil and $1.05 per barrel for medium crude oil.[4]

It is even more expensive to produce and refine extra-heavy crude oil than heavy crude oil. PDVSA officials stated that they had produced extra-heavy crude oil (in 1990, extra-heavy crude oil production represented less than 1 percent of PDVSA's total production) and estimated production costs for extra-heavy crude oil at about $2.80 per barrel. Unlike heavy crude oil, the extra-heavy crude must be upgraded before it can be refined. PDVSA estimates the cost to upgrade the extra-heavy crude into a synthetic and lighter crude oil to be about $6 to $8 per barrel. PDVSA officials project that it will cost about $2.5 billion to construct a 100,000 barrel-per-day upgrading facility to process extra-heavy crude oil into a lighter oil. This lighter oil, in turn, can be refined into petroleum products such as gasoline, jet fuel, and diesel fuel. PDVSA officials stated that, on the basis of current world petroleum prices and its estimated production and upgrading costs, extra-heavy crude oil production and upgrading would be profitable. However, the economic viability of extra-heavy crude oil would be very sensitive to changes in world oil prices and processing costs.

OPEC PRODUCTION QUOTAS

At quarterly meetings, OPEC members establish production quota levels for each of the member countries. According to Venezuelan government officials, as a cofounding OPEC member, Venezuela supports adherence to established OPEC production quotas. If crude oil production projections for OPEC members in the year 1996 are met and Venezuela obtains its traditional share of OPEC production, Venezuela's OPEC quota will be lower than its targeted production level. Consequently, Venezuela might have to negotiate for production quota levels that are higher than the country's traditional percentage of OPEC quotas. Venezuelan government officials expect that OPEC, in responses to changes in world oil demand and supply, might increase Venezuela's quota levels or even eliminate the quota system sometime in the future. According to the U.S. Embassy in Caracas, as of September 1991, OPEC was operating, at least temporarily, without individual country quotas; however, this status could change in the future.

VENEZUELA'S RECENT PETROLEUM-RELATED INVESTMENT REFORMS

Under the administration of President Carlos Andres Perez, who took office in February 1989, Venezuela has undertaken significant measures to liberalize foreign investment. According to the Department of Commerce, because of these changes, in most sectors foreign investors are (1) allowed to hold 100 percent equity and (2) freed from government authorization requirements. However, these reforms do not extend to the petroleum industry. According to the Venezuelan Embassy in Washington, DC, this industry is regulated by Venezuela's "Organic Law That Reserves to the State the Industry and Commerce of Hydrocarbons,"[7] commonly known as the "Nationalization Law of 1975." According to the Venezuelan Embassy, the Nationalization Law of 1975 permits foreign participation in a joint venture in the hydrocarbons sector if the joint venture is (1) found to be in the public interest, (2) controlled by the state, (3) limited in duration, and (4) authorized by the Venezuelan congress. Since Venezuela nationalized the petroleum industry in 1976 and up until 1991, PDVSA had not sought foreign investment in an oil exploration, production, or refining joint venture in Venezuela.

In 1991, the Venezuelan government instituted two reforms to encourage some foreign investment in petroleum-related joint ventures. First, PDVSA created the Office of Strategic Associations to negotiate joint ventures. The Office seeks to (1) obtain access to foreign markets and (2) attract private or foreign investment to construct and upgrade refineries for processing Venezuela's heavy and extra-heavy crude oil. In exchange for foreign market access and capital funds, PDVSA indicated that it would be willing to participate as a minority shareholder in any joint venture. PDVSA also suggested that foreign companies could possibly have the opportunity to explore for light and medium crude oil. According to PDVSA officials, Venezuelan law allows such joint ventures on a case-by-case basis if certain requirements are met and congressional authorization is granted.

The Venezuelan congress's willingness to allow foreign investments in petroleum-related joint ventures is still unproven. In June 1991, the Venezuelan government submitted a proposal to its congress that would give Shell Oil (30 percent), Exxon (29 percent), and Mitsubishi (8 percent) equity ownership in a joint venture. This venture would be a $3 billion liquefied natural gas export project called Cristobal Colon. PDVSA's subsidiary, Lagoven, S.A., would have 33 percent equity ownership in the project. However, according to Lagoven officials, under the terms of the joint venture Lagoven would have to consent to all key decisions before they were implemented. Such consent would satisfy Venezuelan law that the state maintain control of joint ventures in the hydrocarbons sector.

According to U.S. and Venezuelan government officials and industry representatives, the Cristobal Colon project would be significant for two reasons. First, it would mark the first direct foreign investment in the production and export of Venezuela's hydrocarbons since the government nationalized the oil and gas industry in 1976. Second, it is expected that the project would pave the way for similar joint ventures in the oil sector. As of November 1991, six foreign companies, including two U.S. firms, had signed letters of intent to study the feasibility of participating in joint ventures for, among other things, the marketing and refining of heavy and extra-heavy oil.

The second of the 1991 reforms was made by the Venezuelan congress. It reduced the tax rate from 67.7 to 30 percent on joint ventures between PDVSA and foreign companies for producing and refining heavy and extra-heavy crude oil.

We interviewed 22 U.S. petroleum companies that stated they would consider investing in Venezuela's petroleum industry; we sought their response to Venezuela's petroleum investment reforms. None of these companies had made investments in oil exploration, production, or refining in Venezuela since the recent reforms.

MAJOR IMPEDIMENTS TO U.S. INVESTMENT

The 22 petroleum companies told us that although they would consider investing in Venezuela's petroleum industry, they were hesitant to do so. They cited several reasons. One concern was that Venezuela lacked clear guidelines on what petroleum-related activities foreign companies would be allowed to perform and under what contractual terms. For example, according to U.S. company representatives we spoke with, PDVSA is offering joint venture opportunities to produce and refine heavy and extra-heavy crude oil. However, it is not clear whether PDVSA will offer joint venture opportunities to explore and produce light and medium crude oils.

A number of the companies we interviewed said that they were not interested in producing and refining heavy and extra-heavy crude oil because they (1) believed heavy oil activities were economically marginal, (2) lacked experience producing heavy and extra-heavy crude oil, and/or (3) considered the technology for refining extra-heavy crude oil to be commercially unproven. In addition, a number of U.S. company representatives stated that they would not be interested in investing in heavy and extra-heavy crude oil joint ventures that linked production and refining activities because they did not perform refining activities. However, other companies stated that they might be interested in such ventures if PDVSA provided an incentive: the additional opportunity to explore and produce light and medium crude oils, for example.

Company representatives also stated that the Venezuelan government had not clarified the contractual terms of foreign companies' participation in joint ventures. For example, terms were vague with respect to ownership rights to oil production and reserves, repatriation of profits, and tax and accounting rules. A number of companies suggested that the Venezuelan government clarify the rules of investing in the petroleum sector. Specifically, they cited a need for legislation that specified (1) the parameters under which the Venezuelan congress would allow foreign investment and (2) the tax and investment rules applicable to foreign petroleum investors.

Companies also cited Venezuela's congressional authorization requirement as an impediment to joint venture arrangements with PDVSA. U.S. company representatives stated that this requirement delayed the implementation of a project and added the risk that the project might be rejected for political rather than economic reasons or the agreement might be changed in a way that could make the project uneconomical.

All the companies that we spoke with identified Venezuela's high taxes on petroleum-related activities as one of the most significant factors discouraging them from investing in Venezuela. According to U.S. and Venezuelan government officials, the tax rate is 67.7 percent on all petroleum-related activities, except for the production and refining of heavy and extra-heavy crude oil and natural gas performed by joint ventures. For these areas, the Venezuelan congress recently lowered the tax rate to 30 percent.[6]

[4]According to PDVSA's, its 1990 production costs for light crude oil were higher than for the medium crude because the company had to drill deeper wells, which increased its operating costs.

[5]For the purposes of this law, "hydrocarbons" include only oil and natural gas.

[6]According to PDVSA and Department of Energy officials, the effective tax rate for oil-related activities is actually higher than the 67.7 and 30 percent rates because, for taxation purposes, the income derived from crude oil and petroleum product exports is valued at 120 percent of its actual value.

The lack of a U.S.-Venezuela tax treaty that would eliminate double taxation concerns most U.S. companies we interviewed. According to the Department of the Treasury, the United States and Venezuela are currently negotiating a tax treaty.

Concerns over the security of foreign assets in Venezuela's petroleum sector were cited as a deterrent to U.S. investment. According to U.S. company representatives that we spoke with, Venezuela nationalized petroleum assets in the past and they believed that the government of Venezuela could take future actions or decisions that could adversely affect foreign investments. For example, a number of U.S. company representatives were concerned that Venezuela might undertake a de facto nationalization by drastically increasing taxes in the future. According to the U.S. Embassy in Caracas, Venezuela's tax law differentiates activities performed in the petroleum industry from all other corporate activities. To prevent being subject to future discriminatory tax hikes applied solely to the petroleum sector, U.S. company representatives suggested that the Venezuelan government alter its tax laws so that petroleum joint ventures were taxed at the general corporate tax rate and not at the special petroleum tax rate.

PDVSA officials stated that they were aware of foreign investors' concerns stemming from Venezuela's 1976 nationalization of the petroleum industry. According to an official of PDVSA's subsidiary, Lagoven S.A., PDVSA agreed to add a clause in the Cristobal Colon project agreement that would protect the foreign partners against any discriminatory governmental actions, decisions, or legal or regulatory changes that would have an adverse economic impact on the joint venture or any of its partners. According to this official, this clause must still be accepted in principle by the Venezuelan congress. However, even if this condition were accepted by the Venezuelan congress, the Lagoven official stated that he did not think the clause would necessarily be included in every joint venture and, if it were, it would still need authorization on a case-by-case basis from the Venezuelan congress.

The majority of U.S. company representatives that we spoke with noted that a bilateral investment treaty would help provide increased investment protection. According to an official from the Office of the U.S. Trade Representative, the United States and Venezuela have discussed the benefits of a possible bilateral investment treaty, but they have not yet agreed to begin negotiations. Venezuela must agree to standards set out in a model U.S. bilateral investment treaty in order for negotiations to be successful. The United States has negotiated such treaties with other countries to help protect U.S. investors.

Of the 22 companies we spoke with, 19 cited a need for more effective judicial protection against actions taken by the Venezuelan government. Company representatives stated that the unavailability of international arbitration for U.S. investors making claims against the Venezuelan government was a barrier to U.S. investment in Venezuela.

FACTORS THAT ENCOURAGE U.S. INVESTMENT

U.S. and Venezuelan government and private officials stated that several factors provided strong incentives for U.S. investment in Venezuela's petroleum industry, should the investment impediments identified by U.S. companies be removed. These factors include the following:

Venezuela's abundant crude oil reserves make investment attractive to U.S. oil companies. Venezuela ranks sixth in world oil reserves, with about 60 billion barrels of proven reserves (more than twice the amount of U.S. oil reserves).

Venezuela has an established infrastructure to support its petroleum industry. This industry has 300 active oil fields, 27,465 miles of pipelines, and 6 domestic and 12 overseas refineries (4 of which are located in the United States). Furthermore, the Venezuelan petroleum industry uses up-to-date technology equivalent to that used by the U.S. petroleum industry and is considered by U.S. industry representatives to be an efficient oil company with skilled managers.

Venezuela's proximity to the United States makes it economical for U.S. companies to transport and distribute crude oil and other products to North America.

Venezuela has been a reliable source of oil for the United States. Venezuela has never participated in embargoes against the United States, and during the oil supply disruption resulting from Iraq's invasion of Kuwait, Venezuela increased oil production.

Venezuela has had a stable democratic political system since 1958.

U.S. EFFORTS TO SUPPORT VENEZUELA'S ENERGY SECTOR

The U.S. government has undertaken a variety of efforts to support Venezuela's energy sector:

To date, the U.S. Export-Import Bank has extended about $380 million in credit guarantees to PDVSA for imports of U.S. capital goods and services required for its various operating companies. An additional $315 million in credit guarantees to PDVSA for oil- and gas-related projects is currently pending congressional review.

In 1991, the Trade and Development Program financed $400,000 of a $1 million feasibility study that was carried out by a U.S. company for the construction of up to two oil refineries in Venezuela.[7]

In 1990, the U.S. Department of Commerce sponsored and the Department of Energy participated in trade seminars and shows to inform U.S. oil companies about PDVSA's petroleum expansion plans and to promote U.S. petroleum equipment and services.

Since the beginning of the Persian Gulf crisis, a number of high-level U.S. government officials have visited Venezuela; the topic of oil has been raised in their meetings with Venezuelan officials. For example, during the Gulf crisis, the President of the United States and the Deputy Secretary of the Department of Energy visited Venezuela. In 1991, the Deputy Secretary of the Energy Department along with the President of the Overseas Private Investment Corporation, the Chairman of the U.S. Export-Import Bank, the Director of the U.S. Trade and Development Program, and the presidents of a number of U.S. companies including energy companies, accompanied the Secretary of Commerce on a Business Development Mission to Venezuela. According to the Commerce Department, the primary purpose of this mission was to promote greater bilateral trade and investment, including energy trade and investment. In addition, the Secretary of Commerce accompanied the Vice President of the United States on a separate visit to Venezuela, during which they discussed trade and investment issues with high-level Venezuelan government officials. The U.S. Trade Representative also visited Venezuela in 1991; she discussed a variety of trade and investment issues that could affect the petroleum sector with Venezuelan government officials.

In 1991, the United States and Venezuela signed a bilateral Framework Agreement on Trade and Investment, under the Enterprise for the Americas Initiative.[8] This agreement formalized cooperation between the United States and Venezuela and established a Council to improve, and make more routine, consultations on trade and investment issues. Among other things, the agreement may promote Council discussions of trade- and investment-related energy issues and lend support to the efforts of the U.S. Department of Energy and the Venezuelan government to consult on energy matters. Since 1985, a U.S. interagency delegation chaired by the Department of Energy and officials from the Venezuelan government have met informally approximately every 6 months to discuss energy issues. For example, during the April 1991 bilateral energy meeting the issues discussed included international oil markets, each country's petroleum strategies, and bilateral concerns such as oil investment opportunities in the two countries. In addition, the Department of Energy and its Venezuelan counterpart have been jointly performing energy research and development since 1980.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the amendment is agreed to.

So the amendment (No. 1560) was agreed to.

AMENDMENT NO. 1561

Mr. WIRTH. Mr. President, I have an amendment regarding the Alternative Fuels Fleet Program, which has also been cleared, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 1561.

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

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

The amendment is as follows:

On page 27, line 17, strike the words "Nothing in this subtitle shall" and lines 18–21, and insert the following:

"However, if alternative fuel vehicles are not available from original equipment manufacturers, nothing in this section shall be construed to require any Federal agency, state or covered person subject to the fleet vehicle acquisition requirements under this title to convert existing or new gasoline or diesel-powered vehicles to alternative fuels vehicles or to purchase converted vehicles."

Mr. WIRTH. Mr. President, this amendment is intended to clarify an important point in the bill's Alternative Fuels Program for vehicle fleets. That program works by creating a market for alternative fuel vehicles.

[7] The U.S. Trade and Development Program, an independent U.S. government agency, funds feasibility studies for major projects in middle income and developing countries where there is potential for exporting U.S. goods and services.

[8] In June 1990, the President proposed the Enterprise for the Americas Initiative to increase the potential for trade and domestic and foreign investment in Latin America. The Initiative called for the development of a bilateral framework agreement as a stepping stone toward a free trade agreement.

If that market is to function, the fleets that will be using these vehicles need to be assured that they will, in fact, have access to vehicles that meet their needs. And those needs, in practical terms, include not only the function of the vehicle—that it is the right size and is a real equivalent of the gasoline vehicles it displaces—but that it is practical in other ways, as well.

What this amendment does is clarify that under no circumstances will this program require that fleets have to buy vehicles that have been converted to alternative fuels by someone other than the original manufacturer. What we are trying to do in this program is provide an incentive to vehicle manufacturers to manufacture alternative fuel vehicles. That is essential to the success of the program from the vehicle users' point of view, because they need warranteed vehicles that the manufacturers will stand behind. It is essential to the success of the program from the point of view of putting alternative fuels into use because we need to put the enormous marketing and distribution power of the manufacturers to work if we are to succeed in getting these vehicles into widespread use.

There are some very good vehicle conversions available today, and the bill, and this amendment, would allow them to count toward meeting the goals of the bill. But the availability of those conversions would not trigger the requirement that fleets purchase alternative fuel vehicles. That would happen only if vehicle manufacturers make these vehicles available.

I urge my colleagues to support this clarification.

Mr. President, I think we have cleared this amendment on both sides.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, without objection, the amendment is agreed to.

So the amendment (No. 1561) was agreed to.

Mr. WALLOP. Mr. President, was the amendment agreed to?

The PRESIDING OFFICER. The amendment was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1562

Mr. WALLOP. Mr. President, I send an amendment to the desk on behalf of Senator SEYMOUR, together with a statement of his with regard to that amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] for Mr. SEYMOUR, proposes an amendment numbered 1562.

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

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

The amendment is as follows:

On page 19, Section 4101(5)(H), insert after "(H)" the following: "Except for vehicles covered by Section 4102 and Section 4103,".

Mr. SEYMOUR. Mr. President, this is a simple but important amendment. My amendment will remove the current exclusion of home garaged vehicles from the definition of fleet vehicles for State and Federal Government fleets. Under the current language in S. 2166, Federal and State vehicles which meet all the necessary criteria to be considered fleet vehicles, are exempted from the alternative fuel fleet provisions of the act if they are garaged at home.

Excluding home garaged fleet vehicles runs directly counter to the current trend in my State of California. Currently, the State of California has fleets of alternative- and flexi-fueled vehicles. These vehicles are often garaged in private homes at night, and then driven to work. Without the inclusion of my language, S. 2166's definition of fleets would not cover many of the alternative fueled fleet vehicles currently used by the State of California. Such an exclusion would create a prejudice against alternative fuel vehicles which are used primarily to transport workers to and from work.

I have been a strong supporter of stringent timetables for the purchase of State and Federal alternative fuel vehicles. During consideration of the National Energy Security Act in the Energy Committee, I sponsored an amendment to speed the timetable for the purchase of alternative fuel vehicles by States. My amendment required States to meet the same stringent timetables as the National Energy Security Act set out for the Federal Government. The amendment passed by a large margin, and is incorporated into S. 2166.

I believe that speeding the purchase of alternative fuel vehicles by both Federal and State governments will help create viable markets for both alternative fuels and the vehicles that run on them. Once markets are established alternative fuel vehicles will become accessible to the general public. My amendment will ensure S. 2166 does not prejudice Federal and State fleet managers from investing in vehicles that can be garaged at home. After all, the public at large is unlikely to buy any vehicle that cannot be garaged at home.

I want to thank Senator WALLOP and Chairman JOHNSTON and their staffs for their assistance on this issue, and commend them for the excellent job they have done in bringing a comprehensive energy strategy to the Senate floor.

Mr. WALLOP. Mr. President, this is a cleared amendment. It simply includes vehicles that are home ported, reside at home, in the Federal and State provisions.

Mr. JOHNSTON. The amendment has been cleared.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1562) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1563

Mr. JOHNSTON. Mr. President, I send an amendment to the desk on behalf of Senator MCCONNELL and Senator FORD.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. MCCONNELL (for himself and Mr. FORD) proposes an amendment numbered 1563.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of subtitle A of Title XIV, add the following new section:

SECTION . ASSISTANCE TO SMALL COAL OPERATORS.

(a) Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended to read as follows:

"(c)(1) If the regulatory authority finds that the probable total annual production at all locations of a coal surface mining operator will not exceed 300,000 tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory designated by the regulatory authority, shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application:

"(A) The determination of probable hydrologic consequences required by subsection (b)(11), including the engineering analyses and designs necessary for the determination.

"(B) The development of cross-section maps and plans required by subsection (b)(14).

"(C) the geologic drilling and statement of results of test borings and core samplings required by subsection (b)(15).

"(D) The collection of archaeological information required by subsection (b)(13) and any other archeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby.

"(E) Pre-blast surveys required by section 515(b)(15)(E).

"(F) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this Act.

"(2) The Secretary shall provide or assume the cost of training coal operators that meet the qualifications stated in paragraph (1)

concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection.".

(b) REIMBURSEMENT OF COSTS.—

Section 507 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257) is amended by adding at the end thereof the following new subsection:

"(h) A coal operator that has received assistance pursuant to subsection (c) (1) or (2) shall reimburse the regulatory authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.".

Mr. MCCONNELL. Mr. President, this amendment improves the competitiveness of the Nation's small coal operators. My amendment is designed to expand, update, and significantly improve the Small Operators Assistance Program, known in the coal industry as the SOAP Program.

Over the years, coal has fueled this Nation's industrial development. Coal is currently—and without a doubt must remain—a key part of America's energy policy. In Kentucky, coal production contributes greatly to the economic base of the State. Kentucky has produced more coal than any other State in the Union for 14 of the last 17 years. In 1990, the State produced a record 179 million tons.

An integral part of this important industry is the small coal operator. This is particularly true in the Appalachian region of eastern Kentucky, where the coal industry is characterized by mid- and small-sized coal companies.

However, changes in the structure of the industry and the operation of coal markets have made it increasingly difficult for today's small operator to remain competitive. Lacking the financial resources of the larger, diversified energy companies, the small coal operator must struggle daily to keep up and comply with an ever increasing web of permitting requirements and regulations.

The Small Operators Assistance Program was originally designed to help smaller coal operators participate in and comply with the surface mine permitting process. However, the program has not kept up with changes in the industry, and simply does not work anymore.

This must change, Mr. President, and my amendment initiates that change.

Until recently, the program's qualification requirements were a severe disincentive to participate and caused the SOAP Program to be grossly underutilized by those most in need of assistance. For those operators who do participate, the list of items for which assistance is available simply does not cover all of the requirements which must be met under today's coal mine permitting process.

On October 1 of last year, the definition of a small operator was recently changed from one who mines less than 100,000 tons per year to one who mines less than 300,000 tons. That's a step in the right direction. The 100,000-ton limit was unrealistic and set a level that was entirely too low. The new 300,000-ton limit will make the program available to many more operators. My original bill called for this change, and I'm pleased that it was made.

However, other problems still exist. Once an operator is deemed eligible for assistance under the program, he cannot succeed. Should the program actually help him increase production to a level above 300,000 tons, the operator must reimburse the Federal Government for services he received.

As a result, many operators are forced to cut production in order to remain under the prescribed limit. Obviously, this runs counter to the intention of the SOAP Program. The goal of the program is to help the small operator increase production.

These and other problems have led to a steady decline in the utilization of the SOAP Program. For the 6-year period ending 1990, annual expenditures averaged only $1.6 million, even though under the statute $10 million could be available annually. In Kentucky, applications for the assistance under the program have dropped to an average of 10 per year.

My amendment addresses these problems. Primarily, the bill expands the list of services which the program will provide to the small operator.

Under my amendment, qualifying operators receive assistance with, among other things, the determination of probable hydrologic consequences, the development of cross section maps and plans, the geologic drilling and statement of results of test borings and core samplings, and the performance of preblast surveys and archaeological and environmental studies. Also, funding will be made available to train small surface coal operators in the preparation of permit applications and regulatory compliance.

Mr. President, a healthy U.S. coal industry is key to a healthy U.S. energy policy. And a viable Small Operator Assistance Program is key to a sound coal industry. Passage of my amendment will move us in this direction.

Mr. President, it is my understanding that this amendment has been cleared by both sides, I ask now that it be adopted.

Mr. JOHNSTON. Mr. President, this amendment would amend title V of the Surface Mining and Reclamation Act of 1977 to provide additional assistance to small surface coal mine operators in meeting permit application requirements. It has been cleared on both sides.

Mr. WALLOP. Mr. President, I commend Senator MCCONNELL for this amendment to assist small surface coal mine operators in dealing with requirements in the Federal coal permitting process.

While larger, more diversified companies can easily meet Federal permitting and reclamation requirements, smaller operators are at a disadvantage in just wading through the redtape. This amendment would allow companies producing less than 300,000 tons of coal per year to better compete by providing assistance in meeting such Federal requirements as determining probable hydrologic consequences, the development of cross-section maps and plans and the collection of archeological information, among other things.

Operators eligible for assistance are located across the Nation from Maryland to Utah, including States such as Pennsylvania, West Virginia, Colorado, and Wyoming.

The Office of Surface Management estimates that with this amendment, total costs for the small operators program will not exceed the current cap of $10 million.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1563) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1564

Mr. JOHNSTON. Mr. President, I send an amendment to the desk on behalf of Senator FORD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. FORD, proposes an amendment numbered 1564.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 249, after line 24, add the following new subsection:

"(g) AVLIS LICENSING.—The last sentence of section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(v)) is amended to read as follows: 'Except with respect to the export of a uranium enrichment production facility or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology, such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.'."

Mr. JOHNSTON. Mr. President, this amendment restores the law governing the licensing of uranium enrichment

plants using atomic vapor laser isotope separation [AVLIS] technology to what it was prior to enactment of the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990 (Public Law 101–575).

Until recently, nuclear power plants were licensed under a two-step licensing process. The two-step process was useful for licensing power reactors when the technology was new and still being perfected. It allowed the utility to get a construction permit on the basis of preliminary design information. A second permit was then needed, once the plant was built, before it would be allowed to operate.

Today, after more than 100 nuclear power plants have been built and reactor designs have become well established, design work can be completed before a license is issued and construction begins. Thus, in 1989, under existing statutory flexibility, the Nuclear Regulatory Commission adopted a rule allowing the Commission to license nuclear power plants in a one-step process under which the design is finalized before construction begins. The rule does not apply to uranium enrichment plants, however.

In 1990, Congress directed the Nuclear Regulatory Commission to license uranium enrichment plants under the one-step process. This action makes sense for uranium enrichment plants using the same technology as other plants that already have been built, where extensive construction and operating experience exists. It makes less sense for a new technology like AVLIS, where neither a commercial plant nor a prototype plant has yet been built.

Accordingly, this amendment exempts uranium enrichment plants using AVLIS technology from application of the one-step licensing process required by the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990 and instead allows the Nuclear Regulatory Commission to use the pre-1990 two-step process. The amendment does not affect uranium enrichment facilities using existing gaseous diffusion or gas centrifuge technologies or nuclear powerplants.

Mr. President, I engaged in a more lengthy explanation here knowing of the sensitivity of the uranium enrichment licensing process, simply to make clear that, in effect, this amendment allows the two-step process, for the AVLIS technology. In effect, it makes the process more lengthy and provides more opportunity for hearings and that sort of thing under this amendment than it would before.

So, I yield the floor.

Mr. WALLOP. Mr. President, I have considered and agreed to the amendment.

The PRESIDING OFFICER. Is there further debate? If not, without objection the amendment is agreed to.

So, the amendment (No. 1564) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 1565 AND 1566

Mr. JOHNSTON. Mr. President, I send to the desk two amendments which have been cleared and ask unanimous consent they be considered en bloc, and I ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes amendments numbered 1565 and 1566.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

If there be no further debate, the question is on agreeing to the amendments.

The amendments (Nos. 1565 and 1566) were considered and agreed to en bloc, as follows:

AMENDMENT NO. 1565

(Purpose: To modify the definition of "State" in Public Law 97–425 to exclude U.S. territories and freely associated States from those with whom the Nuclear Waste Negotiator may negotiate to find a willing host for a nuclear waste facility)

On page 344, after line 18, add the following new section:

"SEC. . Section 401 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425) is amended by inserting "and" after "States,", inserting a period after "District of Columbia", and striking the remainder of the sentence.

AMENDMENT NO. 1566

(Purpose: To extend the term of the Nuclear Waste Negotiator established by section 402 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425) by one year, until January 22, 1994)

On page 344, after line 18, add the following new section:

"SEC. . Section 410 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425) is amended by striking "5 years" and inserting "6 years".

Mr. JOHNSTON. Mr. President, these two amendments relate to the nuclear waste negotiator provisions of the Nuclear Waste Policy Act of 1982.

The first amendment would modify the definition of "State" contained in the portion of the act to exclude the U.S. territories and freely associated States from those with whom the nuclear waste negotiator may consult to find a willing host for a nuclear waste facility.

The second amendment would extend the term of the negotiator for 1 additional year, until January 1994.

The PRESIDING OFFICER. Is there further debate?

Mr. WALLOP. Mr. President, the minority has considered and agrees with these amendments.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1567

Mr. JOHNSTON. Mr. President, the next amendment will be submitted on behalf of Senator DOMENICI, and it would assure that neither FERC nor the State of New Mexico would have authority to license a private hydro facility at a dam located on the lands of the Pueblo de Cochiti tribe without the tribe's consent. It is supported by both New Mexico Senators and is noncontroversial.

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. DOMENICI, proposes an amendment numbered 1567.

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

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

The amendment is as follows:

On Page 100, at the end of line 4, insert the following new sentence: "No development of hydroelectric power at Cochiti Dam in New Mexico may be authorized by any Federal or State official or agency unless specific authorization for such development has been enacted by the Congress and the express consent of the Pueblo de Cochiti has been obtained."

Mr. DOMENICI. Mr. President, at the close of the 101st Congress, Congress enacted Public Law 101–644 which, among other things, provided that no license would be issued for the development of hydroelectric power at Cochiti Dam in New Mexico without further action by the Congress. The dam is located on the lands of the Pueblo de Cochiti, and is operated by the Army Corps of Engineers.

When Congress enacted this provision it was responding to the urgent request of the Pueblo de Cochiti, which was and is strongly opposed to the development of hydropower facilities at the Cochiti Dam on religious grounds.

In the years since Cochiti Dam was completed in 1975, the pueblo has suffered greatly from its presence. A natural shrine, sacred to the Cochiti traditional religion, and that of other pueblos, was defaced during construction. Water seepage from under the dam flooded all the pueblo crop lands, making traditional farming impossible. Recurring proposals for an unwanted hydropower facility have caused further disruption of life. Any feasible development of the dam for hydroelectric power would involve further desecration of the sacred natural shrine located near the outlet works of the dam.

When Congress passed Public Law 101-644 all believed that the legislation would prevent the objectionable hydropower development. The amendment I now offer is necessary to continue this protection of the pueblo. S. 2166 exempts Indian reservations from the transfer of licensing authority for small hydropower facilities to the States. However, through a quirk of law, protection for reservation lands is possible only if those lands satisfy a technical definition of "reservation" under the Federal Power Act. Because the pueblo's land interest derives from an 18th century land grant from the King of Spain, rather from the more familiar process of setting aside land by treaty or by executive action, Cochiti lands might not be protected under this definition.

As Congress has previously recognized, the pueblo has already been egregiously harmed by hardships resulting from the dam. Relief in the form of this technical amendment, to preserve the protection enacted in Public Law 101-644 is immediately appropriate. My amendment would not affect any hydropower development outside of the Pueblo de Cochiti.

Mr. WALLOP. Mr. President, the minority has no objection.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1567) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1568

(Purpose: To amend the National Energy Security Act of 1992 to protect the interests of Native Americans in the licensing of hydropower facilities on Indian lands)

Mr. JOHNSTON. Mr. President, I have an amendment which I will describe. I believe it is cleared, but let me take this opportunity to inquire of my colleague if it has. It is an amendment on behalf of Senator DECONCINI to clarify and protect native American interests affected by hydropower facilities. In an attempt to streamline the Federal Power Act regulation, we must not do so at the expense of the indigenous people of this country, that is Indian tribes.

The amendment requires that when a Federal license is sought for the purpose of constructing, operating and maintaining dams, reservoirs, transmission lines, and other project works necessary for hydropower, then the Federal licensing agency must consult with the Secretary of the Interior and the tribal government before the license can be issued.

Has that been cleared?

Mr. WALLOP. Mr. President, I would say to my friend this is the first I have heard it, but I checked with all three members of my staff who would help me render judgment and they are in agreement with it.

So it can be considered cleared.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. DECONCINI, for himself and Mr. DOMENICI, proposes an amendment numbered 1568.

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

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

The amendment is as follows:

on page 94, line 18, after the word "Interior", insert "after consultation with and consideration of the recomendations from the affected Indian tribe".

On page 94, line 20, after the word "reservation", insert "consistent with the federal government's trust responsibility for the Indian interests;".

Mr. DECONCINI. Mr. President, My amendment to subtitle C clarifies the intent of S. 2166 and protects the interests of native American people whose lands and water interests may be affected by hydropower facilities licensed under provisions of the Federal Power Act, as amended.

In the attempt to streamline Federal Power Act regulation and the licensing of hydropower projects, we must not forget that the Federal Government has a special relationship with native Americans. As we seek to expand the nonpolluting energy capacities of the Nation, we must not do so at the expense of the indigenous people of this country. Indian tribal governments have the right to participate in discussing and deciding the disposition of the land and water resources of their respective tribes.

To make it clear that it is the right of the tribal governments to participate fully in the decisionmaking process concerning the use of their lands for the location and operation of hydropower facilities, I offer my amendment.

My amendment requires that when a Federal license is sought for the purpose of constructing, operating, and maintaining dams, reservoirs, transmission lines or other project works necessary for hydropower, and the affected lands and waters are within the lands of an Indian tribe, then the Federal licensing agency must consult both the Secretary of the Interior and the tribal government before the license can be issued. Both the tribal government on its own behalf and the Secretary of the Interior representing the Federal Government's trustee responsibility for native American interests shall review the license. My amendment also enables tribal governments to make recommendations to the Secretary of the Interior on conditions for the Federal license for hydropower development or generation to ensure that their interests are fully protected and properly utilized. My amendment simply codifies existing practice.

Native American people have been overlooked too often. Tribal resources have too often been disposed of without tribal advice or direction. My amendment is intended to make it clear that if hydropower is to be generated on Indian land, then the tribal government has the right and the duty to participate in the licensing process.

The PRESIDING OFFICER. Without objection, the amendment is considered and agreed to.

So, the amendment (No. 1568) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1569

(Purpose: Clarification of section 10243)

Mr. WALLOP. Mr. President, I have one more amendment that has been cleared, an amendment of my own with regard to Russian uranium. I shall shortly send it to the desk.

It would conform section 10243 to reflect that the committee's July 25, 1991, request that the U.S. International Trade Commission conduct an investigation under section 332(g) of the Tariff Act of 1930, for the purpose of assessing the impact on the domestic industry of imports into the United States of uranium from nonmarket economies. I further ask unanimous consent that the Finance Committee's letter to the ITC be printed in the RECORD at this point.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, July 25, 1991.

Hon. ANNE E. BRUNSDALE,
Acting Chairman, U.S. International Trade Commission, Washington, DC.

DEAR MADAM CHAIRMAN: The Committee on Finance requests that the U.S. International Trade Commission conduct an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the purpose of providing a report assessing the impact on the domestic industry of imports into the United States of enriched and non-enriched uranium and uranium enrichment services from the Union of Soviet Socialist Republics (USSR), the People's Republic of China (PRC), and other non-market economy countries, as appropriate. No classified or business confidential information should be included in, or released in connection with, the report.

In its report, the Commission should, to the extent feasible in light of the difficulties in obtaining information, provide information regarding the uranium enrichment in-

dustry in the United States, the USSR, the PRC, and other non-market economy countries, as appropriate, including but not limited to the following:

(1) The uranium enrichment industry in the United States (the Department of Energy (DOE)).—The history, technological trends, number of operations, production and sales of enriched uranium and uranium enrichment services, employment and wages, capacity, major markets, inventories, costs, productivity, financial experience, DOE prices, market prices for enriched and non-enriched uranium and uranium enrichment services, changes in industry structure such as ownership changes, influence of middlemen and brokerage firms, projections of the amount of enriched uranium that U.S. utilities will be able to purchase from sources other than the DOE, and steps the U.S. enrichment industry is taking to adjust to foreign competition.

(2) The uranium enrichment industries in the USSR, the PRC, and other non-market economy countries, as appropriate.—The history, technological trends, number of operations, production and sales of enriched uranium and uranium enrichment services, export capacity, major markets, industry structure, marketing strategy, prices, and projected short- and long-term trends for these industries.

(3) The impact of sales of enriched and non-enriched uranium and uranium enrichment services to the United States from the USSR, the PRC, and other non-market economy countries, as appropriate, on the domestic industry.—A listing of imports of uranium from the USSR, the PRC, and other non-market economy countries, as appropriate, a listing of long- and short-term contracts for enriched and non-enriched uranium secured in the United States by the USSR, the PRC, and other non-market economy countries, as appropriate, market strategies used by these countries to export enriched and non-enriched uranium or uranium enrichment services to the United States, strategies adopted by the DOE to adjust to and limit the impact of these imports, projected penetrations of the U.S. market by the USSR, the PRC, and other non-market economy countries, as appropriate, a comparison of prices charged by these countries with prices charged by the DOE, the quality of uranium enrichment services offered by the DOE compared with uranium enrichment services offered by the USSR, the PRC, and other non-market economy countries, as appropriate, and an overview of the impact of imports of enriched and non-enriched uranium from the USSR, the PRC, and other non-market economy countries, as appropriate, on the domestic enrichment industry (the DOE) and on other uranium producers, including the U.S. uranium mining and milling industry.

The Commission is requested to furnish its report no later than one year after the Commission's receipt of this letter. In preparing its report, the Commission should seek views and input from the private sector. The Commission should utilize existing information available from U.S. Government agencies to the extent practicable.

Thank you for your cooperation in this important matter.

Sincerely,

LLOYD BENTSEN,
Chairman.
BOB PACKWOOD,
Ranking Member.

Mr. JOHNSTON. Mr. President, we have cleared the amendment.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 1569.

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

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

The amendment is as follows:

On page 266, amend from line 13, through page 268, line 9, to read as follows:

"SEC. 10243. UNITED STATES INTERNATIONAL TRADE COMMISSION INVESTIGATION.

"(a) REPORT.—(1) Within 120 days of his receipt from the United States International Trade Commission of its report under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) assessing the impact on the domestic uranium enrichment industry of imports into the United States of enriched and non-enriched uranium and uranium enrichment services from the Union of Soviet Socialist Republics, the People's Republic of China, and, as appropriate, other nonmarket economy countries, the President, or his designee, shall transmit to the Congress a report that includes—

"(A) the views of the executive branch on the Commission's report; and

"(B) what action, if any, the President plans to take in response to the Commission's report concerning the impact of transactions in enriched and non-enriched uranium and the provision of uranium enrichment services by the Union of Soviet Socialist Republics, the People's Republic of China, and, as appropriate, other nonmarket economy countries, on the domestic uranium enrichment industry, including but not limited to the status of any negotiations with such countries in regard to such transactions and provision of services.

"(2) Should the President determine that no action by the executive branch is necessary in response to the Commission's report, his report to the Congress shall include a detailed statement of the reasons for such determination, including an explanation of why the absence of action by the executive branch will not adversely affect the economic well-being of the domestic uranium enrichment industry.

"(b) COOPERATION.—The Secretary, the Administrator, and the Secretary of Commerce shall cooperate fully with the United States International Trade Commission in its investigation under section 332(g).".

Mr. WALLOP. Mr. President, the United States confronts a number of serious trade problems throughout the world. The future health of the American economy depends on our ability to resolve these problems in accordance with principles of free and fair trade.

No current trade problem is more serious than the influx of imports of uranium and enriched uranium from the former Soviet Union. It has been clear for some time that these imports pose a major threat to the Federal enrichment enterprise and the domestic uranium industry.

Imports of uranium from the Soviet Union have increased dramatically in recent years. In 1989, these imports totaled 500,000 pounds. In 1990, however, Soviet imports soared to more than 6 million pounds, a figure equal to two-thirds of United States uranium production for that year. Preliminary figures indicate that this figure will be surpassed for 1991.

The Soviet share of United States uranium imports rose from less than 2 percent in 1988 to 25 percent in 1990. As a result of drastic cutbacks in their civilian nuclear program and nuclear weapons production, the Soviets have substantial excess capacity to enrich uranium. DOE estimates that the Soviets may have as much as 10 million separative work units [SWU's] available for export. This is the equivalent of 40 million pounds of natural uranium, about equal to the projected yearly demand for uranium by U.S. utilities for the next few years. In addition, the Soviets plan to export at least 13 million pounds of natural uranium each year until 1995.

There is every reason to believe that the Soviets will continue to target the United States market because it is the world's largest. In a UPI report from Moscow dated January 14, 1991, the chief of the uranium export division of the former Soviet Atomic Energy Ministry, a Mr. Albert Shiskin, boasted that the Ministry made $500 million from uranium exports in 1991 and intends to make $1.5 billion from exports in 1992.

The Soviets have been able to penetrate the United States market because sales from their production and stockpiles are being made at prices which bear no relation to real production costs. They are selling enrichment services at less than half the DOE price. Uranium spot market prices dropped last fall to the lowest level in history, largely because of Soviet marketing practices.

Both the Department of Energy and domestic uranium producers have testified before the Energy Committee that they believe Soviet uranium is being dumped in this country.

On November 8, a coalition for United States uranium producers and the Oil, Chemical & Atomic Workers Union, which represents workers in DOE's enrichment facilities, filed a petition with the Department of Commerce and the United States International Trade Commission seeking relief from the dumping of uranium and enriched uranium by the Soviet Union.

DOE filed a notice of appearance in this proceeding and a DOE representative testified at an ITC staff hearing on December 3. Subsequent to this hearing, a brief was filed with the ITC on DOE's behalf.

On December 18, the ITC voted 3–0 that there is a reasonable indication that the domestic uranium industry is materially injured by reason of imports from the Soviet Union. The Commis-

sion also concluded that the uranium enrichment operations of DOE should be treated as part of the domestic uranium industry for the purposes of the proceeding.

Although it is obvious that DOE has been directly affected by Soviet uranium marketing activities, it appears that DOE has been criticized by some administration officials for its participation in the antidumping case. Earlier this week, 12 Members of the Senate wrote Secretary of State Baker and other Cabinet officers supporting the participation of DOE and asserting our belief that any trade with the Soviet Republics must be free and fair trade.

The outcome of the pending trade action against Soviet uranium remains to be seen. The Department of Commerce is now investigating whether Soviet imports are being sold or offered at less than fair value. As might be expected, the Soviets deny the dumping charges. Furthermore, the UPI quotes Mr. Shiskin in its January 14 story as suggesting that United States action against Soviet exports could lead the Atomic Energy Ministry to seek other markets where controls over the distribution of the uranium would be less certain.

In the meantime, United States utilities are rushing to buy Soviet uranium in large volumes. DOE told the ITC that it believes the Soviets will have 65 percent of all new uranium sales this year.

In the 1996–98 timeframe, utilities representing half of the available sales volume have already told DOE they plan to buy from the Soviets and others are moving in that direction. Beginning in 1996, after existing DOE contracts expire, Soviet deliveries will climb dramatically and, according to DOE, Soviet imports will have a larger market share than DOE.

It is ironic that United States nuclear utilities, which have long decried our reliance on oil imports, are on the verge of becoming massively dependent on Soviet Republics to fuel their nuclear reactors. Clearly, the Government's enrichment enterprise and the domestic uranium industry have been put at risk by this development. At the very least, the pending trade action and this section 332 investigation can provide Congress with valuable information on the dimensions of this problem and suggest what actions may be necessary to resolve.

Mr. President, I urge adoption of my amendment. To my knowledge the amendment has been cleared.

The PRESIDING OFFICER. Without objection the amendment is agreed to.

So the amendment (No. 1569) was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I know the Senator from Tennessee wants to lay down his amendment and perhaps discuss it for a short time. It has to do with the CFC's and accelerating the phaseout of the CFC's. I think it is a sense of the Senate. He wants to lay it down and have a period of debate tomorrow followed by a vote.

I wonder if the Senator from Wyoming has a view as to how long he thinks that debate should take, from his standpoint?

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, in my opinion, it would honestly save us time this evening for me not to enter into a time agreement so I may find out what is going on on our side with the amendment. It could be that we will agree to a great deal more time than we need. I do not know. I hope the Senator understands.

AMENDMENT NO. 1570

(Purpose: To urge the President of the United States to take the appropriate actions to combat Stratospheric Ozone Depletion)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Tennessee [Mr. GORE], for himself and Mr. CHAFEE, proposes an amendment numbered 1570.

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

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

The amendment is as follows:

On page 401 after line 4, add the following new title:

TITLE XVII—STRATOSPHERIC OZONE DEPLETION

SEC. 17101. FINDINGS.

The Senate finds that:

(1) The Stratospheric ozone layer, which protects all living things from harmful ultraviolet radiation from the sun, has been severely depleted in many areas of the globe.

(2) Recent scientific data show that the ozone layer over densely populated areas of the United States and other countries in the northern midlatitudes has thinned twice as fast as had previously been measured and as had been projected by theoretical models and the depletion is persisting into the warmer months of the year, and has reached significant levels even in summer.

(3) Ozone depletion in the Southern Hemisphere is proceeding even more rapidly than in the Northern Hemisphere.

(4) The incidence of skin cancer and cataracts is expected to rise significantly and the human immune system may be suppressed due to increased exposure to ultraviolet radiation.

(5) Increased exposure to ultraviolet radiation threatens food crops and some wild plants, and interferes with the ability of phytoplankton, the microscopic organisms that are at the base of the oceanic food chain, to photosynthesize and to reproduce.

(6) The scientific evidence shows that chlorofluorocarbons, hydrochlorofluorocarbons, and other halogenated chemicals undergo reactions in the stratosphere that lead to the rapid destruction of the ozone layer.

(7) The Administrator of the Environmental Protection Agency is required under the Clean Air Act Amendments of 1990 to accelerate the schedule phaseout of ozone-destroying substances if it is determined in the light of scientific evidence that a more stringent schedule is necessary to protect human health and the environment.

(8) The recent scientific findings make necessary a reappraisal of both domestic and international policy on the control of ozone-destroying chemicals.

SEC. 17102. SENSE OF THE SENATE.

It is the Sense of the Senate that:

(1) The Administrator of the Environmental Protection Agency should accelerate the interim phaseout schedules and the final phaseout date of chlorofluorocarbons, carbon tetrachloride, methyl chloroform, and halons as required pursuant to section 606 of the Clean Air Act Amendments of 1990, and shall provide for complete phaseout as early as possible, taking into account Section 604 of the Act.

(2) The Administrator of the Environmental Protection Agency should accelerate the interim phaseout schedule and the final phaseout date of those hydrochlorofluorocarbons that have relatively long atmospheric lifetimes or high ozone depletion potentials.

(3) The Administrator of the Environmental Protection Agency should prioritize efforts to issue regulations, as required pursuant to Title VI of the Clean Air Act Amendments of 1990, providing for the recapture and recycling of ozone-destroying substances as used in appliances and motor vehicle air conditioners, and for the elimination of such substances as used in non-essential consumer products.

(4) The President of the United States should urge the Contracting Parties to the Montreal Protocol to accelerate the interim phaseout schedules and the final phaseout date of ozone-destroying chemicals currently covered by the Protocol.

(5) The President should urge the Contracting Parties to include hydrochlorofluorocarbons within the terms of the Montreal Protocol, and to provide for the most rapid phaseout of those hydrochlorofluorocarbons with relatively long atmospheric lifetimes, or high ozone depletion potentials.

(6) The President should urge the Contracting Parties to amend the Protocol to include recapture and recycling provisions and to prohibit the venting or releasing of ozone-destroying chemicals from refrigeration and air conditioning units into the atmosphere by date certain.

(7) The President should urge the Contracting Parties to accelerate the compliance of developing countries with the terms of the Montreal Protocol.

Mr. GORE. Mr. President, I ask unanimous consent that I may be allowed to add original cosponsors prior to the vote.

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

Mr. GORE. Mr. President, I also ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment there is not.

Mr. GORE. May I have the attention of the chairman of the committee? I

again request the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GORE. Mr. President, it is not my intention to debate this amendment at length tonight. I will briefly describe it. I will also say to the distinguished managers of the bill, I am most grateful for the dialog I have been able to have with them prior to the offering of this amendment.

I also would like to make it clear I am introducing this amendment on behalf of myself and the distinguished Senator from Rhode Island [Mr. CHAFEE] who has been a preeminent leader in the area of eliminating chlorofluorocarbons. I am also introducing this amendment in behalf of my colleague from Colorado, Senator WIRTH, who has been my partner in many efforts related to the protection of the global environment.

There is a long list of other cosponsors of the resolution upon which this amendment is based from which the amendment is drawn. But when the committee called and asked if it would be convenient for me to come over this evening and lay the amendment down, I did not have an opportunity to clear the precise language of the amendment with all of the cosponsors of the resolution. So my apologies to them. It was for that reason that I requested unanimous consent to be able to add their names as original cosponsors tomorrow after my staff has had an opportunity to clear it with them.

Mr. President, earlier this week, as all of my colleagues are quite well aware, new scientific findings were announced showing that the depletion of the stratospheric ozone layer above populated areas in the United States, Europe, and Asia is now much higher than was previously thought. Even more disturbing was the announcement that if atmospheric conditions persist in their present pattern for another 3 weeks or so, we could well see the beginning of an ozone hole above populated areas of the Northern Hemisphere, including the United States of America.

The news did not get any better as the scientists continued their explanation, because they said even if an ozone hole does not appear this year, they are relatively certain that one now will appear during this decade. The atmospheric conditions which lead to the emergence of an ozone hole include what the scientists call a vortex, a circular pattern that resembles the way water runs down the drain in a bathtub.

Such a vortex above Antarctica appears virtually every year just before the Sun comes up on the South Pole in the middle of September. Before the Sun comes up, the temperatures are coldest and because the air is very thin there, the clouds rise high into the stratosphere, putting ice crystals at altitudes where CFC's are depleting the ozone, and when the chemicals come into proximity with one another on the surface, or in the presence of these ice crystals, the rate of depletion is speeded up dramatically compared to what happens in the free-floating atmosphere.

In Antarctica when the Sun's rays strike continuously for 2½ to 3 months, the air warms up enough so that the vortex weakens and air from the rest of the world comes in and fills the hole, but in the process thinning out the ozone layer in the rest of the world.

In the Northern Hemisphere, all these conditions are present. There is very cold air; clouds high in the stratosphere; ice crystals capable of speeding up the already serious depletion rate and a vortex.

Normally, the vortex in the Northern Hemisphere falls apart before the Sun's rays touch off the process of destruction, the process of ozone depletion at very rapid rates, because the North Pole is ocean surrounded by land, whereas the South Pole is land surrounded by ocean. And as the Sun's rays work their way northward in the Arctic, they heat up the land mass surrounding the Arctic Ocean. In most years, that results in the breaking up of this vortex before the ultraviolet rays kick off the chain reaction.

Some years that is not the case and the vortex remains in place. This appears to be one of those years, especially because the vortex has floated southward along a latitude that roughly corresponds to the location of Bangor, ME, and across the Atlantic and much of Eastern Europe. It is not located always in one place. It moves. It does not move with the rotation of the Earth but rather at a slower, less predictable pace. But if that vortex remains in place at that latitude for another 3 weeks, then we will see the loss of ozone within the emerging hole at the rate of 1 to 2 percent per year.

What does this mean to us? What does this mean to our constituents? It means that a lot more ultraviolet radiation comes through the ozone layer, particularly in the place where the hole is located, and that does a lot of damage in several ways. For each 1-percent reduction of the ozone layer, there is a 2-percent increase in skin cancer. Even before this new condition was found, the scientists predicted more than 300,000 extra deaths from skin cancer in the United States alone during the next few decades. That number, frankly, will have to be recalculated now.

Second, there is damage to eyesight and the incidence of cataracts increases, the number of cases of blindness as a result of cataracts increases.

In the southern ozone hole, which has now grown to a size three times as large as the continental United States, the edges of that ozone hole now lap over the southern tip of South America. As I have said on this floor on previous occasions, there are now a number of anecdotal reports from a variety of different observers coming back from the southern tip of South America reporting the finding of hunters who have come back with stories of blind rabbits found in the field, blind fish reported by the fishermen, blind salmon, particularly, and blind sheep reported by the farmers. Also tree buds in their springtime now, damaged by the extra ultraviolet radiation to the point where they do not burst forth.

That is what life is like, reportedly, in the edges of the ozone hole in the Southern Hemisphere. But that is just in the edge. If the epicenter of an ozone hole in the Northern Hemisphere is above populated areas, and is repeated a number of times throughout this decade and beyond, then what are we talking about?

We are talking about a redefinition of our relationship to the sky. We are talking about parents sitting down with children at the breakfast table and saying, You have to understand, our civilization has made a big mistake. We have put these terrible chemicals into the sky and it has changed the nature of the sky and it no longer protects you from the deadly radiation from the Sun that we never used to worry about in the same way before because the sky was sufficient to protect us. You have to change your way of thinking about the sky.

No other human being who has ever lived on the face of this Earth before this generation of children now in school has had to contemplate such a horrible thought, but because we have put these chemicals up there, now we have to have that conversation with our children.

Do you know what else we have to tell them? We have to tell them we are still putting those chemicals up there. We cannot stop yet. We want to continue putting more and more and more of them in there for another 8½ years before we can bring ourselves to stop doing this damage to the sky.

How would you like to have that conversation with your child, with your children? I am not looking forward to it. But all of us are going to have to contemplate delivering that kind of message to future generations.

Now, as we contemplate that conversation, should we not also think about stopping the process of adding more of these harmful chemicals into the sky? It seems to make sense. The law, incidentally, requires the President of the United States to accelerate the phase-out schedule as soon as new evidence is available showing that the problem was worse than previously thought.

There were two findings last year which most people felt filled that bill.

In fact, the head of the Environmental Protection Agency said as much. I really should put his exact words in because he might not want them interpreted so precisely, but that was the clear intent of what he said, and many others said the same thing. The President did not accelerate the phase-out schedule. Now he should. He should have then. Certainly now.

What this resolution says, and we will debate it tomorrow—I will say to my colleagues that I am perfectly amenable to any reasonable time agreement tomorrow. I believe my colleague from Wyoming is correct; it would be easier to talk about it tomorrow rather than to try to get any agreement tonight. It is not my intention to delay this.

Mr. WALLOP. Will the Senator yield?

Mr. GORE. I will be happy to yield.

Mr. WALLOP. It would be helpful to print and distribute that amendment as well so that Members might have a copy of it.

Mr. GORE. I will be happy to. It has already been proposed.

Mr. WALLOP. It has been proposed, but some of us do not have it.

Mr. GORE. In addition to including it in the RECORD, I will print the amendment and make sure that a copy of it is delivered to every desk tomorrow. Would that be sufficient?

Mr. WALLOP. Absolutely. I think colleagues are entitled to know what is in it.

Mr. GORE. Absolutely. May I say, Mr. President, just as a shorthand description, the resolution from which the amendment is drawn passed the Foreign Relations Committee unanimously last year, and frankly I considered toughening the language. I think the language should be toughened.

I will have another measure later on, not to interfere with this bill, but another measure later on to propose even tougher measures. These are very tough, make no mistake about it, but I did not want to change the text with which Members are already familiar. I do not want to delay or slow it down. I want to send a powerful message right now not only to the President of the United States but to other countries that are preparing for a meeting on April 6 to plan international action to speed up the phaseout schedule.

Mr. President, I do not know of another thing that we can do this year that will have longer range importance than bending our efforts to try to stop the process of devastation now underway in the global environment.

In any event, this is the same as the language that was passed unanimously out of the Senate Foreign Relations Committee at the end of the year. It could not be brought up because there was kind of—well, what do we call it in our jargon, a rolling hold. Somebody would object, and I would go to them and he would say: Oh, it is not me, and somebody else would object. It was the White House who objected. My colleagues were honorably trying to serve their obligations to work with the White House. I understand that.

I do not understand why the White House objects to it and wants to hold it up. But in the current circumstances, I certainly hope that the White House will not object. We will have a recorded vote on this measure hopefully tomorrow. Again, I have no intention of dragging it out or belaboring it. I am amenable to any reasonable time agreement. That is all I will have to say about it this evening.

Mr. President, as I understand, it will be the pending order of business tomorrow. I will be here ready, willing, and eager to debate it. I sincerely urge my colleagues on both sides of the aisle, even if they have been skeptical about this kind of measure in the past, to seriously look at this latest set of findings and let us try to make this unanimous. I think we have a possibility of doing that. You go into any elementary school in this country and ask kids what they think about this problem, they will say: "Why aren't the Senators doing something about it?" And they are right. The scientists are saying exactly the same thing.

I have no wish to make this a partisan issue. In fact, Senator CHAFEE, as I acknowledged, has been a tremendous leader on this issue, as has Senator BAUCUS of Montana. Everybody knows that. This has been a bipartisan concern for many years now. We want to send a message to the White House. We want to get this phaseout speeded up. We want to send a message to the other countries that our Nation has been working with over the years.

Mr. President, I will look forward to continuing this debate tomorrow, and I appreciate the courtesy shown to me by my colleagues, and I yield the floor.

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

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.

The Senator from Wyoming is recognized.

Mr. SIMPSON. I thank the Chair.

(The remarks of Mr. SIMPSON pertaining to the introduction of S. 2199 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MORNING BUSINESS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

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

SENATOR KERRY'S LEADERSHIP ON BCCI AND ITS LARGER LESSONS FOR THE NATION

Mr. KENNEDY. Mr. President, I want to take this opportunity to commend my colleague from Massachusetts, Senator JOHN KERRY, for his outstanding leadership in uncovering the massive financial and governmental corruption scandal involving the Bank of Credit and Commerce International, known as BCCI.

Senator KERRY's extraordinary diligence in carrying out his 4-year investigation to get to the bottom of this corrupt financial octopus—and reveal the failings in Government agencies which allowed the criminal activity to escape detection for so long—has received well-deserved accolades in this country and abroad. But what is equally impressive about Senator KERRY's work is the way he sees BCCI as a warning sign of what has gone wrong with Government and the Nation over the past decade, and as an example of the need for far-reaching change.

In an address at American University last October, Senator KERRY analyzed the BCCI scandal and eloquently discussed its larger lessons for our country and our future. I believe that his address will be of interest to all of us concerned about these issues, and I ask unanimous consent that it may be printed in the RECORD.

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

ADDRESS OF SENATOR JOHN F. KERRY: THE BCCI SCANDAL AND ITS LESSONS

(American University, Washington, DC, October 15, 1991)

I see the words "Political Union" behind me here, and I have to tell you, there's a soft spot in my heart for that. Because when I was an undergraduate at Yale, I served as president of the Yale Political Union, and was extremely active in political union activities.

And I'm an enormous believer in the value of the debate, and the exchange of information, which goes on at political unions or various political entities and debate societies around the country. And I will tell you that while somehow sitting here at midterm time and thinking about exams, there's an inevitability to feeling a little bit distant from political reality, though here in Washington that's not as true as it is elsewhere. It really does have an extraordinary relevance and faster than you'd think, you can be and will be, and many of you maybe are, in the middle of the maelstrom, having an enormous impact on events, and that's valuable, it really is.

Just a quick aside. I'll tell you that when I was at Yale in 1962 and '63, a young congressman came to talk to us. His name was Allard Lowenstein. And he was my first sort of introduction to the connection between verbal passion and actions that you take as a consequence of that. And it was about the civil rights movement. And many of us be-

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came very much activated and interested in the civil rights movement as a consequence of what he and others were doing then. And we began to raise money, as students, to put people on the freedom rides, the buses, that went south in order to break the back of desegregation—of segregation. And it was the first lesson to me about the power of students and the ability of young people to make a difference.

And that was carried on many, many different ways, when I came back from Vietnam, through various efforts to try to impact this country and change things.

That's not what I'm initially here to talk about something called BCCI. But I do want to invite questions on a number of different topics if you want. I just want to suggest to you that I'm willing to tackle any subject that you would like to raise, because this is an important time in this country.

BCCI is an important symbol, not only a symbol, because there is a reality of criminal activity that is attached to it, but it is an important symbol, a symbol of what government sometimes fails to do, which is part of our times, and a symbol of a pervasive spreading kind of criminality that knows no boundaries, crosses borders, is willing to play by its own rules, and which furthers other criminal activity in the world.

Now BCCI means different things to different people right now in the country, different things to politicians, to journalists, to bankers, certainly, to cartoonists, and others, all of whom have tried to find a way to express what it really is all about.

Some people look at the financial scandal, and they see 1.3 million depositors scattered around the world who have lost savings, or lost their whole businesses, as a result of the bank's collapse. Others focus on the bank's collapse. Others focus on the bank's ties to political leaders, to its purported payoffs to heads of state, and the implication for people like Peru's former president, Alan Garcia, or for Argentina's President Carlos Menem, on the allegations that have been made regarding their links to this bank.

Still others focus on the political influence that may or may not—and I emphasize, may not—have been wielded on behalf of this bank, either in Washington, D.C., or in Atlanta, Georgia, or in Miami, or in other parts of this country—California, New York—or in many other capitals across this globe.

Some portray it as just a sort of spider web that attaches anybody who touches it and sucks them in and devours them. What I've tried to do in the 3 years that we have now been tangentially and directly looking at BCCI is to place it in its proper perspective and understand the full implications of what this banking scandal really means, and to reveal how these kinds of operations of foreign financial institutions or foreign governments themselves can have a major impact on foreign policy, and indeed, on our relationships with other countries on whom we rely for information, for a cursory relationship, for an intelligence relationship, and sometimes even for a much deeper relationship which might involve a treaty, and a larger relationship in a hemisphere such as the drug-fighting efforts that we have in the Western hemisphere, and our reliance with other nations in Latin America, and the effort to stamp out drugs.

Now, BCCI's founder and chief, a fellow by the name of Aga Hasan Abedi, a Pakistani, very systematically and deliberately set out to create a set of relationships around the world with world leaders by providing favors that ranged from creating charities to strengthening those leaders politically to helping arranging arms deals to creating slush funds of the kind that General Noriega had, to straightforward political payoffs.

BCCI used these ties in order to obtain control of many banks around the world, and to obtain secret control of other banks such as a bank right here in Washington, D.C., called First American Bank. In turn, foreign and domestic intelligence agencies developed close ties to BCCI, knowing of BCCI's basic criminal activities, and notwithstanding that, the CIA and other intelligence agencies nevertheless made use of BCCI for a variety of purposes.

We will be having a hearing next week which will begin to explore some of the purposes for which BCCI was used. We will have a major insider of the BCCI bank itself testifying next week. We will have some of those who understood what happened in Georgia with the National Bank of Georgia testify. And finally, we will have both Messrs. Clifford and Altman, who were the management of the First American Bank and the lawyers for BCCI in Washington, testify next week with respect to their knowledge and their activities about the bank.

What is important to focus on is the fact that law enforcement in the United States of America had substantial information regarding BCCI in the early 1980s—and they did nothing about that. That is a fact. They ultimately, in 1988 or so I believe, '87 or '88, wound up prosecuting a handful of BCCI executives in Florida as part of a sting operation, but as part of the plea that went along with that sting operation, they agreed not to pursue other activities of the bank in that region and in fact basically turned away from the larger criminality that many of us were then alleging the bank was involved in.

All this while, from 1980 through the current moment until the Bank of England shut down BCCI in April of this particular year, BCCI as an institution lost billions of dollars around the world. Those billions were systematically concealed by a rather loose and ineffective auditing process conducted by some of the major auditing firms of the nation and the world, and ultimately, principally, by Price Waterhouse. And that is an area, also, of inquiry that our committee intends to look at.

But concealing those losses was accomplished principally by their extraordinarily adroit use of lawyers and accountants, and fictitious entities—a bank within the bank, a movement of stock which people really weren't able to keep track of, and large movements of capital that they also lost sight of.

They also were very successful at making personal representations to government officials about what they were doing and weren't doing, and for one reason or another, government officials took them at face value.

Now, I can't tell you today who did what. I don't know the answer to that. I have been very careful in the course of this investigation to leave as allegations those things that are allegations and to try to state as fact those things that I know to be fact. I do not know what Mr. Clifford and Mr. Altman knew. And it is fair, in keeping with our judicial system, particularly if we are willing to overlook evidence such as we overlooked in the course of the Thomas nomination, it is particularly fitting to have a presumption with respect to innocence and to guarantee that this process plays out and that questions are asked before people draw conclusions or make assumptions.

And I refuse to do either—no assumptions and no conclusions. There are some very legitimate questions, significant questions and questions which they have voluntarily agreed to come and appear before our committee and answer, and I respect them for that. What is clear to me is that despite the fact that our government knew about the existence of this illegal agreement, because we have CIA memos that show that they knew it, we have communications between agencies that prove that in the early '80s they knew it, despite that, nobody was willing to proceed against BCCI until the heat began to show what was happening in Miami and we got the money laundering indictments that came out of that.

But I personally criticized those conclusions that were drawn in those money laundering indictments because I thought it was a weak plea which basically only asked for half the money that had been the fruits of the crime and allowed the bank to walk away with a slap on the wrist when it should have fundamentally been shut down at that time, and that is what I said.

Now, where does this leave us at this point? What is the next extension of significance beyond the little person and the accountability of government that I just talked about? There's another very serious implication in all of this, and that is that if you are serious about a drug war, if you are really intent on establishing an international cooperative effort to try to prevent the flow of drugs, then you cannot simply focus on the growth in the forest or focus on the pusher in the street. You've got to focus across the board and particularly on those people who most facilitate the flow of these drugs. There is a rule by which most banks are supposed to regulate themselves. It's called the know-your-customer rule. And bankers are expected to know their customer and not deal with people that they know to be crooks. That's what the Basel Convention says and that's what bankers will quickly tell you whenever they make their high-sounding pronouncements. The reality is that they ignore their customer when they know the customer has a lot of cash, and the only time they really care about their customer—many of them, mostly offshore banks—is when that customer is borrowing money. Then they really care about it. But if the customer is depositing or using the bank as a pass-through, they're quick to take the money.

Greed—greed is at the center of BCCI, and you had competition in order to reach out to any nefarious activity whatsoever and grab the money and bring it in. And indeed, one insider has told us that the opening of branches was not per se to make money, because after profits and taxes and start-up costs and everything, they don't think they made a lot of money. It was to gain a foothold to gain these major deposits in order to use that as part of their growth.

Indeed, the bank bought five branches in Medellin, Colombia. And there was a debate inside the bank as to whether or not this was a good idea, because they knew damn well that Medellin, Colombia bank branches had one significant source of income, and that was drug money. And indeed, that's one of the ways in which the bank became a major money-laundering entity, not to mention Noriega and other pass-throughs in the Cayman Islands that it became involved in. So that's a second major thing.

If you are serious about stopping drugs, serious about accountability between nations on the flow of illegal money, serious about

having accountability in your own financial system, it is imperative that you have oversight of that system, and that means an agreement among nations as to how you will record cash that comes into these banks.

In America, every single bank in America has to record $10,000 of cash or less when it comes into the bank. The minute that American branch goes offshore, it doesn't have to do that any more. We have a loophole a mile wide, an incentive for people to set up an offshore account and take in cash because there's no record-keeping whatsoever on that.

And in fact, BCCI was set up in a way to take advantage of that, set up in Luxembourg, and in the Cayman Islands and elsewhere, where there was very little regulatory oversight, and no one regulator who had the responsibility for the entire bank. Sort of a potpourri of regulators, each of whom had a little piece, but none of whom could see the whole picture of what was happening.

Final reason that I think BCCI is so critical beyond the little person in the street and the accountability of government and making it work, beyond money laundering and the fight on drugs, is foreign policy itself and the interests of this nation. If banks can illegally buy banks in the United States, and foreigners own our banking institutions, then we don't own ourselves. And we don't know what's happening to us, and we don't know what interest they might have in any investment that they make in this country. And if foreigners can break our banking laws that way, and illegal criminal activity can gain a foothold in banks and in influence in this country, then you run the risk of ultimately seeing the kind of confrontation that you see today in a place like Colombia, where the government is at war with criminal activity, and almost had to surrender recently. Or a place like Italy where the southern portion of the country is increasingly taken over by Mafia, by organized crime, and every politician in Italy will tell you that's true and admit it, but there's not very much they can do about it.

Money does speak. Money has the terrible ability to be able to intrude on the normal standards of behavior that people expect to see from people in public life and in private life. And if banks can get that kind of foothold, then, who knows, whether they can grab hold of judges or police departments or so forth.

Now you may smirk and say, gee, is this Senator really coming off the wall. Let me tell you something. A year or so ago 10 percent of the Miami police department was forced to resign because they were involved in drug dealing and in drug use; 10 percent, folks. That's a foothold. You can go to any department, and you can talk to people in major positions throughout the country in law enforcement. And they'll tell you about bribes, and they'll tell you about protection money. And they'll tell you about the capacity of people with an awful lot of money to make things happen the way they want.

If you want this country to maintain its integrity and its sanctity and its security and its capacity to stand for values and to implement those values, you have to fight crime. You cannot look the other way on something like a BCCI for 8-10 years. You cannot allow it to undermine your war on drugs.

And finally, you cannot allow it to put you in the precarious position where you are making those agreements with governments like Colombia or Panama, and the very people you are making those agreements with are engaged in a criminal enterprise against your nation itself. I think that's an extraordinary blindness on our part. It is one that undermines the capacity of those nations to fulfill its obligations, as well as undermines our own faith in ourselves.

So those are some of the things that BCCI means to me. I think it's important, finally, on a personal level, because I really am concerned about the track that this country is on today and its relationship with politicians, those of us in public life. I would caution my colleagues that the lesson we saw in Massachusetts not so long ago of a government that became so complacent and so arrogant in some ways that it literally lost touch with the concerns of people, that you had a ballot box revolution, is absolutely possible at the national level.

And I said a year ago, and I repeat today: the principal reason that is not effective at the national level in this country is because Washington can fake it so effectively; fake it on the budget, and fake it in a lot of other ways, but principally on the budget. Because Washington doesn't have to pay the bills. Because it's borrowing, borrowing, borrowing. Because it's able to steal from the Social Security trust fund, steal from the Highway Trust Fund, steal from the airport construction trust fund, promise people asset sales that are never made. You cook the books, and you just get in a worse-off predicament in terms of international competition in our future. But you get by for that year. And it is that fakery that is finally catching up, not only to Washington, and to the American people, but to the Congress itself.

And I think people better wake up to it fast. They better wake up to the degree to which Americans perceive that this city and all who run it as being somehow distant from and out of touch with the rest of the people in this country. And the only way to do it is to produce—not talk. There's no way to talk yourself out of this one. You've got to produce. You've got to address the real economic concerns of the country. You've got to address the real education concerns of the country. You've got to put people back to work. You've got to harness the extraordinary entrepreneurial creative skill of this nation, go back to the basics that we know created the jobs in the past, and build for a future that takes us into the next century. And I hate to be stretching, because I don't feel like I am, but BCCI is really sort of a small part of all of that. It's a way of saying to people that there is a recognition by some that this accountability is critical, and it is absolutely vital for us to get a handle on what we are doing and not doing, and not deny ourselves a whole generation of the opportunity of being a part of the future, and instead, being part of the problem.

I don't think we have to be. I really don't believe it. As I mentioned to you at the outset of my comments, I come to this business with an inherent faith in the ability of each and every one of us to make a difference and to change things. We changed them remarkably in the 1960s and '70s, not all of it good; not all of it good. But we did create the EPA, the Clean Water Act, the Clean Air Act, the housing act, the voting rights act, the civil rights act, and there was a movement toward consciousness about women and environment and other issues.

And suddenly everybody pulled back and went to sleep. And the question I ask is, as we go into this last decade of the last century of this millennium, is whether or not we're going to have the gumption and the common sense to appeal to our own best instincts and go out there and end the travesty of S&Ls, of BCCIs, of a government that doesn't want to pay attention, and harness the extraordinary good will and good faith and good values and common sense of this great country of ours.

If we do that, no question about our capacity to move into the next century as the world's leaders. If we don't do that, then it's our own fault, nobody else's. So the bottom line, that's part of what BCCI means to all of us.

THE CRISIS WON'T WAIT

Mr. MOYNIHAN. Mr. President, in his State of the Union Address President Bush observed that "in the past 12 months the world has known changes of almost biblical proportions." That he borrowed the phrase from Charles Krauthammer merely adds to the force of the observation. It is true and we all know it: even if it takes a person of special gifts to find the right term.

The joint statement issued this weekend by Presidents Bush and Yeltsin at Camp David extends and expands—if such be possible—this period of epic change. Our two nations declare that henceforth ours will be a "relationship * * * characterized by friendship and partnership founded on mutual trust and a common commitment to democracy and economic freedom."

In this setting I would draw the Senate's attention to a compelling analysis of this relationship presented by Jim Hoagland in the Washington Post of January 23. It is entitled: "The Crisis Won't Wait." The subtitle reads "The West must not underestimate the gravity of the danger the ex-Soviet population faces." He cites Murray Feshbach's judgment that "1.5 million people are likely to die this year in the former Soviet Union because hospitals and doctors lack the most rudimentary medicines and other medical supplies." Food shortages could be just as devastating.

Mr. Hoagland goes on to note that "Feshbach is no stranger to controversy. While the Central Intelligence Agency, the Pentagon and others were predicting, in the early 1980's, continued and menacing growth for the Soviet economy, Feshbach was discovering and calling attention to an alarming drop in Soviet life expectancy. His assessments of the spreading rot in Soviet society were dismissed by hawks and doves alike—though for differing reasons—as too gloomy."

"We know now," writes Mr. Hoagland, "that they were understated." He goes on to note that Feshbach is worried that once again the West is missing the gravity of events in the former Soviet Union. Mr. Hoagland worries that despite the President's commitment of $600 million in technical and emergency aid, for some reason things don't move.

Let me offer a theory of this case. I speak as one whose views were also dis-

missed, albeit I could hardly lay claim to Dr. Feshbach's genius as demographer. My claim is merely that I read him when he began writing on this subject. It is important to the argument I present that Feshbach's findings were first published in the mid-1970's. Specifically in "The Soviet Economy in New Perspective," Joint Economic Committee, 1976. In essence he had spotted a rise in infant mortality and a decline in life expectancy for males in the Soviet Union. I believe there is only one other instance of such a decline in the annals of 20th century demography. So much was summed up in that single fact. That and the confirming fact that the Soviets thereupon stopped publishing their data. Demography, as the saying goes, is destiny. For some of us—I was one—it was the datum that fleshed out the theoretical case that far from descending on us from the mountains of Central America, the Soviet Union was infact about to break up.

In 1979 Newsweek had a forum on the eighties. What would happen. Large thoughts only, if you please. I wrote a brief essay. In the 1980's the Soviet Union would blow up, and if we didn't watch where those nuclear warheads went, the world could very well blow up with it. Now obviously I was both right and wrong. The Soviet Union did not "blow up." It broke up. And there are good signs that they understand the problems of nuclear proliferation. Even so, the more important point is that nowhere in the U.S. Government was there anyone who could conceive of anything like that happening.

I was then a member of the Intelligence Committee; soon to be vice chairman, in our nonpolitical way. The intelligence "community" just couldn't follow the argument even when I persisted. Here are other examples.

SENATE FLOOR, JANUARY 10, 1980

* * * the Soviet Union is a seriously troubled, even sick society. The indices of economic stagnation and even decline are extraordinary. The indices of social disorder—social pathology is not too strong a term—are even more so. The defining event of the decade might well be the break-up of the Soviet empire. But that * * * could also be the defining danger of the decade.

NEW YORK UNIVERSITY COMMENCEMENT ADDRESS, MAY 24, 1984

The truth is that the Soviet idea is spent. It commands some influence in the world; and fear. But it summons no loyalty. History is moving away from it with astounding speed. I would not press the image, but it is as if the whole Marxist-Leninist ethos is hurtling off into a black hole in the Universe. * * *

If we must learn to live with military parity, let us keep all the more in mind that we have consolidated an overwhelming economic advantage. * * *

Our grand strategy should be to wait out the Soviet Union; its time is passing. * * * It will be clear that in the end, freedom did prevail.

ADDRESS TO THE COALITION FOR A DEMOCRATIC MAJORITY, NOVEMBER 28, 1984

The United States is not, and has never been militarily inferior to the Soviets. [Thinking this was] bad enough a mistake. But vastly more important is the underlying, pervasive mistake of not perceiving that the Soviet Union is a declining power.

First, that the Marxist-Leninist ideology is now largely a spent force in the world. * * *

And second, Soviet society just isn't working. What was to have been a transformation in personal and social relations has simply turned into a mess.

SENATE FLOOR, AUGUST 9, 1986

Let us be clear. We are dealing with a doctrinal adversary. There is a real sense in which it must be said of the leaders of the Soviet Union, and some of their satellites, that they are a People of the Book. They have texts which prophesy the ultimate triumph of their system through the collapse of ours, not through its overthrow from outside but from its collapse from within. * * * [I]t was confidently expected that the Socialist mode of production * * * would be superior in its productive capacity, and that Russians * * * would be richer than the West because their system would work better. That expectation soon disappeared. * * * All those prophecies are gone.

There was one exception to the general obtuseness. In July 1985 I visited Geneva as a member of the Senate Arms Control Observers Group. Our chief negotiator was the Honorable Max M. Kampelman who promptly and graciously had us over to lunch. Just as promptly he turned the conversation to my argument and asked if I would elaborate. But Ambassador Kampelman is that celebrated exception that proves the rule. He was not a member of the intelligence community; not a defense analyst; not a policy planning staff director. He is a man of politics in the large and best sense of that term; he would not mind being called a Hubert Humphrey loyalist. He comes out of tradition that takes political ideas seriously and can conceive what it might mean when ideas such as those of the Marxist-Leninist regime in Moscow turn out to be utterly without predictive power.

And so to my theory of the case. The institutions of American defense and foreign policy having failed so utterly to foresee the collapse of the Soviet regime are having huge institutional difficulties responding that this "Crisis [That] Won't Wait" for the simple reason that to do so would implicitly acknowledge that earlier failure.

Do not doubt the depth of this institutional dilemma. Writing in the fall 1991 issue of Foreign Affairs, Adm. Stansfield Turner spoke of the "enormity of this failure to forecast the magnitude of the Soviet crisis." The current issue of the Foreign Service Journal speaks of the CIA's "gargantuan failure to understand the problems of Communist economies." But it is not just the CIA. The failure was systemwide.

This morning, our distinguished Secretary of State James A. Baker III appeared before the Committee on Foreign Relations to present his Department's budget for the coming fiscal year. I asked him if he could possibly tell the committee just how much larger the budget of the intelligence community was than that of the State Department. Five times? Ten times? Fifteen? He, of course, would not respond, nor ought he have done. I simply wanted to make the obvious point. Although when I read him the Foreign Service Journal on the subject of the gargantuan failure of the CIA to understand the problems of Communist economies, he need not have disagreed with that assessment. As he did. One of the problems of having served on the Intelligence Committee is that you are thereafter bound by its confidentialities. Without breaking any such, I believe I can say that the American people would be baffled if they knew the true size and extent of the intelligence budget. Boggled. I recommend that they read Elaine Sciolino's article "CIA Casting About for New Missions" in yesterday's New York Times. Would it not be possible to take just a small portion of this budget and devote it to emergency aid to the Soviet Union? It would.

In any event, I had begun my questioning of the Secretary by citing Mr. Hoagland's compelling article. I asked the Secretary if he did not think that given the record the intelligence budgets might chip in a bit to help with what the Secretary properly described as the effort "to forge * * * an enduring peace" by aiding the former Soviet Union at this point. The Secretary suggested I refer my question to the Budget Committee. Which I hereby do, whilst asking unanimous consent that Mr. Hoagland's article be reprinted in the RECORD at this point.

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

[From the Washington Post, Jan. 23, 1992]

THE CRISIS WON'T WAIT

(By Jim Hoagland)

The Great and the Good, in the form of 45 or so foreign ministers from around the world, have descended on Washington this week to talk about the immense human disaster spreading through the ruins of the Soviet empire. That disaster is worse than anything the foreign ministers and their governments have admitted until now.

Worse: It has been exacerbated by the hesitant, ineffectual international response seen thus far, another reality not likely to be dealt with openly at the two-day State Department conference, due to end today.

This is the view of Murray Feshbach, a man with the credentials to make strong judgments and the boldness to state them publicly. If the Great and the Good tire of hearing their own voices (an unlikely event) they should walk a few blocks to Georgetown University and ask Feshbach to describe the trip he made to Russia last month.

They would hear detailed accounts of why 1.5 million people are likely to die this year in the former Soviet Union because hospitals

and doctors lack the most rudimentary medicines and other medical supplies. They would hear of a food distribution system that contaminates 42 percent of all baby food sold to consumers. They would hear of pollution so severe that a health ministry official says seriously: "To live longer, breathe less."

But there is also an element of hope they could grasp in Feshbach's account of the successful distribution of 200 tons of emergency food and medicine in Russia last month by a private U.S. group he works with, the Russian Winter Campaign.

The results achieved by this citizens' effort stand in sharp contrast to the failure of the United States to deliver any food under the $165 million emergency program announced two months ago by the Bush administration. That's right: Two months after Washington said it was sending free food to help starving Russians, none of that food has been shipped.

The U.S. effort, and much of the rest of the international governmental response to the humanitarian crisis, is "bogged down by Western red tape and Soviet corruption," the New York Times reported in its news columns, on Tuesday.

But Russian Winter Campaign got its food distributed without such problems. Former foreign minister Eduard Shevardnadze helped organize Interior Ministry and KGB troops to guard the emergency supplies and to make sure they were delivered to the intended recipients, Feshbach noted.

Feshbach is no stranger to controversy. His battles with more conventional bureaucrats when he was in the Department of Commerce, working as chief of the Soviet branch in the Foreign Demographic Analysis Division, earned him a reputation in parts of the foreign policy establishment as being a touchy, difficult person.

While the Central Intelligence Agency, the Pentagon and others were predicting, in the early '80s, continued and menacing growth for the Soviet economy, Feshbach was discovering and calling attention to an alarming drop in Soviet life expectancy. His assessments of the spreading rot in Soviet society were dismissed by hawks and doves alike (though for differing reasons) as too gloomy.

We know now that they were understated. And Feshbach, currently professor of demography at Georgetown, worries that once again the West is underestimating the gravity of the danger the ex-Soviet population faces, and ultimately poses to the rest of the world.

"The spread of malnutrition will lead to disease, in a country that has no aspirin, let alone more sophisticated medicines." Feshbach told a seminar at Georgetown's Institute for the Study of Diplomacy last week. "The spread of disease will lead to lower production and much less efficiency * * * in a country that has 50 Chernobyl-type atomic reactors in operation." Many of those are already leaking radioactivity, Feshbach believes.

These are urgent matters. But it remains business as usual for much of the bureaucracy. Although two Japanese officials came from Tokyo recently to talk to Feshbach about his new research, no one from the U.S. Agency for International Development has traveled the few blocks to his office to discuss his trip.

The impulse of getting the foreign ministers and other officials from 54 countries together was a well-intentioned effort by Secretary of State Jim Baker to focus attention on the problem. President Bush's announcement of a new commitment of $600 million in technical and emergency aid at the conference's opening yesterday was also a helpful gesture.

But in its closing statements, the Washington aid conference needs to show that these talks were not scheduled as a substitute for action, as the Europeans and Japanese suspected when Baker muscled them into coming here.

This is the risk in conducting high-profile diplomacy on such an urgent problem. Unless the conference ends up adopting an immediate and credible action program of emergency aid, its effect will be to call attention to how little the world, led by the United States, is prepared to do even at this late date, even when the evidence of the need is so clear.

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.)

ECONOMIC REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT—PM 106

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Joint Economic Committee:

ECONOMIC REPORT OF THE PRESIDENT

To the Congress of the United States:

1991 was a challenging year for the American economy. Output was stagnant and unemployment rose. The recession, which began in the third quarter of 1990, following the longest peacetime expansion in the Nation's history, continued into 1991. The high oil prices and the uncertainty occasioned by events in the Persian Gulf were quickly resolved with the successful completion of Operation Desert Storm early in the year. Most analysts expected a sustained recovery to follow. Indeed, signs of a moderate expansion began to appear in the spring. Industrial production and consumer spending rose for several months. By the late summer, however, the economy flattened out and was sluggish through the rest of the year.

Our recent economic problems are a reminder that even a well-functioning economy faces the risk of temporary setbacks from external shocks or other disturbances. Market economies, such as the United States, are continually restructuring in response to technological changes and external events. Occasionally, structural imbalances develop that can interrupt economic growth. The American economy experienced an unusual confluence of such imbalances in recent years, for example in the financial and real estate sectors, and in household, corporate, and governmental debt. At the same time, a major reallocation of resources from defense to other sectors has been under way. Not least, the lagged effects of a relatively tight monetary policy coupled with problems in the availability of credit, especially for small and medium-sized businesses, dampened economic growth.

The U.S. economy, however, remains the largest and strongest in the world. The American people enjoy the highest standard of living on earth. American productivity is second to none. With less than 5 percent of the world's population, America produces a quarter of the world's output.

As we move into 1992, the fundamental conditions to generate economic growth are falling into place. Interest rates are at their lowest levels in decades and should help boost investment and consumer spending. Inflation is down and expected to remain relatively low. Generally lean inventories imply that increases in demand will be met mainly from new production, which will generate gains in employment and income. America's international competitive position has improved, as evidenced by record levels of exports.

Nevertheless, the United States faces serious economic challenges: to speed, strengthen, and sustain economic recovery; and, simultaneously, to provide a firmer basis for long-term growth in productivity, income, and employment opportunities. In both my State of the Union address and my fiscal 1993 Budget, I presented a comprehensive program to encourage short-term recovery and long-term growth. I have already taken steps to accelerate job-creating Federal spending, to adjust income tax withholding that will add about $25 billion to the economy over the next year, and to renew the attack on excessive regulation and red tape that hamper business formation and expansion and job creation. I will also continue to support a monetary policy that keeps inflation and interest rates low while providing adequate growth of money and credit to support a healthy economic expansion.

Most of my program will require congressional action. In addition to the executive actions I have already announced, my immediate agenda includes:

—Investment incentives to promote economic growth: a reduction in capital gains tax rates; a 15-percent investment tax allowance; and an improved alternative minimum tax.

—Incentives to help revive real estate: a $5,000 tax credit for first-time homebuyers; penalty-free withdrawals from individual retirement accounts for first-time homebuyers; low-income housing credits; tax preferences for mortgage revenue bonds; a modified passive loss tax rule; and a tax deduction for losses on the sale of personal residence.

My intermediate and longer term agenda includes:

—Investment in the future: record levels of spending for Head Start and for anti-crime and drug abuse programs; a comprehensive Job Training 2000 initiative, which will enhance the skills and flexibility of our work force; record levels of spending for research and development and infrastructure; record spending on math and science education; and Enterprise Zones.

—Pro-family initiatives: an increase in the personal tax exemption for families with children; new flexible individual retirement accounts for health, education, and first home purchases; and tax deductibility of interest paid on student loans.

—Comprehensive health reform: vital cost containment measures and tax credits for the purchase of health insurance.

Also before the Congress is an urgent unfinished agenda that I proposed earlier, including financial sector reform to make our banking system safer, sounder, and more internationally competitive; the America 2000 education reforms necessary to meet the national education goals, produce a new generation of American schools, and provide the choice and competition that will promote better performance and strengthen accountability; the National Energy Strategy to meet our Nation's energy needs through a combination of enhanced production, diversification of sources, and conservation, thereby enhancing our energy security; and legal reforms to reduce the litigiousness that unnecessarily adds to costs and stifles innovation and productivity.

Successful completion of the Uruguay Round of the General Agreement on Tariffs and Trade and a North American free-trade agreement remain major priorities. I also urge congressional action on the Enterprise for the Americas Initiative. These market-opening initiatives will spur growth and create jobs.

My program can be accommodated within the limits established in the budget agreement of 1990. I am also asking the Congress for budget process reforms: a line-item veto and caps on so-called mandatory programs to control the growth of government spending. Maintaining fiscal discipline is essential to reallocating resources toward investment in the future.

These proposals are described in detail in the fiscal 1993 Budget, and in legislative proposals I am forwarding to the Congress. *The Annual Report of the Council of Economic Advisers*, which accompanies this *Report*, discusses the strengths of the U.S. economy and the challenges it faces in the short run and the long run. It also explains how my comprehensive economic growth proposals are designed to move us toward a more prosperous America.

GEORGE BUSH.

THE WHITE HOUSE, *February 5, 1992.*

MESSAGES FROM THE HOUSE

At 11:25 a.m., a message from the House of Representatives, delivered by Mr. Hays, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3749. An act to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act of 1972.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 206. Concurrent resolution providing for the printing of a revised edition of the pamphlet entitled "The Constitution of the United States of America" as a House document.

ENROLLED BILLS SIGNED

At 5:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1415. An act to provide additional membership on the Library of Congress Trust Fund Board, and for other purposes; and

H.R. 4095. An act to increase the number of weeks for which benefits are payable under the Emergency Unemployment Compensation Act of 1991, and for other purposes.

The enrolled bills were subsequently signed by President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3749. An act to reauthorize title I of the Marine Protection, Research, and Sanctuaries Act of 1972; to the Committee on Environment and Public Works.

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–2548. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting portions of the President's Economic Recovery Plan entitled the "Child Nutrition Amendments", the "Food Stamp Amendments", legislation to reduce certain Commodity Credit Corporation subsidies to those with off-farm income of $100,000 or more, and legislation to recover costs of carrying out Federal marketing agreements and orders; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2549. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting a portion of the President's Economic Recovery plan to amend the Act of August 30, 1890 and the Act of March 4, 1907 to eliminate the provisions for permanent annual appropriations to support land grant university instruction in food and agricultural sciences; to the Committee on Appropriations.

EC–2550. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting portions of the President's Economic Recovery Plan to amend the United States Housing Act of 1937 to provide incentives for families with absent parents to cooperate with State agencies under the Social Security Act in securing support for dependents, and for other purposes, and the "Financial Institutions Safety and Consumer Choice Act of 1992"; to the Committee on Banking, Housing, and Urban Affairs.

EC–2551. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting a portion of the President's Economic Recovery Plan entitled the "Federal Insurance Accounting Act of 1992"; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

EC–2552. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting portions of the President's Economic Recovery Plan to establish procedures to improve the allocation and assignment to the electromagnetic spectrum, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–2553. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting portions of the President's Economic Recovery Plan to amend the Surface Mining Control and Reclamation Act of 1977, as amended, to extend authority to collect abandoned mine reclamation fees, the "Arctic Coastal Plain Competitive Oil and Gas Leasing Act", the "Coastal Communities Impact Assistance Act", the Alaska Power Administration Sale Authorization Act", and the "Power Marketing Administration Timely Payment Act"; to the Committee on Energy and Natural Resources.

EC–2554. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting portions of the President's Economic Recovery Plan to authorize the imposition of recreation user fees at water resources development areas administered by the Department of the Army, and to eliminate the requirement to provide one free campground where camping is permitted at water resources development areas administered by the Department of the Army; to the Committee on Environment and Public Works.

EC–2555. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting portions of the President's Economic Recovery Plan entitled the "Economic Growth Tax Act", the "Pension Protection Funding Improvement and Bankruptcy Act",

the "Medicare Premium Equity Amendments", the "Medicare Budget Amendments", a bill to amend title XIX of the Social Security Act to add requirements concerning health insurance coverage of children by absent parents, the "AFDC Resource Set-Aside Amendments", the "Child Support Enforcement Amendments", a bill to amend the Social Security Act to specify the purposes and duration of emergency assistance under part A of title IV, the "Social Security Act Cross Program Recovery Amendments", a bill to repeal the Trade Adjustment Assistance Program, and for other purposes, a bill to amend the Railroad Retirement Tax Act and the Railroad Retirement Act to ease administration of those Acts, and for other purposes, and a bill to provide for uniform application to all taxpayers of the 45 day processing rule, and for other purposes; to the Committee on Finance.

EC–2556. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting portions of the President's Economic Recovery Plan entitled the "Civil Liberties Act Amendments", the "Federal Credit and Debt Management Act", and the "Retirement Modification Act"; to the Committee on Governmental Affairs.

EC–2557. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting portions of the President's Economic Recovery Plan to extend the duration of the Patent and Trademark Office user fee surcharge through 1997; to the Committee on the Judiciary.

EC–2558. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting a portion of the President's Economic Recovery Plan to amend the Higher Education Act of 1965 to constrain costs affecting the guaranteed student loan entitlement programs, to promote greater accountability, to reduce waste and abuse in the use of public funds, and for other purposes; to the Committee on Labor and Human Resources.

EC–2559. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting portions of the President's Economic Recovery Plan entitled the "Medical Care Cost Recovery Amendment", the "Veterans' Home Loan Improvement Act", a bill to amend title 38, United States Code, to make permanent certain income verification and pension provisions of the Omnibus Budget Reconciliation Act of 1990, and a bill to amend title 38, United States Code to target entitlement for vocational rehabilitation benefits under chapter 31 to veterans with service-connected disabilities rated 30 percent or more; to adjust the basic military pay reduction for chapter 30 Montgomery GI Bill participants in proportion to the increased amount of assistance provided under such chapter; and for other purposes; to the Committee on Veterans' Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted;

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

G.O. Griffith, Jr., of Mississippi, to be Assistant Secretary for Intergovernmental and Interagency Affairs, Department of Education.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. SPECTER:

S. 2188. A bill to prohibit the Secretary of Veterans Affairs from obligating funds available to the Department of Veterans Affairs to furnish health care in Department of Veterans Affairs facilities under a rural health care sharing program to persons not eligible for such care under chapter 17 of title 38, United States Code; to the Committee on Veterans Affairs.

By Mr. DECONCINI:

S. 2189. A bill to amend the Internal Revenue Code of 1986 to provide a simplified tax on all income, and for other purposes; to the Committee on Finance.

By Mr. HOLLINGS:

S. 2190. A bill to improve the enforcement of the trade laws of the United States, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. COHEN, Mr. LEVIN, Mr. DODD, Mr. BURDICK, Mr. AKAKA, Mr. JOHNSTON, Mr. WIRTH, and Mr. WELLSTONE):

S. 2191. A bill to create "Healthy American Schools," where children will learn the lifelong health and fitness skills vital to developing a smart body and smart mind and to empower every school with the ability to become a healthy school, built on a firm foundation of "healthy mind and healthy body" curricula; to the Committee on Labor and Human Resources.

By Mr. ADAMS:

S. 2192. A bill to authorize services for the prevention, intervention, treatment and aftercare of American Indian and Alaskan Native children and their families at risk for Fetal Alcohol Syndrome (FAS) and Fetal Alcohol Effect (FAE), and for other purposes; to the Select Committee on Indian Affairs.

S. 2193. A bill to amend title XVIII of the Social Security Act to provide protection against expenses of long-term home care under the medicare program; to the Committee on Finance.

By Mr. BURDICK (for himself and Mr. INOUYE):

S. 2194. A bill to assure a priority to Indian lands in the location of certain facilities; to the Select Committee on Indian Affairs.

By Mr. DOLE (for himself, Mr. BOND, Mr. BROWN, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. CRAIG, Mr. D'AMATO, Mr. DANFORTH, Mr. DOMENICI, Mr. GARN, Mr. GORTON, Mr. GRAMM, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KASTEN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. PRESSLER, Mr. ROTH, Mr. RUDMAN, Mr. SEYMOUR, Mr. SIMPSON, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, and Mr. WARNER):

S. 2195. A bill entitled the "Economic Growth Acceleration Act of 1992"; to the Committee on Finance.

By Mr. ROTH:

S. 2196. A bill to establish a Teacher Job Bank Program; to the Committee on Labor and Human Resources.

By Mr. GRAHAM (for himself, Mr. LIEBERMAN, Mr. MACK, Mr. LAUTENBERG, Mr. MCCAIN, and Mr. KASTEN):

S. 2197. A bill to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people; to the Committee on Foreign Relations.

By Mr. BOREN:

S. 2198. A bill to amend the National Security Act of 1947 to reorganize the United States Intelligence Community to provide for the improved management and execution of United States Intelligence activities, and for other purposes; to the Select Committee on Intelligence.

By Mr. SIMPSON (for himself and Mr. SHELBY):

S. 2199. A bill to provide for the protection of Haitian nationals with a well-founded fear of persecution, to provide for the orderly return of those Haitian nationals without such a fear, and to discourage the departure by boat of those Haitians who are unlikely to qualify for refugee status; ordered to lie on the table

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 2188. A bill to prohibit the Secretary of Veterans Affairs from obligating funds available to the Department of Veterans Affairs to furnish health care in Department of Veterans Affairs facilities under a rural health care sharing program to persons not eligible for such care under chapter 17 of title 38, United States Code; to the Committee on Veterans' Affairs.

PROHIBITION ON USE OF FUNDS FOR HEALTH CARE UNDER CERTAIN SHARING PROGRAMS

Mr. SPECTER. Mr. President, I have reserved time yesterday for the purpose of introducing legislation to prohibit the Secretary for Veterans Affairs from carrying out its rural health care initiative in conjunction with the Department of Health and Human Services. I have found in the interim that my distinguished colleague from Alabama, Senator SHELBY, introduced similar legislation yesterday. So, in seeking the floor today, I am gong to supplement what Senator SHELBY has done by introducing a bill which would cut off funding on the funds now allocated to the Department of Veterans Affairs. I am approaching the issue from an appropriations aspect; that is, to cut off funding as a supplement to what Senator SHELBY has done on eliminating the authorization for the plan. I also ask unanimous consent that I be added as a cosponsor of Senator SHELBY's bill.

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

Mr. SPECTER. The merits, Mr. President, of this issue involve the utilization of veterans' hospital facilities or personnel in certain areas of the

United States for medical services for nonveterans. That is a proposition that I strenuously oppose because the veteran health care program in the United States today is inadequate.

During my tenure in the Senate, I have served on the Veterans' Affairs Committee and am now the ranking Republican on that committee. In connection with those duties, I have had occasion to visit veterans' facilities across the country. I know firsthand that the facilities in my home State of Pennsylvania are insufficient. VA hospitals in Philadelphia, Pittsburgh, Wilkes Barre, Lebanon, Altoona, and Erie simply do not have enough resources to carry on the needs of veterans.

Last February, I visited veterans' facilities in Miami, Houston, Dallas, and Wichita at a time when I was looking at the adequacy of such facilities to treat wounded veterans coming from the Persian Gulf war. Fortunately, that need did not materialize. But in my travels and in the hearings which we have had in the Veterans' Affairs Committee, I am convinced that we need more, not less, vet care available for America's veterans.

This is a subject, Mr. President, which is very near and dear to my heart because the first veteran that I knew was my father, Harry Specter. My father served as a doughboy in World War I. He came to this country from foreign shores in 1911, and 6 years later answered the call of his new country to help make the world safe for democracy.

There was nothing my father was more proud of than his service in the American Expeditionary Force. My father was wounded on the battlefields of France in the Argonne Forest and carried shrapnel in his legs until the day he died. I recall as a youngster visiting him in the veterans' hospital in Wichita where he received medical care. I regret to say that medical care was better than I believe is available for the veterans today.

My father had a serious accident in 1937 when he was a passenger in a brand new pickup truck which he had purchased; my older sister, Hilda, was driving. A spindle bolt broke and my father, who was on the passenger side with his arm on the window ledge, was seriously injured when the truck turned over and crushed his right arm. He received his medical care at the veterans' hospital in Wichita; where his arm was fixed with wires in it. His medical treatment, in my view, was very warranted and very justified even though it was not a service-connected injury for which veterans have a priority.

There are simply insufficient resources available in America today for all veterans, which is why I am strongly opposing the effort to divert such resources for non-veterans. It is also why I am joining with Senator SHELBY in his legislation to prohibit the authorization for such resources and why I am introducing legislation to prohibit the use of appropriated funds. The incursion on needed veterans' health care must be stopped.

Mr. President, this program has been put into effect with memoranda of understanding executed between the Secretary of Veterans' Affairs and the Secretary of Health and Human Services without hearings in the Senate. This legislation, at a minimum, would provide a vehicle for hearings and I think, ultimately, a prohibition on the diversion.

I believe that Secretary Derwinski's and Secretary Sullivan's motives are of the highest order. I think that they are sincere in their view that this initiative would expand availability of medical care in rural areas without diminishing services to veterans. Secretary Derwinski, in particular, has fought hard and well within the administration to secure more funds for veterans' health care during his tenure as Secretary of Veterans Affairs. However, until we are able to replace veterans' health care resources lost over the past decade through inflation and other pressing priorities, we should not be indulging in new initiatives at the expense of veterans.

Therefore, in all good conscience, I cannot support Secretary Derwinski on this critical issue. I have heard from thousands of veterans, from Pennsylvania and from around the country. I believe—as they do—that opening the veterans' health care system in this way is simply the wrong idea at the wrong time.

For these reasons, I am introducing legislation today to stop all funding for the Rural Health Care Initiative and ask my colleagues to join in support.

Mr. President, I ask unanimous consent that the full 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. 2188

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

SECTION 1. PROHIBITION ON USE OF FUNDS FOR THE PROVISION OF CERTAIN HEALTH CARE UNDER SHARING PROGRAM.

(a) PROHIBITION.—No funds appropriated or otherwise made available to the Department of Veterans Affairs (including funds paid to the Department by the Department of Health and Human Services) may be used by the Secretary of Veterans Affairs to furnish hospital care or medical services in facilities of the Department of Veterans Affairs under the program referred to in subsection (b) to any person who is not eligible to be furnished such care or services under chapter 17 of title 38, United States Code.

(b) COVERED PROGRAM.—The prohibition referred to in subsection (a) applies to the demonstration project for the furnishing of health care in certain rural facilities of the Department entered into between the Secretary and the Secretary of Health and Human Services that is commonly known as the Rural Health Care Initiative.

By Mr. DECONCINI:

S. 2189. A bill to amend the Internal Revenue Code of 1986 to provide a simplified tax on all income; to the Committee on Finance.

SIMPLIFIED TAX ON ALL INCOME

Mr. DECONCINI. Mr. President, one of the most consistent complaints I hear from my constituents in Arizona and when I visit other States is that the tax system we have in this country to collect revenue to run our Federal Government is too complicated, too confusing, and more than anything else they tell me it is unfair. Today I am introducing, Mr. President, legislation which would solve this problem.

The tax bill I am advocating would have no deductions, no credits, no depreciation, no confusing calculations. In fact, under my tax bill, you could file your tax return on a postcard. That is right, on a postcard, whether you make $1 million or you make $20,000, or you do not make anything.

Think of the money that is saved, Mr. President, with this simple approach in just preparing returns. Think of the taxpayer money saved on the IRS budget. Think of the time spent filling out these forms that would be saved.

Personal income taxes would be subject to two rates. A couple filing jointly would pay 15 percent on the first $100,000 of taxable income and 25 percent on all amounts above that. A single filer would pay 15 percent on the first $50,000 and 25 percent in excess of $50,000.

Taxable income would be very easily determined. First, you would add up your wages, your salaries, your pensions, your interest, your dividends, and any capital gains that you might have received—I would call your attention to this enlarged version of the postcard tax return. The first line of this chart is where your income would be entered. Then you would subtract from that total $4,000 times the number of dependents including the taxpayer and his spouse. So you take the personal deduction of $4,000 out here. If it is four people, that would be $16,000 off your income. If you are a single person, this would be $4,000 off your income. And you enter that in this space. A family of four would be allowed to subtract $16,000 from whatever their income would be, after that the tax figuring would be very easy.

No figuring out a complicated Tax Code, a formula, nobody saving receipts and being required to substantiate them later, by mail request, or some other request from the IRS—just one simple, easy, fair, flat tax.

I have included a large personal exemption of $4,000 per person because I

believe that a family of four can hardly survive on $16,000 a year. If a working family is only making that much, they should not pay any taxes, and I do not think anybody will argue with that. Likewise, the exemption helps middle-income families by only taxing them on the amount of their total income over, in the case of a family of four, this would be $16,000.

My bill is also fair because it eliminates the loopholes of the Tax Code, which are rampant, as we know so well. When this bill becomes law, you can be assured that the millionaire will pay more than the working family proportionately in this country of ours. We will be assured under this proposal that no wealthy tycoon will evade taxes by utilizing tax shelters and other unfair, albeit legal, means.

Like most Americans, I am tired of hearing stories of corporations and individuals that pay no tax, or the huge multinational companies that pay less than a schoolteacher, and therefore this bill will reverse this corporate inequity.

Our system of taxing corporations encourages nonproductive investments, as we have seen, tax-driven business decisions and too much time for accountants and lawyers whose aim is not how to produce a better car or refrigerator or widget or what have you, but whose entire job is focused on avoiding taxes, and properly so. If you can use these gimmicks, why not. There is nothing wrong with it, except it is not fair.

We need to return American business to concentrating on business and jobs; my bill creates a simple corporate tax as well. This is the totality of my tax bill. It revises the entire Tax Code down to nine pages, which I will introduce shortly.

By way of comparison, I might add, the 1986 Tax Reform Act that was sold to the public in this body as being fair and simple and eliminating all of these particular exemptions has over 600 specific rules and regulations that are exemptions for special interests. Nothing illegal, and it is wonderful if you fall into that category, but if you do not you are cut out of it.

The tax bill that we passed in 1986, of which I do not have a copy, is very thick, over 900 pages, 925 pages to be exact. Attorneys and accountants are still trying to figure it out.

I ask unanimous consent that examples of what the family of four will pay on different income rates, the single filer, what the example is, and of course the corporate filing be printed in the RECORD.

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

EXAMPLES

FAMILY EXAMPLES

Family of four—Income: $35,000, taxable income: $19,000, effective tax rate: 8.1 percent.

Family of four—Income: $55,000, taxable income: $39,000, effective tax rate: 11 percent.

Family of four—Income: $75,000, taxable income: $59,000, effective tax rate: 12 percent.

Family of two—Income: $85,000, taxable income: $77,000, effective tax rate: 13.5 percent.

Family of four—Income: $105,000, taxable income: $89,000, effective tax rate: 12 percent.

Family of four—Income: $205,000, taxable income: $189,000, effective tax rate: 18 percent.

SINGLE FILER EXAMPLES

Single person—Income: $25,000, taxable income: $21,000, effective tax rate: 12.6 percent.

Single person—Income: $37,000, taxable income: $33,000, effective tax rate: 13 percent.

Single person—Income: $48,000, taxable income: $44,000, effective tax rate: 13.7 percent.

Single person—Income: $165,000, taxable income: $161,000, effective tax rate: 21.3 percent.

CORPORATE FILERS

Company A—Income from all sources: $635,000, expenses related to income: $456,000, taxable income: $179,000, tax due: $26,850, net profit/revenue: $152,150.

Company B—Income from all sources: $5,325,000, expenses related to income: $3,255,345, taxable income: $2,069,655, tax due: $393,234, net profit/revenue: $1,676,420.

Mr. DECONCINI. I thank the Chair.

To return to the business example, this would be the corporation tax, whether it is Exxon, or Apple Computer, or a small business in the State of Arizona or anyplace else. You put down the gross revenues, you put down what it actually costs to purchase the goods and services, the materials, and the real investment that you have to make in producing it. Then you list the wages and the pensions that you pay for that work to produce and bring your product on line. You would add the purchases of capital equipment to this line. So if you buy a piece of land for your factory, or you invest in a machine, you get to write the purchase off 100 percent the year you make it. No depreciation on it; you get to write it all off the first year. Add the total allowable costs. Subtract it from gross revenues and the taxable income you put down right here, against which you would apply a 19-percent flat rate for corporations.

Mr. President, I know some will say: Oh, well, too simple, can't work. We just could not do anything this simple.

Mr. President, every time the subject of taxes comes up, the American public should shudder. It scares us because we do not simplify and make the tax process easier. This would be an approach to do just that, and I hope my colleagues will consider it in the appropriate committee.

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. 2189

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

SECTION 1. SIMPLIFIED TAX.

(a) IN GENERAL.—Subtitle A of the Internal Revenue Code of 1986 is amended to read as follows:

"Subtitle A—Income Taxes

"Chapter 1. Computation of taxable income.
"Chapter 2. Determination of tax liability.
"Chapter 3. Exempt organizations.
"Chapter 4. Withholding.

"CHAPTER 1—COMPUTATION OF TAXABLE INCOME

"Sec. 101. Nonbusiness taxable income defined.
"Sec. 102. Business receipts defined.
"Sec. 103. Cost of business inputs defined.
"Sec. 104. Cost of capital equipment, structures, and land defined.
"Sec. 105. Business taxable income defined.

"SEC. 101. NONBUSINESS TAXABLE INCOME DEFINED.

"(a) IN GENERAL.—For purposes of this title, the term 'nonbusiness taxable income' means—

"(1) all compensation, and

"(2) any income other than compensation from whatever source derived.

"(b) COMPENSATION.—Compensation means all cash amounts paid by an employer or received by an employee, including wages, salaries, pensions, bonuses, prizes, and awards.

"(c) CERTAIN ITEMS INCLUDED.—Compensation includes—

"(1) the cash equivalent of any financial instrument conveyed to an employee, measured as market value at the time of conveyance; and

"(2) workman's compensation and other payments for injuries or other compensation for damages.

"(d) CERTAIN ITEMS EXCLUDED.—

"(1) COMPENSATION.—Compensation excludes—

"(A) reimbursements to a taxpayer by an employer for business expenses paid by the taxpayer in connection with performance of services as an employee;

"(B) goods and services provided to employees by employers, including but not limited to medical benefits, insurance, meals, housing, recreational facilities, and other fringe benefits; and

"(C) wages, salaries, and other payments for services performed outside the United States.

"(2) OTHER INCOME.—No gain from the sale or exchange of the principal residence of a taxpayer shall be included in income described in subsection (a)(2).

"SEC. 102. BUSINESS RECEIPTS DEFINED.

"Business receipts are the receipts of a business from the sale or exchange of products or services produced in or passing through the United States. Business receipts include—

"(1) gross revenue, excluding sales and excise taxes, from the sale or exchange of goods and services;

"(2) fees, commissions, and similar receipts, if not reported as compensation;

"(3) gross rents;

"(4) royalties;

"(5) gross receipts from the sale of plant, equipment, and land;

"(6) the market value of goods, services, plant, equipment, or land provided to its owners or employees;

"(7) the market value of goods, services, and equipment delivered from the United States to points outside the United States, if not included in sales; and

"(8) the market value of goods and services provided to depositors, insurance policyholders, and others with a financial claim upon the business, if not included in sales.

"SEC. 103. COST OF BUSINESS INPUTS DEFINED.

"(a) IN GENERAL.—The cost of business inputs is the cost of purchases of goods, services, and materials required for business purposes.

"(b) CERTAIN ITEMS INCLUDED.—The cost of business inputs includes—

"(1) the actual amount paid for goods, services, and materials, whether or not resold during the year;

"(2) the market value of business inputs brought into the United States; and

"(3) the actual cost, if reasonable, of travel and entertainment expenses for business purposes.

"(c) CERTAIN ITEMS EXCLUDED.—The cost of business inputs excludes purchases of goods and services provided to employees or owners, unless these are included in business receipts.

"SEC. 104. COST OF CAPITAL EQUIPMENT, STRUCTURES, AND LAND DEFINED.

"The cost of capital equipment, structures, and land includes any purchases of these items for business purposes. In the case of equipment brought into the United States, the cost is the market value at time of entry into the United States.

"SEC. 105. BUSINESS TAXABLE INCOME DEFINED.

"Business taxable income is business receipts less the cost of business inputs, less compensation paid to employees, and less the cost of capital equipment, structures, and land.

"CHAPTER 2—DETERMINATION OF TAX LIABILITY

"Sec. 201. Personal allowance.
"Sec. 202. Nonbusiness tax.
"Sec. 203. Business tax.

"SEC. 201. PERSONAL ALLOWANCE.

"(a) IN GENERAL.—The personal allowance of a taxpayer for any taxable year is an amount equal to the sum of the allowance amounts for the taxpayer, the spouse of the taxpayer if filing jointly, and each dependent of the taxpayer.

"(b) ALLOWANCE AMOUNT.—The allowance amount for any individual is $4,000. Each year the allowance amount for taxable years beginning in such year shall be the amount in effect for the preceding year, increased by the proportional increase during the preceding year in the Consumer Price Index.

"(c) SPECIAL RULES.—For purposes of this chapter—

"(1) a taxpayer is considered married if he was married at the end of the year or if the taxpayer's spouse died during the year,

"(2) a taxpayer is a head of a household if the taxpayer is not married at the end of the year, and maintains as the taxpayer's home a household which is the principal home of a dependent of the taxpayer, and

"(3) a dependent is a son, stepson, daughter, stepdaughter, mother, or father of the taxpayer, for whom the taxpayer provides more than half support for a taxable year.

"SEC. 202. NONBUSINESS TAX.

"(a) IN GENERAL.—There is hereby imposed a tax on the nonbusiness taxable income of every person for each taxable year (reduced by the amount of the personal allowance under section 201) a tax equal to—

"(1) 15 percent of so much of such income as does not exceed the limit, plus

"(2) 25 percent of so much of such income as exceeds the limit.

"(b) LIMIT.—For purposes of subsection (a)—

"(1) the limit for married taxpayers filing jointly, heads of household, and surviving spouses is $100,000, and

"(2) the limit for any other taxpayer is $50,000.

"SEC. 203. BUSINESS TAX.

"(a) BUSINESS DEFINED.—Each sole proprietorship, partnership, and corporation constitutes a business. Any organization or individual not specifically exempt under chapter 3, with business receipts, is a business.

"(b) COMPUTATION OF TAX.—Each business will pay a tax of 19 percent of its business taxable income, or zero if business taxable income is negative.

"(c) FILING UNITS.—A business may file any number of business tax returns for its various subsidiaries or other units, provided that all business receipts are reported in the aggregate, and provided that each expenditure for business inputs is reported on no more than one return.

"(d) CARRYFORWARD OF LOSSES.—When business taxable income is negative, the negative amount may be used to offset positive taxes in future years. The amount carried forward from one year to the next is augmented according to an interest rate equal to the average daily yield on 3-month Treasury Bills during the first year. There is no limit to the amount or the duration of the carryforward.

"CHAPTER 3—EXEMPT ORGANIZATIONS

"Sec. 301. Exempt organizations.

"SEC. 301. EXEMPT ORGANIZATIONS.

"Organizations exempt from the business tax are—

"(1) State and local governments, and their subsidiary units; and

"(2) educational, religious, charitable, philanthropic, cultural, and community service organizations that do not return income to individual or corporate owners.

"CHAPTER 4—WITHHOLDING

"SEC. 401. Withholding.

"SEC. 401. WITHHOLDING.

"Each employer, including exempt organizations, will withhold from the wages, salaries, and pensions of its employees, and remit to the Internal Revenue Service, an amount computed in the manner prescribed in tables published by the Secretary. Every employee will receive a credit against tax for the amount withheld.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1992.

By Mr. HOLLINGS:

S. 2190. A bill to improve the enforcement of the trade laws of the United States, and for other purposes; to the Committee on Finance.

TRADE ENFORCEMENT ACT OF 1992

Mr. HOLLINGS. Mr. President, today, I am introducing legislation to stem the export of U.S. jobs. The Trade Enforcement Act of 1992 strengthens U.S. trade laws, repeals the fast-track treatment of trade agreements, establishes a National Trade Council, and increases the ability of U.S. consumers to buy made-in-the-U.S.A. products. Many of the proposals contained in this bill, if not all of them, would be unnecessary if the President would use authority already given to him by Congress to combat predatory trade practices. Unfortunately for the workers of America, this administration cares more about the theories of Adam Smith and David Ricardo than protecting American jobs.

Their blind commitment to free trade has resulted in the erosion of the U.S. industrial base. The figures are startling—foreign manufactures have made major inroads in the United States market.

Import penetration figures

	Percent
Semiconductors	49.0
Apparel	65.0
Footwear	83.0
Telephone equipment	83.0
Machine tools	39.3
Automobiles	[1]26.4
Motorcycles	70.0
Black and white TV's	100.0
Consumer radios	100.0
Steel	19.9
Ferroalloys	53.0
Copper	12.0
Oil	48.5
Lumber	28.5
Musical instruments	56.0
Toys and games	73.0
Sporting goods	26.0
Power tools	26.2
35mm cameras	90.0
Photo-finishing equipment	60.0
Textiles	37.5
Watches	99.0
Construction machinery	25.0
Farm machinery	26.0
Tires	39.0
Lawn and garden equipment	51.0
Logging	34.0
Electric parts	47.0
Aircraft parts	37.0

[1] Japanese nameplate cars control over 35 percent of United States market.

As I told the President last week, we need an economic growth package by March 20, but we also need a trade policy by March 20. We cannot afford to wait. We must act now. We are losing high-paying jobs to our competitors, while 9 million Americans are out of work.

We politicians are constantly intervening in the free market to raise the standard of living in this country. We tell business that it must provide clean air, clean water, safe working place, Social Security, unemployment compensation, and on and on. Then we tell these same businessmen, go out there and compete and do not expect any help from the U.S. Government because we do not want to manage trade. That is ridiculous. If it is important to have a high standard of living and it is, it is important that we fight to preserve it. But we do not. That is why the U.S. worker is the most productive in the world, but his wages have slipped to 10. We are not fighting for our workers, we are not fighting for jobs, we are shipping our standard of living to Tokyo, Paris, and Berlin.

We must change course, we must work with business and provide them with the tools they need to keep good jobs here, and the kind of jobs that allow you to buy a home and send your kids to college. If we do not act now, those jobs will continue to disappear. We will be a nation of consumers without the means to consume.

By Mr. BINGAMAN (for himself, Mr. COHEN, Mr. LEVIN, Mr.

DODD, Mr. BURDICK, Mr. AKAKA, Mr. JOHNSTON, Mr. WIRTH, and Mr. WELLSTONE):

S. 2191. A bill to create healthy American schools, where children will learn the lifelong health and fitness skills vital to developing a smart body and a smart mind and to empower every school with the ability to become a healthy school, built on a firm foundation of healthy mind and healthy body curricula; to the Committee on Labor and Human Resources.

HEALTHY STUDENTS-HEALTHY SCHOOLS ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that will help us address a critically needed, though often overlooked, component of our education system: healthy education. I am pleased that the distinguished Senator from Maine, Senator COHEN, is joining me in sponsoring the Healthy Students-Healthy Schools Act, along with our good friends and colleagues, Senators LEVIN, DODD, and BURDICK.

Mr. President, I believe it is our responsibility to ensure a firm foundation is in place from which our children can begin to build their future. We must empower our schools to become healthy, wealthy, and wise, in that order. Only healthy children can maximize their learning potential, so we need to give healthy first priority.

We all have seen the studies and read the reports: It is a well-known fact that half the deaths in this country are related to lifestyle. Heart disease, obesity, drug abuse, alcoholism, and poor nutrition are results of the way we live. Even worse, the AIDS epidemic preading though the adult community today is filtering down to our young people. Soon, the rate of HIV infection will be as high among youth as it is among adults, unless our children are properly educated about this disease. Our children are learning all too well the bad health habits of adults.

I strongly believe our best weapon against these unfortunate lifestyle trends is to institute comprehensive, high quality health education programs in all schools, from kindergarten through 12th grade. It is for this reason Senator COHEN and I, along with our colleagues, are introducing the Healthy Students-Healthy Schools Act.

Currently, health education in most of our high schools is a one semester elective that does not count toward graduation. And although some States mandate a health education curriculum, there is little enforcement or financial support to implement this mandate. I believe health education must be a long-term core study, not just an isolated or single-topic course crammed into a high school senior's last semester. That is too late—health education must begin early and last a lifetime.

Our bill would first establish a Healthy Students-Healthy Schools Office within the Department of Health and Human Services—putting oversight of our children's health concerns where it belongs, in the Department of Health, and establishing a focal point within the Federal Government for coordinating and carrying out health education programs among States and schools.

The office would encourage and support programs that stress physical health, well being, and disease prevention as regular parts of the school day. This office will expedite the use of Federal health research information and promotion; stimulate quality health education programs; encourage community involvement in health education curriculum design; and buttress States and local educational agencies with technical support.

Also, and more important, the office will work with other Federal agencies to coordinate school health and physical education programs and provide these programs with up-to-date Federal information.

Second, the President and the Congress will establish a national Healthy Students-Healthy Schools Advisory Council of experts to establish realistic goals for the Nation and develop a model framework and standards for comprehensive sequential school health education programs.

Third, an interagency task force will be officially established, made up of representatives from all the Federal departments and agencies responsible for school health and education. This task force will provide and disseminate scientific and technical advice on school health programs, curricula, and technologies to departments, agencies, States, local educational agencies, and teachers. The task force will also develop a consolidated governmentwide school health grant application form.

Fourth, the Secretary of Health and Human Services will be authorized to award incentive grants to local educational agencies to encourage all schools throughout the United States to grow into healthy American schools. The Secretary will annually recognize schools that epitomize the Healthy Students-Healthy Schools goals.

Finally, this bill will ensure that the Department of Education's drug-free school money can be used in conjunction with comprehensive school health education programs. After all, substance abuse prevention is health education.

It is time once again to invest in the health and future of our country. The Department of Health and Human Services recognizes this need. It's "Healthy People 2000" report, which set specific health goals for the Nation, states that one of our goals should be to "increase to at least 75 percent the proportion of the Nation's elementary and secondary schools that provide planned and sequential" kindergarten through 12th grade quality school health education.

We, as a country, can no longer wait to take action. Suicide and homicide rates are rising among our young people; teen pregnancies and drug use have reached alarming rates. We are experiencing a resurgence of previously eradicated preventable disease such as measles and polio.

We, as a country, need to pull together the resources that we have already allocated, in a uniform and coordinated manner.

We, as a country, need to invest in our schools, providing them with the assistance to make healthy students a top priority.

We, as a country, must invest in our children and our future.

I hope we can work together to make this investment and create healthy American schools for our country. I urge my colleagues to support the Healthy Students-Healthy Schools Act.

There is an old saying about the success of societies that look toward the future:

Societies grow great when men and women plant trees under whose shade they will never sit.

Please join me in this effort to help our children grow into healthy adults.

Mr. President, I ask unanimous consent that a summary of the bill and a list of organizations supporting the bill be printed in the RECORD.

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

SUMMARY OF THE HEALTHY STUDENTS-HEALTHY SCHOOLS ACT

The Healthy Students-Healthy Schools Act establishes a central office in the Department of Health and Human Services to help coordinate and assist states and local educational agencies in their efforts to equip all school-age children with the intellectual and physical skills needed to stay healthy and compete successfully in our new and rapidly changing global marketplace.

I. HEALTHY STUDENTS-HEALTHY SCHOOLS OFFICE

The Secretary of DHHS will designate an office within the Centers for Disease Control to:

Assist states and local educational agencies to develop and maintain comprehensive school health education programs;

Develop and help states implement a national system for monitoring progress toward relevant Healthy People 2000 Objectives and the Healthy Students-Healthy Schools Goals; and

Disseminate information to school and teachers using advanced technologies that allows widespread, easy access.

II. NATIONAL HEALTHY STUDENTS-HEALTHY SCHOOLS ADVISORY COUNCIL

The President and the Congress will establish a national "Healthy Students-Healthy Schools Advisory Council" of experts that will:

Review existing comprehensive school health education programs and curricula; and

Establish realistic, achievable "Healthy Students-Healthy Schools Goals" for the na-

tion consistent with the Healthy People 2000 goals and develop a model framework and standards for sequential comprehensive school health education programs.

III. HEALTHY STUDENTS-HEALTHY SCHOOLS INTERAGENCY TASK FORCE

A "Healthy Students-Healthy Schools Interagency Task Force," made up of representatives from all the federal departments and agencies responsible for school health and education will:

Review and coordinate federal health education efforts;

Provide and disseminate scientific and technical advice on school health programs, curricula, and technologies to departments, agencies, states, local educational agencies and teachers; and

Develop a consolidated grant application form and procedure to be used for all federal school health-related programs.

IV. HEALTHY AMERICAN SCHOOLS GRANT PROGRAM

The Secretary will be authorized to award incentive grants to local educational agencies to encourage all schools throughout the U.S. to grow into "Healthy American Schools" and make a firm comprehensive commitment to improving the health of our children—from their lunchroom food, to their classroom instruction, and their playground activities. The Secretary will also:

Annually recognize schools that epitomize the Healthy Students-Healthy School Goals; and

Compile yearly data on existing programs and publish an annual report that evaluates the status of school health education in the U.S.

MEMBER ORGANIZATIONS SUPPORTING THE HEALTHY STUDENTS-HEALTHY SCHOOLS ACT

Association for the Advancement of Health Education.

American Cancer Society.

American College of Preventive Medicine.

American Health Foundation.

March of Dimes.

National Education Association.

National School Health Education Coalition (Legislative Action Group).

National Association of State Boards of Education.

Mr. COHEN. Mr. President, I am pleased to join with my colleague from New Mexico in introducing the Healthy Students-Healthy Schools Act to strengthen the Federal Government's leadership role in promoting child health education and prevention efforts through our Nation's schools.

The health issues facing American children have changed dramatically in recent years. Thirty years ago, child and adolescent health was threatened predominantly by contagious disease. Today, children and adolescents are endangered primarily by their own behavior.

Drinking and driving, tobacco, and other drug use, poor nutrition, inadequate physical activity, unintended pregnancy and sexually transmitted disease all take a major toll on young people and place them at increased risk of chronic disease and disability as adults.

There is a general recognition that people who learn healthy habits early in life are more likely to practice them as adults. Conversely, poor habits—tobacco and other substance abuse, poor nutrition, and lack of exercise—may also have their roots in childhood.

Because these risks do not respond to traditional kinds of medical treatment, effective health education programs in schools can be invaluable in helping to avoid high-risk behavior and develop healthy habits that will carry over into adulthood.

The Senate Subcommittee on Oversight of Government Management, of which I am the ranking Republican, recently held a hearing at my request on the Federal Government's role in promoting child health education efforts through the schools. The statistics cited at the subcommittee hearing were alarming:

Forty percent of American children aged 5 to 8 are obese, inactive, or have elevated blood pressure or cholesterol, all risk factors associated with cardiovascular disease.

Fifty percent of our elementary school students have tried smoking—the No. 1 preventable cause of death in the United States. What is particularly alarming is that children, especially girls, are smoking at younger and younger ages. Ninety percent of all smokers start before they are 21, 60 percent before they are 14, and 22 percent before they are 9.

Thirty-nine percent of our high school seniors reported that they had gotten drunk—meaning they had consumed five or more drinks in a row—within the previous week. In my home State of Maine, an alarming 54 percent of our high school seniors reported getting drunk regularly, and 41 percent reported having driven a car while drinking alcohol or using marijuana.

Drinking and driving remains the No. 1 killer of our Nation's adolescents: Ten American teenagers are killed every day in alcohol-related traffic accidents.

At the same time that our adolescent health problems have multiplied, student academic performance has declined. An unacceptable proportion of adolescents fail to complete high school, and even more young people are unable to achieve the high level of math, science, and communication skills they will need to function productively in the 21st century.

In the recent report "Code Blue," the American Medical Association declared an "adolescent health crisis," proclaiming that:

For the first time in the history of this country, young people are less healthy and less prepared to take their places in society than were their parents. And this is happening at a time when our society is more complex, more challenging, and more competitive than ever before.

Witness after witness at the oversight subcommittee hearing emphasized the direct link between health and academic performance. A student who is sick, who is inadequately nourished, who abuses drugs or alcohol, who is pregnant, or who has an unintended child to raise is not in a good position to learn.

It is clear that children must be healthy to be educated and that they must also be educated to be healthy.

The oversight subcommittee's hearing revealed that there is much that the Federal Government can do to improve its efforts to promote child health through the schools. The Healthy Students-Healthy Schools Act we are introducing today will not only strengthen Federal efforts to promote child health education, but it will also provide the coordination necessary to avoid unnecessary fragmentation and duplication.

A recent survey identified almost 100 separate school health promotion and education programs administered by seven different Federal departments and two independent agencies. Unfortunately, there currently is little or no coordination among these programs. Among other provisions, the Healthy Students-Healthy Schools Act sets up a Healthy Students-Healthy Schools Interagency Task Force, to review and coordinate these Federal efforts.

In addition, the legislation establishes a central office within the Department of Health and Human Services to help coordinate and assist States and local educational agencies to develop and maintain comprehensive school health education programs. It also establishes a Healthy Students-Healthy Schools Advisory Council of experts to review existing programs and curricula and establish realistic, achievable Healthy Students-Healthy Schools goals for the Nation that are consistent with the Healthy People 2000 goals established by the Public Health Service.

Finally, the legislation authorizes the Secretary of Health and Human Services to award incentive grants to local educational agencies to encourage schools throughout the United States to grow into healthy American schools.

Mr. President, the Healthy Students-Healthy Schools Act has the strong support of numerous organizations which have long been committed to youth health and fitness: The Association for the Advancement of Health Education; the American Alliance for Health, Physical Education, Recreation and Dance; the American Cancer Society; the American College of Preventive Medicine; the March of Dimes; the National Education Association; the National School Health Education Coalition; the National Association of State Boards of Education; and the National School Boards Association.

I join the members of these organizations in urging my colleagues to cosponsor this important piece of legislation.

Mr. LEVIN. Mr. President, I am pleased that today my friend from New Mexico, Senator BINGAMAN, is introducing the Healthy Students-Healthy Schools Act which seeks to improve the effectiveness of the Federal Government's role in promoting comprehensive child health education through our Nation's local school systems. This legislation builds on the Senator's previous work in this area and is an important step in the effort to teach our children how to be healthy kids and become healthy adults.

It also builds on a hearing we held last year in the Subcommittee on Oversight of Government Management [OGM] which I chair, and that is why I am pleased to be an original cosponsor of this legislation. Last November, at the request of Senator COHEN, our ranking minority member, the Oversight of Government Management Subcommittee of the Governmental Affairs Committee held a hearing looking at the role of the Federal Government in this area. What we found was both promising and troubling. Many agencies within the Federal Government, particularly the Department of Health and Human Services and the Centers for Disease Control, have been very active in working with State and local governments to promote child health education through the schools. And, many States, such as my own State of Michigan, have developed innovative programs working with local governments and communities to make our children ready to learn and ready to face the world. The existence of these Federal and State efforts is very promising.

What we found troubling was that the Federal Government has over 100 different programs with over 30 related clearing houses and information centers to go along with these agency efforts. There is evidence that the way Federal activities to promote child health education through schools is currently organized, results in programs which are sometimes overlapping and contradictory in their efforts. This can be, at the least, frustrating and may sometimes deter State and local governments from initiating school-based child health education plans.

Schools have traditionally played a role in teaching our children about the benefits of nutrition and exercise in staying healthy. However, nowadays, parents need to worry not only if their children are eating right and getting enough exercise, but also about such complex issues as substance abuse, school yard violence, teenage pregnancy, and the possibility of sexually transmitted disease. Schools can also play a role in teaching our children about these more complex issues. In fact, part of the Public Health Service's broad-based national health objectives Healthy People 2000 states:

Health education in the school setting is especially important for helping children and youth develop the increasingly complex knowledge and skills they will need to avoid health risks and maintain good health for life. Quality school health education that is planned and sequential for students in kindergarten through the 12th grade, and taught by educators trained to teach the subject has been shown to be effective in preventing risk behaviors.

Educating our children in good nutrition, responsible behavior, and the discipline of physical exercise is a sound investment with an invaluable payoff—kids who can say "no" to junk food, drugs, and other high-risk behaviors. Schools, working closely with the local community, can play a significant role in this important effort.

The legislation introduced today establishes a centralized, sound framework for the Federal Government's efforts in this area. It requires the Secretary of Health and Human Services to designate an office within the Centers for Disease Control specifically charged with coordinating Federal programs, resources, and information in the area of school health education. To assist in this effort, the legislation sets up an advisory commission which will draw on a diverse body of outside experts and a Federal interagency task force to provide input and guidance on the Federal Government's role in promoting child health education. The bill also sets up a specific grant program to assist State and local governments in their efforts.

I believe this bill provides the proper framework and emphasis within the Federal Government to effectively promote child health education through local schools to help our children learn health habits that will serve them now and into the future.

Once again, I thank Senator BINGAMAN for introducing the Healthy Students-Healthy Schools Act and Senator COHEN for his work in this area.

By Mr. ADAMS:

S. 2192. A bill to authorize services for the prevention, intervention, treatment, and aftercare of American Indian and Alaskan Native children and their families at risk for fetal alcohol syndrome [FAS] and fetal alcohol effect [FAE], and for other purposes; to the Select Committee on Indian Affairs.

COMPREHENSIVE INDIAN FETAL ALCOHOL SYNDROME PREVENTION AND TREATMENT ACT

• Mr. ADAMS. Mr. President, today I am introducing a bill to call attention to the national problem of fetal alcohol syndrome and fetal alcohol effect, also known as FAS and FAE. It is a problem which affects 1 out of every 600 to 700 infants born in America today. Fetal alcohol syndrome, or FAS, is the name of a combination of physical and mental birth defects that may develop when an expectant mother drinks during pregnancy. Babies born with FAS are abnormally small at birth and rarely catch up as they grow older. They can also suffer a variety of organ malformations, mental disabilities, and physical deformities. Earlier this year in its April 17, 1991, issue, the Journal of the American Medical Association identified FAS as the leading cause of mental retardation in America, surpassing Down's syndrome and spina bifida.

Scientists at the University of Washington were the first to identify the pattern and constellation of birth defects today known as fetal alcohol syndrome. Dr. Ann Streissguth and her colleagues at the University of Washington School of Medicine have been leaders in the effort to identify the problem and develop appropriate prevention efforts. Originally working with American Indian populations, Dr. Streissguth has expanded her research to the larger U.S. population, and has found that FAS and FAE is a problem about which all Americans should be concerned.

The real tragedy is that FAS is entirely and totally preventable. If a woman abstains from alcohol during pregnancy, she eliminates any chance of fetal alcohol syndrome for her unborn baby. While the answer appears simple, the reality of the situation is complex. There are still no adequate prevention and education materials available for women and their health care providers to understand the risks of drinking during pregnancy. Alcoholism treatment services, necessary to intervene and support addicted women during their pregnancy, simply are not available proportionate to the need. Educational and vocational support for children, adolescents, and adults already suffering from FAS and FAE are not available.

I watched this week on ABC television network "The Broken Cord," a TV movie starring Jimmy Smits about a young adoptive father concerned about the slow development of his FAS son. Based on a book by American Indian, award winning author, Michael Dorris, this movie has opened the door on the topic of FAS to households around the country. It is a heartwrenching story about the tragedy of the lives of children born drunk and the tremendous social, health, and mental hurdles which face them and their caretakers every day for the rest of their lives. I strongly encourage all of my colleagues to watch this movie or read this moving book.

The problem of FAS and FAE has been identified as particularly acute in some American Indian communities. While some American Indian communities have less of a problem, others have FAS rates many times higher than the U.S. all-races rates. One organization which has stepped forward to develop a national education, prevention, and policy campaign against fetal alcohol syndrome is the National Orga-

nization on Fetal Alcohol Syndrome [NOFAS] located here in Washington, DC. I am pleased with the efforts of NOFAS, and their work with my staff to develop a bill which will focus much-needed attention on this serious topic.

Mr. President, it is my pleasure to join with efforts already underway in the U.S. House of Representatives, under the leadership of Congressman BEN NIGHTHORSE CAMPBELL. This legislation will provide American Indian communities with education, prevention, and treatment support and resources to effectively prevent more children from being born with FAS or FAE and to help those children and adults already suffering from FAS. It is my hope that the positive results seen in American Indian communities will help the rest of America to better understand and prevent FAS and FAE nationwide.

Fetal alcohol syndrome is the only known cause of mental retardation which is 100 percent preventable. I urge my colleagues in the Senate to join with me in this effort to prevent the continuing waste of human lives to fetal alcohol syndrome.●

By Mr. ADAMS:

S. 2193. A bill to amend title XVIII of the Social Security Act to provide protection against expenses of long-term home care under the Medicare Program; to the Committee on Finance.

LONG-TERM HOME CARE ACT

● Mr. ADAMS. Mr. President, I rise today to introduce legislation to provide what all Americans want for themselves and their loved ones if they become chronically ill or disabled: To be able to stay at home as long as possible and receive the care they need. My Long-Term Home Care Act does just that.

I personally know the difficulty of providing long-term home care for a loved one. My aunt required long-term care at home for the last 5 years of her life. My family and I were fortunate to be able to provide her with the services she needed so she could remain at home where she wanted to be. But many families are not so fortunate. The fact is that there are not adequate services for chronically ill or disabled Americans who want to remain at home.

My bill provides essential home-care services such as nursing, social services, respite care, adult day care, medical equipment, and home health and personal care aides. It also provides a comprehensive system of quality assurance for these services.

My bill proposes financing that is realistic for its coverage. It is financed by removing the caps on wages subject to the Medicare and Social Security portions of the payroll tax. Only the top 6 percent of working Americans would be affected. Additional financing is provided through modest copayments that do not apply to low-income individuals.

As chairman of the Subcommittee on Aging and as a member of the majority leader's working group on long-term care, I am committed to finding a comprehensive solution to our Nation's long-term care crisis. But we must start somewhere. And my bill is a good start. The Long-Term Home Care Act tackles first what the American public wants most: The ability to stay home for as long as possible.

It is important that we act soon on long-term home care legislation. This bill, which is based on the outstanding work of the late Claude Pepper, provides an opportunity to take a giant step forward.

I ask my colleagues to join me in cosponsoring this legislation; and I ask unanimous consent that a copy 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. 2193

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

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Long-Term Home Care Act".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Section 1. Short title; references in Act; table of contents.
Sec. 2. Coverage of long-term home care for chronically ill individuals and children under medicare.
Sec. 3. Assuring self-financing of benefits under this Act.
Sec. 4. Assuring quality of long-term home care.
Sec. 5. Determination and use of medicaid savings.
Sec. 6. Demonstration projects.
Sec. 7. Permitting disabled individuals to purchase medicare coverage during the 24-month waiting period for medicare entitlement; permitting disabled individuals not entitled to long-term home care benefits to buy-in to medicare to obtain such benefits.
Sec. 8. Financing by repealing dollar limitation on amount of wages subject to hospital insurance and disability insurance taxes.

SEC. 2. COVERAGE OF LONG-TERM HOME CARE FOR CHRONICALLY ILL INDIVIDUALS AND CHILDREN UNDER MEDICARE.

(a) COVERAGE OF LONG-TERM HOME CARE.—

(1) FOR CHRONICALLY ILL INDIVIDUALS GENERALLY.—Section 1812(a) (42 U.S.C. 1395d(a)) is amended—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and", and

(C) by adding at the end the following:

"(5) long-term home care for a chronically ill individual;

except that an individual who is entitled to benefits under this part only because of section 226(h) is only entitled to benefits with respect to long-term home care.".

(2) FOR CHRONICALLY ILL CHILDREN AND OTHER INDIVIDUALS 65 YEARS OF AGE OR OLDER.—

(A) Section 226 (42 U.S.C. 426) is amended—

(i) by redesignating subsection (h) as subsection (j), and

(ii) by inserting after subsection (g) the following new subsections:

"(h) Every individual who—

"(1)(A) is under 19 years of age and (B) is (i) a citizen of the United States, or (ii) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month involved,

"(2) has been certified by a case manager of a long-term care management agency in consultation with the individual's attending physician (or, in the absence of such a physician, any physician)—

"(A) to be chronically ill or disabled and to be unable to perform (without human assistance or supervision) due to the individual's chronic illness or disability at least 2 age-appropriate activities of daily living (as defined in section 1861(kk)(4)), or

"(B) to require both a medical device to compensate for the loss of a vital body function necessary to avert death or major loss of bodily functional capacity and substantial and ongoing nursing care to avert death or further disability,

"(3) has filed an application for benefits under this subsection, and

"(4) is not otherwise eligible for home care benefits under part A of title XVIII,

shall be entitled to benefits for long-term home care under part A of title XVIII for each month beginning with the first month the individual meets the requirements of this subsection and ending with the month following the month in which the individual no longer meets such requirements.

"(i) Every individual who—

"(1)(A) is 65 years of age or older and (B) is (i) a citizen of the United States, or (ii) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month involved,

"(2) has been certified by a case manager of a long-term care management agency in consultation with the individual's attending physician (or, in the absence of such a physician, any physician)—

"(A) to be chronically ill or disabled and to be unable to perform (without human assistance or supervision) at least 2 activities of daily living (as defined in section 1861(kk)(4)), or

"(B) to require supervision, due to cognitive or other mental impairments, because the individual behaves in a manner that poses health or safety hazards to the individual or others,

"(3) has filed an application for benefits under this subsection, and

"(4) is not otherwise eligible for benefits under part A of title XVIII,

shall be entitled to benefits for long-term home care under part A of title XVIII for each month beginning with the first month the individual meets the requirements of this subsection and ending with the month

following the month in which the individual no longer meets such requirements.".

(B) Section 1811 (42 U.S.C. 1395c) is amended by adding at the end the following new sentence: "The program also provides protection for long-term home care for certain chronically ill or disabled children and certain chronically ill or disabled elderly individuals.".

(C) Section 1836(a)(1) (42 U.S.C. 1395o(a)(1)) is amended by inserting "(other than as an individual described in section 226(h) or 226(i))" after "benefits under part A".

(D) Section 1902(p)(1)(A) (42 U.S.C. 1396a(p)(1)(A)) is amended by inserting ", but excluding an individual who is entitled to benefits under such part only because of section 226(h) or 226(i)" after "section 1818".

(b) DEFINITIONS.—Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (jj) the following new subsection:

"Definitions for Long-Term Home Care

"(kk)(1) The term 'long-term home care' means the case management services furnished by a long-term care management agency and the following items and services furnished to an individual, who is under the care of a physician, by a qualified home care agency under arrangements with it made by the long-term care management agency, under a written plan of care (for furnishing such items and services and other related items and services to such individual) established and periodically reviewed by a case manager of a long-term care management agency in consultation with the individual's attending physician (or, in the absence of an attending physician, any physician) and the individual or the individual's representative, which items and services are, except as provided in subparagraph (F), provided in a place of residence (other than a nursing facility) used as such individual's home (including, for a chronically ill individual described in paragraph (3)(B), a foster home):

"(A) Nursing care provided by or under the supervision of a registered professional nurse.

"(B) Services of a homemaker/home health or personal care aide who has successfully met the training requirements of section 1893(b)(1)(C), including such services provided as a limited respite for family caregivers.

"(C) Respite care, which may include home or community-based services, not to exceed 480 hours in a calendar year.

"(D) Adult day care.

"(E) Medical social services.

"(F) Physical, occupational, respiratory, corrective, or speech-language therapy.

"(G) Medical supplies (other than drugs and biologicals) and durable medical equipment, while under such a plan.

"(H) Patient and caregiver (including family caregiver) education, training, and counseling aimed at continuing and enhancing the care and assistance provided to the patient by the patient or caregiver, respectively.

"(I) Meals as included in the written plan of care and provided by public or nonprofit meals programs.

"(K) In the case of an individual described in section 226(h)(2)(B) or section 226(i)(2)(B), any of the foregoing items and service which are provided on an outpatient basis, under arrangements made by the qualified home care agency, at a hospital or skilled nursing facility, or at a rehabilitation center which meets such standards as may be prescribed in regulations, and—

"(i) the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in such place of residence, or

"(ii) which are furnished at such facility while the individual is there to receive any such item or service described in clause (i).

"(2) The term 'case management services' means on-going services provided to ensure effective, efficient, and coordinated delivery of long-term home care, including—

"(A) making initial and periodic certifications under section 1814(a)(8)(A) respecting whether an individual is eligible to receive long-term home care services;

"(B) for individuals certified as so eligible, developing individual plans of care which—

"(i) are based on an in-person assessment of the individual's health status, functional capacity, and social and family support system (including the need for limited respite for family caregivers) and on a review of home health services and extended care services provided to the individual under this title,

"(ii) provide the most comprehensive services, as necessary to the needs of the individual, as is feasible taking into account payment limits established under section 1814(m),

"(iii) identify the specific amount, duration, and scope of services, consistent with the limitations on payment established under section 1814(m), to be provided,

"(iv) do not include services or care to which the individual has objected, and

"(v) identify and coordinate existing services that are available without charge to the individual;

"(C) periodic review and revision of such plans, in accordance with regulations promulgated under section 1893(c)(7)(C);

"(D) making (in consultation with the individual or individual's representative) arrangements with one or more qualified home care agencies for the provision of care and services prescribed under the individual's plan of care;

"(E) promptly providing the fiscal intermediary with a copy of the plan of care developed under subparagraph (B) and appropriate identifying information for each qualified home care agency with which arrangements have been made for providing the long-term home care under the plan of care; and

"(F) follow-up and on-going monitoring of patient and services delivery in accordance with regulations promulgated under section 1893(c)(7)(D).

The certifications under subparagraph (A) and the assessments under subparagraph (B)(i) shall follow national standard protocols established by the Secretary in consultation with the Long-Term Care Advisory Council. Such protocols shall include a standard, reproducible assessment instrument and methodology. The Secretary shall develop such protocol by not later than 9 months after the date of the enactment of this section, but the failure of the Secretary to do so shall not relieve any long-term home care management agency of its responsibilities under this section.

"(3) The term 'chronically ill individual' means an individual who—

"(A) has been certified by a case manager of a long-term care management agency, in consultation with the individual's attending physician (or, in the absence of such a physician, any physician), as (i) being unable to perform (without human assistance or supervision) at least 2 activities of daily living or (ii) having a similar level of disability due to cognitive impairment, as prescribed in regulations by the Secretary (in consultation with experts in the field of geriatric psychiatry and other appropriate health professionals and representatives of individuals afflicted with brain disorders including Alzheimer's disease and Parkinson's disease);

"(B) is described in section 226(h); or

"(C) is described in section 226(i).

"(4) For purposes of paragraph (3), each of the following is an activity of daily living:

"(A) BATHING.—The overall complex behavior of getting water and cleansing the whole body, including turning on the water for a bath, shower, or sponge bath, getting to, in, and out of a tub or shower, and washing and drying oneself.

"(B) DRESSING.—The overall complex behavior of getting clothes from closets and drawers and then getting dressed.

"(C) TOILETING.—The act of going to the toilet room for bowel and bladder function, transferring on and off the toilet, cleaning after elimination, and arranging clothes.

"(D) TRANSFER.—The process of getting in and out of bed or in and out of a chair or wheelchair.

"(E) EATING.—The process of getting food from a plate or its equivalent into the mouth.

"(5)(A) The term 'case manager' means a registered professional nurse or a qualified social worker who—

"(i) is employed by a long-term care management agency to provide case management services under this title, and

"(ii) has completed a training program approved by the Secretary under this title.

"(B) The term 'qualified social worker' means an individual who is a graduate of a school of social work and licensed in social work, if applicable in the State in which the individual is providing social services.

"(6) The term 'long-term care management agency' means a public or nonprofit agency or organization, or a subdivision of such an agency or organization, which—

"(A) is designated by the Secretary as a long-term care management agency, after the Secretary has received recommendations from one or more State and area agencies designated by the Governor;

"(B) demonstrates expertise in managing health and social services for chronically ill individuals and is capable of completing the assessment and plan of care and arranging for services under paragraph (2) within a reasonable time period following referral to the agency or organization;

"(C) provides only case management services under this title and makes arrangements with qualified home care agencies (with which it does not have a direct or indirect ownership or control interest) to provide long-term home care the agency or organization prescribes;

"(D) has policies, established by a group of professionals (associated with the agency or organization) including one or more registered nurses, one or more physicians, and one or more social workers, to govern the services described in subparagraph (B) which it provides;

"(E) maintains a sufficient number of registered professional nurses and qualified social workers as case managers who are trained in the process of determining eligibility for long-term home care and in assessing the needs of chronically ill individuals;

"(F) provides coordination with the State agency on aging and other appropriate State agencies;

"(G) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organization of this nature, (i) is

licensed pursuant to such law, or (ii) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing;

"(H) has in effect an overall plan and budget that meets the requirements of subsection (z) (other than paragraph (2) thereof);

"(I) has been designated by the Secretary to perform the functions of such an agency with respect to residents of a State or specified subdivision thereof; and

"(J) meets the additional conditions of participation specified in section 1893(c) and such other conditions of participation as the Secretary, in consultation with the Long-Term Care Advisory Council (established under section 1893(i)), may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization and for the effective and efficient operation of the program. The Secretary may provide for a temporary waiver of any of the requirements of any subparagraph (other than subparagraph (A) or (B)) of this paragraph for such period (not to exceed one year, but subject to renewal) as the Secretary deems appropriate in the case of an agency or organization serving an area that is a rural area or that is designated as a health manpower shortage area under section 332 of the Public Health Service Act if (i) failure to waive such requirements would significantly limit access to long-term home care services to beneficiaries residing in the area, (ii) the agency or organization has made and continues to make good faith efforts to meet such requirements, and (iii) waiver of such requirements does not jeopardize the health, safety, or well-being of beneficiaries receiving long-term home care services.

"(7)(A) The term 'qualified home care agency' means—

"(i) a home health agency (as defined in subsection (o)), or

"(ii) a home care provider agency,

which provides directly or has made arrangements for providing the items and services described in paragraph (1).

"(B) The term 'home care provider agency' means a public agency or private organization, or a subdivision of such an agency or organization, which—

"(i) is primarily engaged in providing long-term home care services which may not include home health services;

"(ii) maintains client records;

"(iii) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (I) is licensed pursuant to such law, (II) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing, or (III) if licensing is not applicable, is subject to a State-approved quality assurance mechanism;

"(iv) notifies the State or local agency responsible for such licensing, certification, or quality assurance of a change in (I) the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the agency or organization, (II) the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of such agency or organization, and (III) the corporation, association, or other company responsible for the management of the agency or organization (such notice to be given at the time of the change and to include the identity of each new person or company);

"(v) has in effect an overall plan and budget that meets the requirements of subsection (z) (other than paragraph (2) thereof);

"(vi) if such agency or organization provides home health aide services, meets the requirements described in subparagraphs (A) through (D) of section 1891(a)(3); and

"(vii) meets such additional requirements (including conditions relating to bonding or establishing of escrow accounts as the Secretary finds necessary for the effective and efficient operation and the financial security of the program.".

(c) CERTIFICATION OF NEED AND STANDARD FOR COVERAGE.—

(1) CERTIFICATION OF NEED.—Section 1814(a) (42 U.S.C. 1395f(a)) is amended—

(A) by striking "and" at the end of paragraph (6),

(B) by striking the period at the end of paragraph (7) and inserting "; and", and

(C) by inserting after paragraph (7) the following new paragraph:

"(8) in the case of long-term home care provided to an individual—

"(A) a long-term care management agency certifies (and recertifies, where such care is furnished over a period of time, such frequency as may be provided in regulations) that the individual is a chronically ill individual, and

"(B) with respect to other than case management services, the care is approved by the agency furnishing case management services to the individual.".

(2) STANDARD OF COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) by striking "and" at the end of subparagraph (E),

(ii) by adding "and" at the end of subparagraph (F), and

(iii) by adding at the end the following new subparagraph:

"(G) in the case of long-term home care, which is not reasonable and necessary (i) for the care and management of chronic illness, (ii) to assist with activities of daily living, or (iii) to prevent institutionalization;"; and

(B) in paragraph (6), by inserting "and except, in the case of long-term home care, as is otherwise permitted under paragraph (1)(H)" after "paragraph (1)(C)".

(d) PAYMENT BASIS AND LIMIT FOR LONG-TERM HOME CARE; COINSURANCE.—

(1) PAYMENT BASIS AND LIMIT.—Section 1814 (42 U.S.C. 1395f) is amended by adding at the end the following new subsection:

"Payment for Long-Term Home Care

"(m)(1) PAYMENT BASIS.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, there shall be paid from the Federal Hospital Insurance Trust Fund, in the case of expenses determined payable under this part for long-term home care, amounts determined under a fee schedule (or other prospectively determined reimbursement mechanism) established and annually adjusted by the Secretary under subparagraph (B).

"(B) PROSPECTIVE PAYMENT METHODOLOGY.—The Secretary shall establish a fee schedule (or other prospectively determined reimbursement mechanism) consistent with the following:

"(i) NATIONAL SCHEDULE.—Except as adjusted under clause (iii), the schedule or mechanism shall provide for uniform national payment rates.

"(ii) ANNUAL ADJUSTMENT.—The Secretary shall provide for an annual adjustment in the rates under such schedule or mechanism based on the Secretary's estimate, before the beginning of the year involved, of the percentage by which the cost of the mix of goods and services comprising long-term home care (based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in long-term home care) for the year will exceed the cost of such mix of goods and services for the preceding year.

"(iii) AREA WAGE ADJUSTMENT.—The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of payment amounts which are attributable to wages and wage-related costs of long-term home care for area differences in wage levels by a factor (established by the Secretary) reflecting the relative wage level for such care in the geographic area in which the care is provided compared to the national average wage level for such care. At least every 36 months, the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs for long-term home care in the United States. To the extent determined feasible by the Secretary, such survey shall measure the earnings and paid hours of employment by occupational category.

"(2) LIMITATION ON PAYMENT.—The maximum amount of payment that may be made with respect to long-term home care provided—

"(A) a chronically ill individual (other than one described in section 226(h)(2)(B)) residing in a State in a month is an amount that the Secretary estimates is equal to the product of—

"(i) 50 percent of the average per diem payment rate for skilled nursing facility care in the State on a full-time basis (determined under paragraph (3)) for days in the month, in the case of an individual determined by a long-term care management agency to have a moderate impairment (as established by the Secretary), or

"(ii) 65 percent of the average per diem payment rate for skilled nursing facility care in the State on a full-time basis (determined under paragraph (3)) for days in the month, in the case of an individual determined by a long-term care management agency to have a severe impairment (as established by the Secretary),

and the number of days in the month over which the individual is provided such care; or

"(B) a chronically ill individual described in section 226(h)(2)(B) residing in a State in a month is an amount that the Secretary estimates is equal to the product of (i) 100 percent of the per diem amount that would be payable, under the plan of the State approved under title XIX, during the month if the individual were provided appropriate care in an appropriate institutional setting if no limit on amount, duration, or scope of covered institutional services applied other than medical necessity, and (ii) the number of days in the month over which the individual is provided such care.

The monthly payment limitations established under the previous sentence shall be applied on an average basis with respect to long-term home care furnished over any period of 4 consecutive months.

"(3) DETERMINATION OF AVERAGE PER DIEM PAYMENT RATE FOR NURSING FACILITY CARE IN DIFFERENT STATES.—Before the beginning of each calendar year, the Secretary shall estimate, for skilled nursing facilities located in each State, the State average per diem payment rates that would apply (under paragraph (1)) for nursing facility care in the

State on a full-time basis in the year if there were no reduction for coinsurance under this part.".

(2) COINSURANCE.—Section 1813(a) (42 U.S.C. 1395c(a)) is amended by adding at the end the following new paragraph:

"(5) The amount payable for long-term care for a chronically ill individual shall be reduced by a coinsurance amount equal to—

"(A) 10 percent of the cost of such care in the case of an individual whose family income exceeds 200 percent, but does not exceed 400 percent, of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget and Reconciliation Act of 1981) applicable to a family of the size involved, and

"(B) 20 percent of the cost of such care in the case of an individual whose family income exceeds 400 percent of such income official poverty line.".

(3) ASSURING SELF-FINANCING.—For additional amendments assuring self-financing of this Act, see section 3(c).

(e) ADJUSTMENTS OF AAPCC'S AND CONTRACTS FOR RISK-BASED ELIGIBLE ORGANIZATIONS.—The Secretary of Health and Human Services shall—

(1) take into account the amendments made by this Act in estimating the adjusted average per capita cost under section 1876(a) of the Social Security Act for eligible organizations with risk-sharing contracts under that section for portions of contract years occurring after the effective date provided under subsection (h);

(2) modify such contracts, for such portions of contract years, to reflect any adjustments made under paragraph (1); and

(3) require such organizations to make appropriate adjustments (including adjustments in premiums and benefits) in the terms of their agreements with Medicare beneficiaries to take into account the amendments made by this Act.

(f) CONFORMING AMENDMENTS.—(1) Section 1861(o)(1) (42 U.S.C. 1395x(o)(1)) is amended by inserting "and provides long-term home care" before the semicolon.

(2) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by inserting "long-term care management agency, qualified home care agency" after "home health agency,".

(3) Section 1121(a) (42 U.S.C. 1320a(a)) is amended by inserting "long-term care management agencies, qualified home care agencies" after "home health agencies,".

(g) COORDINATION OF LONG-TERM HOME CARE AND HOME HEALTH SERVICES.—The Secretary of Health and Human Services, in consultation with the Long-Term Care Advisory Council, shall develop policies and protocols to assure the appropriate coordination in payments, and identification of benefits, for long-term home care and home health services under title XVIII of the Social Security Act. Such coordination shall assure that long-term home care benefits supplement, and not replace, home health service benefits and that receipt of long-term home care, by itself, is not taken into account in determining coverage and benefits for home health services under such title.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to long-term home care furnished on and after the first day of the first month beginning one year after the date of the enactment of this Act, and the amendment made by subsection (f)(1) shall apply to home health agencies as of such date.

SEC. 3. ASSURING SELF-FINANCING OF BENEFITS UNDER THIS ACT.

(a) STATEMENT OF PURPOSE.—The purpose of this section is to assure that all the additional costs to the Federal Government resulting from the enactment of this Act do not exceed the additional revenues derived from the amendments made by this Act.

(b) STRUCTURE OF LIMITATION ON EXCESS EXPENDITURES.—In order to carry out subsection (a), the amendment made by subsection (c) provides for the following:

(1) Each year the Secretary of Health and Human Services will estimate whether additional anticipated revenues for the succeeding period exceed, or are less than, additional expenditures under this Act for the period involved.

(2) If there is a deficit estimated for a year, the following adjustments will be made to eliminate any such deficit:

(A) If a deficit was projected for the second previous year, any surplus resulting for that second previous year is applied against the deficit.

(B) Next, up to 10 percent of any previous accumulated surplus, plus the annual interest on the previous accumulated surplus, is applied against the deficit.

(C) Lastly, any remaining deficit is eliminated by proportional reductions in the limits on payments for long-term home care.

(c) ASSURING SELF-FINANCING OF BENEFITS.—Section 1813 (42 U.S.C. 1395c) is amended by adding at the end the following new subsection:

"(c)(1) Not later than 3 months before the effective date for 1992 and not later than October 1 of 1993 (and of each succeeding year), the Secretary shall, in close consultation with the Director of the Congressional Budget Office, estimate the amount (if any) for the transition period or for the succeeding year, respectively, by which—

"(A) the additional amounts of revenues to be transferable into the Federal Hospital Insurance Trust Fund in that period or succeeding year because of the amendments made by section 8 of the Long-Term Home Care Act,

exceeds or is less than—

"(B) the sum of—

"(i) the amount to be expended during that period or succeeding year under section 1893,

"(ii) the amount of claims expected to be received during that period or succeeding year under this part because of the amendments made by section 2 of the Long-Term Home Care Act,

"(iii) any additional administrative costs to be expended during that period or succeeding year under this title, or under part B of title XI, as a result of the enactment of such Act, and

"(iv) any expenditures to be made during that period or succeeding year under section 6 of such Act (relating to demonstration projects).

In this paragraph, the term 'effective date' means the first day of the first month beginning 1 year after the date of the enactment of this subsection and the term 'transition period' means the period beginning on the effective date and ending with the last day of the calendar year in which the effective date occurs.

"(2)(A) Before each October 1 following a transition period or year the Secretary shall estimate, the amount (if any) by which—

"(i) the additional amount of revenues actually transferable into the Federal Hospital Insurance Trust Fund in the period or year involved because of the amendments made by section 8 of the Long-Term Home Care Act,

exceeds or is less than—

"(ii) the sum of—

"(I) the amount actually expended under section 1893 during that period or year,

"(II) the amount of claims actually received during the period or year under this part because of the amendments made by section 2 of the Long-Term Home Care Act,

"(III) any additional administrative costs actually paid during the period or year under this title, or under part B of title XI, as a result of the enactment of such Act, and

"(IV) any expenditures made during the period or year under section 6 of such Act (relating to demonstration projects).

Such estimate shall be subject to adjustment from time to time to take into account the best available data.

"(B) There shall be established and maintained in the Federal Hospital Insurance Trust Fund a separate cumulative account of the amount of surpluses and deficits estimated under this paragraph. The amount in the account shall be increased in any period or year by the amount of any surplus estimated under subparagraph (A) for the period or year and shall be decreased in any period or year by the amount of any deficit estimated under subparagraph (A) for the period or year and by the amount of any reduction effected under paragraph (3). The Board of Trustees of the Trust Fund shall provide for the imputation of annual interest each period or year to the balance in the account at a rate that reflects the rate of interest received on funds in the Trust Fund during the period or year involved.

"(3) If the Secretary estimates under paragraph (1), with respect to a period or year, that a deficit exists, then such deficit shall be reduced or eliminated, to the extent necessary—

"(A) first, by the amount of any surplus added to the cumulative account established and maintained under paragraph (2)(B) for the second previous year if, for that year, there was any adjustment made for that year under this paragraph,

"(B) next, by applying up to 10 percent of any remaining surplus accumulated in the cumulative account, plus the amount of any interest imputed (under the last sentence of paragraph (2)(B)) to the account during the year, and

"(C) by proportionally reducing the payment limits established under section 1814(m) for months in such period or year by such percentage as the Secretary estimates to be necessary (in conjunction with the application of any such surplus) to eliminate any remaining deficit.

"(4) For purposes of this subsection, revenues to be transferable or actually transferable in 1992 because of the amendments made by section 8 of the Long-Term Home Care Act shall be deemed to be transferable in the transition period.".

SEC. 4. ASSURING QUALITY OF LONG-TERM HOME CARE.

(a) IN GENERAL.—Title XVIII is amended by adding at the end the following new section:

"LONG-TERM HOME CARE QUALITY ASSURANCE

"SEC. 1893. (a) LONG-TERM HOME CARE CONSUMERS' BILL OF RIGHTS.—The Secretary shall promulgate, by regulation, a long-term home care consumers' bill of rights, which shall recognize the following as rights of long-term home care consumers which may be asserted by the home care consumer or the consumer's representative or guardian:

"(1) To be treated with courtesy, respect, and full recognition of one's dignity, individuality, and right to control one's own household and lifestyle.

"(2) To be fully and promptly informed orally and in writing—

"(A) of services to be provided and any limits regarding availability of services from

the qualified home care agency or home care provider;

"(B) of whether services may be provided under this title or are covered by other sources, and whether uncompensated care may be available;

"(C) of charges for services and billing procedures, including an itemized copy of each bill submitted to any payer;

"(D) of changes in services or charges; and

"(E) of the procedures to follow if rights are violated or services are not satisfactory, including the right to a hearing before an entity other than a qualified home care agency or a long-term care management agency.

"(3) To take an active part in creating and changing the plan of care.

"(4) To take an active part in selecting and evaluating the qualified home care agency and the home care provider, and in selecting and evaluating treatment, care, and services.

"(5) To be served by individuals who are properly trained and competent to perform their duties.

"(6) To be fully informed by a home care provider of the provider's assessment of the home care consumer's condition, unless contraindicated by documentation provided by a professional practitioner in the home care consumer's record.

"(7) To refuse all or part of any treatment, care, or service, and to be informed of the likely consequences of such refusal.

"(8) To receive treatment, care, and services in compliance with all State and local laws and regulations without discrimination in the provision or quality of services based on race, religion, gender, age, or creed (except as provided under the Age Discrimination Act of 1975 (Public Law 94-135; 42 U.S.C. 6101 et seq.)), or because of a change in the source of payment.

"(9) To be free from mental and physical abuse, neglect, and exploitation, and to be free from chemical and physical restraints.

"(10) To receive respect and privacy in the home care consumer's treatment, care, and services in caring for personal needs, in communications, and in all daily activities.

"(11) To be assured respect for the home care consumer's property rights.

"(12) To be assured confidential treatment of personal, financial, and medical records and to approve or refuse their release to any individuals outside the agency except as otherwise required by law or third-party payment contract.

"(13) To voice grievances and recommend changes in policies and services to staff or outside representatives of the consumer's choice and to be assisted in doing so when assistance is needed, free from restraint, interference, coercion, discrimination, or reprisal by the long-term care management agency, by the qualified home care agency, or by the home care provider.

"(14) To be free to fully exercise the consumer's civil rights and to be assisted in doing so when assistance is needed.

"(15) To receive promptly written notice from the long-term care management agency if treatment, care or services are to be reduced or terminated, and assistance to assure a smooth transition in services consistent with the welfare of the home care consumer.

"(16) To be promptly notified by the long-term care management agency of acceptance or denial of services and the reasons for such denial.

"(b) QUALIFIED HOME CARE AGENCY QUALITY ASSURANCE REQUIREMENTS.—(1) In addition to such other requirements as may apply, the Secretary shall promulgate regulations requiring that to receive funding for the provision of long-term home care services under this title, a qualified home care agency must within 6 months after the date of the publication of such regulations—

"(A)(i) comply with the home care consumer's bill of rights promulgated under subsection (a); and

"(ii) provide a written copy of such bill of rights to each long-term home care consumer (or the consumer's representative or guardian) who receives long-term home care services from the qualified home care agency or other providers under this title;

"(B)(i) implement procedures for promptly reviewing and resolving grievances of long-term home care consumers regarding the provision of long-term home care services; and

"(ii) provide a written copy of such procedures to each long-term home care consumer (or the consumer's representative or guardian) who receives long-term home care services from the qualified home care agency;

"(C) ensure that each long-term home care provider employed by or under contract with the qualified home care agency receives training—

"(i) sufficient to meet a level of proficiency established by the Secretary in regulations (in consultation with representatives of the elderly, disabled, and children, qualified home care agencies, and experts in the fields of geriatric nursing, pediatric nursing, geriatric social work, pediatric social work, mental health, rehabilitation, and other appropriate health care professionals) to be appropriate in content and amount;

"(ii) which develops separate levels of proficiency in and is reflective of the range of skills required of long-term home care providers providing different levels of long-term home care services; and

"(iii) the extent of which shall be made available on request to each long-term home care consumer with respect to the amount of training or level of certification achieved by each long-term home care provider;

"(D) supervise all long-term home care providers employed by or under contract to the qualified home care agency in accordance with regulations promulgated by the Secretary (including regular random on site supervisory visits by registered nurses or other appropriate health care professionals); and

"(E) perform annual evaluations of quality of services rendered by long-term home care providers employed by or under contract to the qualified home care agency which includes and documents long-term home care consumer involvement.

"(2) In addition to such other requirements as may apply, to receive funding for the provision of durable medical equipment services under this title, a qualified home care agency or long-term home care provider shall in each case of a long-term home care consumer to which such services are provided—

"(A) issue written instructions for the operation of such equipment;

"(B) provide sufficient training to the long-term home care consumer, the long-term home care consumer's family, and staff to allow correct, safe operation of all such equipment; and

"(C) formulate an emergency plan regarding access to and maintenance of equipment appropriate to the services provided to the long-term home care consumer.

In the previous sentence, the term 'durable medical equipment services' means supply, maintenance, or training in the operation of durable medical equipment.

"(c) LONG-TERM CARE MANAGEMENT AGENCY QUALITY ASSURANCE REQUIREMENTS.—In addition to such other requirements as may apply, the Secretary shall promulgate regulations requiring that to receive funding for the provision of case management services (as defined in section 1861(kk)(2)) under this title, a long-term care management agency must within 6 months after the date of the publication of such regulations—

"(1)(A) comply with the long-term home care consumers' bill of rights promulgated under subsection (a); and

"(B) provide a written copy of such bill of rights to each long-term home care consumer (or the consumer's representative or guardian) who receives long-term home care services from the qualified home care agency under this title;

"(2)(A) implement procedures for promptly reviewing and resolving grievances of long-term home care consumers; and

"(B) provide a written copy of such procedures to each long-term home care consumer (or the consumer's representative or guardian) who receives long-term home care services from the qualified home care agency;

"(3) provide to each long-term home care consumer (or the consumer's representative or guardian) a written statement of the services to be provided to the long-term home care consumer and the schedule for provision of such services, as agreed upon by the long-term home care consumer;

"(4) provide to each long-term home care consumer a clear written statement as to how the consumer, or the consumer's representative or guardian, may appeal benefit and level decisions made by the agency;

"(5) maintain procedures that assure prompt access to long-term home care services for eligible long-term home care consumers;

"(6) ensure that personnel providing case management services to long-term home care consumer have received adequate training as prescribed in regulations by the Secretary, in consultation with the Long-Term Care Advisory Council; and

"(7) establish and implement care management processes which include—

"(A) a plan of care which states reasonable and measurable client objectives and long-term home care services to be provided to meet the objectives;

"(B) a plan of care that employs outcome measures care insofar as they are appropriate and available for each long-term home care consumer served;

"(C) methods for periodic review of—

"(i) a long-term home care consumer's needs; and

"(ii) the plan of care for a long-term home care consumer;

"(D) methods for follow-up and on-going monitoring of patient and services delivery; and

"(E) a statement of criteria and procedures for discharge or transfer to another agency, program, or service.

"(d) SURVEY REQUIREMENTS.—(1) The Secretary shall, in consultation with the Long-Term Care Advisory Council, promulgate regulations which establish procedures for surveying long-term care management agencies regarding compliance with conditions of participation established by this section.

"(2) Regulations promulgated under paragraph (1) shall include—

"(A) survey methodologies which include—

"(i) patient-oriented assessment techniques;

"(ii) process and outcome criteria for measuring the compliance of long-term care

management agencies with conditions of participation under this title; and

"(iii) randomized, on site review of a representative sample of long-term home care consumers to evaluate compliance with applicable conditions of participation;

"(B) a graduated schedule of unannounced surveys that provides surveys—

"(i) not less than every 9 months for long-term care management agencies that are determined by the Secretary to have a substandard record of compliance with applicable conditions of participation;

"(ii) not less than every 15 months for long-term care management agencies that are determined by the Secretary to have consistently satisfactory records of compliance with the applicable conditions of participation; and

"(iii) not less than every 12 months for other such agencies.

"(3) The results of surveys performed under this subsection shall be provided to the Long-Term Care Advisory Council and community advisory boards established under subsection (f)(1) and shall be made available to others in accordance with this title.

"(4)(A) The Secretary may enter into a contract with a State under which a State, which has survey and enforcement procedures which are determined by the Secretary to be at least equivalent to the survey and enforcement procedures which the Secretary would otherwise apply under this section, shall conduct surveys of compliance of long-term care management agencies (other than those owned or operated by a State) with the requirements of this section and provide for the annual transmittal to the Secretary of the results of such State surveys.

"(B) The Secretary shall develop and implement procedures for annually validating a representative sample of surveys of long-term care management agencies performed by States under subparagraph (A).

"(C) Procedures developed under subparagraph (B) shall provide for review of such surveys within 1 month after the performance of such a survey.

"(e) QUALITY ASSURANCE SYSTEM THROUGH PEER REVIEW ORGANIZATIONS.—(1)(A) The Secretary shall promulgate regulations under which peer review organizations shall monitor the provision of home health services and long-term home care.

"(B) In awarding, administering, and evaluating contracts entered into with peer review organizations of the performance of monitoring under this subsection, the Secretary shall—

"(i) take into consideration information contained in reports issued by Consumer Boards under paragraph (2)(C)(iii);

"(ii) require that at least ¾ of the level of effort of a peer review organization shall be for the purpose of monitoring the quality of home health services and long-term home care provided;

"(iii) require that the remainder of the effort of a peer review organization shall be for the purpose of review, on the basis of exceptional circumstances and on the health and safety of the home care consumer, of the appropriateness and necessity of care denied under this title;

"(iv) require that any review by a peer review organization of a qualified home care agency or a home care management agency include a representative sample of documentary reviews and personal interviews of home care consumers and home care providers;

"(v) require that if any portion of a peer review organization's responsibilities are provided by a third party under contract with the peer review organization the fulfillment of such responsibilities are fully integrated with other functions of such peer review organization; and

"(vi) require that the membership of a peer review organization board include representatives of all types of home care providers reviewed by the peer review organization and consumers under section 9353(b) of the Omnibus Budget Reconciliation Act of 1986.

"(C) A peer review organization performing monitoring functions under this subsection may not be—

"(i) a qualified home care agency;

"(ii) a long-term care management agency; or

"(iii) a fiscal intermediary.

"(D) The Secretary shall make available to a peer review organization such information as may be necessary for it to carry out its responsibilities under this paragraph.

"(E) A peer review organization may recommend to the Secretary sanctions to be applied to qualified home care agencies and to home care management agencies who have been found to have not met professionally recognized standards of care.

"(2)(A) The Secretary shall establish a Consumer Board in each State within 1 year after the date of the enactment of this section.

"(B)(i) A Consumer Board shall be composed of at least 5 and not more than 7 members appointed by the Governor of the State based on recommendations from organizations in such State representing home care consumers who are entitled to benefits under this title. Members must be entitled to benefits under this title or be representatives of organizations which represent home care consumers who are entitled to such benefits.

"(ii) Limited staff support and training shall be provided to a Consumer Board by the Secretary as is necessary to carry out its functions.

"(C) A Consumer Board shall—

"(i) monitor the review activities of peer review organizations by—

"(I) providing input into the awarding of contracts to peer review organizations; and

"(II) evaluating the contracts of peer review organizations and the mechanisms established to monitor qualified home care agencies and home care management agencies;

"(ii) have access to—

"(I) information of peer review organizations,

"(II) results of State surveys conducted under subsection (d)(4)(A), and

"(III) information from toll-free hotlines (established under paragraph (4)), after protection of the identities of individual health care providers and consumers; and

"(iii) file an annual report with the Secretary and the chief executive officer of the State on October 1 of each year regarding the performance during the previous year of peer review organizations.

"(D) A Consumer Board shall not be involved in the day-to-day operation of peer review organizations.

"(3)(A) The Secretary shall develop methods for monitoring the continuity of care provided to home care consumers throughout episodes of illness and across care settings.

"(B) The Secretary shall develop outcome-oriented criteria for use in determining quality assurance in home care.

"(4) Peer review organizations shall establish and operate statewide toll-free hot-lines for receiving questions and complaints from home care consumers, home care providers, and other interested persons concerning home care quality issues.

"(5) The Secretary shall require peer review organizations to assist home care consumers in the resolution of problems related to the quality of home care services and case management services.

"(6) Consumer Boards established under paragraph (2) and peer review organizations shall coordinate with State and local government officials to educate home care consumers regarding quality assurance programs and the various forms of assistance available to home care consumers with quality assurance problems under this title.

"(f) COMMUNITY ADVISORY BOARDS AND ADDITIONAL QUALITY ASSURANCE.—(1) Each State shall establish and appoint (based on the recommendations of long-term home care consumers, their representatives, and organizations representing these individuals and pursuant to regulations of the Secretary) members to a community advisory board (in this subsection referred to as the 'board') for each long-term care management agency. Each board shall be composed of long-term home care consumers and their families, representatives of agencies and organizations representing long-term home care consumers and professionals providing services to chronically ill individuals. Long-term home care consumers, their families, or their representatives shall form a majority of the members of each board.

"(2) Each board shall—

"(A) monitor the activities of the long-term care management agencies,

"(B) provide input in the selection of long-term care management agencies,

"(C) file a report with the Secretary on the findings of its monitoring not less frequently than annually, and

"(D) have prompt access to results of surveys and of investigations of complaints of the long-term care management agency with respect to which it was established and qualified home care agencies providing long-term home care services to individuals in the area served by the agency.

Each report under subparagraph (C) shall be reviewed and its findings incorporated into the survey of long-term care management agencies under subsection (d).

"(3)(A) The Secretary shall develop and implement methods for monitoring the continuity of care provided to long-term home care consumers throughout episodes of illness and across care settings.

"(B) The Secretary shall develop and implement outcome-oriented criteria for use in determining quality assurance in long-term home care services.

"(g) SANCTIONS.—(1) The Secretary shall develop and implement a range of intermediate sanctions and procedures implementing such sanctions to be applied to long-term care management agencies providing case management services under this title for failing to comply with this section.

"(2) Sanctions and procedures established under paragraph (1) shall—

"(A) include civil monetary penalties (under the procedures described in section 1128A), a ban on admissions, receivership, and emergency authority to decertify qualified home care agencies and long-term care management agencies;

"(B) include specific criteria as to when and how each sanction is to be applied and the amounts of any fines and penalties;

"(C) be designed so as to minimize the time between the identification of violations and final imposition of the sanctions;

"(D) provide for a plan and schedule for corrective action by qualified home care agencies found to be out of compliance with conditions of participation; and

"(E) require public disclosure of failures of qualified home care agencies and long-term care management agencies to meet professionally recognized standards of care, and the sanctions imposed for such failures.

"(3) The Secretary shall file an annual report with the Congress on January 1 of each year regarding the availability, adequacy, and use of sanctions to correct failures of long-term care management agencies to meet the requirements of this title.

"(h) DEVELOPMENT OF LICENSING POLICIES.—The Secretary shall—

"(1) encourage States to develop policies and procedures for the licensing of qualified home care agencies;

"(2) gather information relating to activities of States in implementing licensing policies and procedures; and

"(3) issue a biannual report which summarizes information gathered under paragraph (2).

"(i) LONG-TERM CARE ADVISORY COUNCIL.—(1)(A) There shall be established, no later than 60 days after the date of the enactment of this section, an independent body to be known as the Long-Term Care Advisory Council (in this subsection referred to as the 'Council').

"(B) The Council shall be composed of 13 individuals appointed by the Director of the Office of Technology Assessment and shall include, to the greatest extent possible, individuals with expertise in pediatrics, geriatrics, gerontology, disability, case management of home and community-based services and payment for such services, home and community-based care consumers and their representatives, home and community-based care providers and their representatives, professionals with expertise in long-term care (including nurses, social workers, and discharge planners and physicians), third-party payers, long-term care ombudsmen, peer review organizations, and State and local health and social service agency representatives. Appointments to the Council shall be for a term of not to exceed 4 years.

"(2) The purposes of the Council are—

"(A) to assist the Secretary in assuring the prompt and efficient implementation of the provisions of the Long-Term Home Care Act,

"(B) to review regularly the implementation of such provisions, and

"(C) to recommend to the Secretary and the Congress any needed changes or refinements to such provisions or regulations promulgated to implement such provisions.

The Secretary shall regularly and closely consult with the Council in the implementation and administration of the provisions of such Act, including the issuance of regulations to carry out such provisions. The Secretary (or the Secretary's designee) shall meet with the Council at least once every month during the 24-month period beginning 2 months after the date of the enactment of this section, and at least quarterly thereafter, for these purposes.

"(j) TRAINING GRANTS.—(1) The Secretary shall issue guidelines and provide funding for grants for training programs for qualified home care agencies, long-term care management agencies, and long-term home care providers.

"(2) In awarding grants under paragraph (1), the Secretary shall give special consideration to—

"(A) the training of paraprofessionals (including homemakers, home health aides, and family care givers) and professionals providing case management services;

"(B) the training of long-term home care providers who are members of minorities and ethnic groups;

"(C) training programs for high technology long-term home care services (as defined by the Secretary) that assist professional health care providers in adapting their services to high technology therapies to be provided as long-term home care services; and

"(D) training of long-term home care providers who will provide long-term home care services to chronically ill or disabled children.

"(3) Training materials shall be provided by the Secretary to States and qualified home care agencies, long-term care management agencies, and home care providers.

"(4) The Secretary shall encourage States to work with qualified home care agencies, long-term home care providers, and educational institutions, especially those with a demonstrated expertise in geriatrics, pediatrics, gerontology, and disability to provide training to long-term home care providers.

"(k) STUDIES.—(1)(A) The Secretary shall conduct studies on quality assurance measures for long-term home care services provided under this title.

"(B) Studies referred to in subparagraph (A) shall include examination of—

"(i) methodologies which develop and evaluate outcome standards in the provision of long-term home care services;

"(ii) mechanisms for ensuring and monitoring long-term home care quality by episode of care;

"(iii) the role of case management for ensuring quality in provision of long-term home care services;

"(iv) the differing approaches to and responsibility for the development of a plan of long-term home care services; and

"(v) the impact on quality of care of—

"(I) the separate reimbursement for supply of durable medical equipment to long-term home care consumers; and

"(II) the training of long-term home care consumers and their families in the operation of such equipment.

"(2) The Secretary shall report to Congress, by not later than 2 years after the date of the enactment of this section, on the findings of studies funded under paragraph (1).

"(l) REPORTS ON QUALITY ASSURANCE SYSTEM.—(1) The Secretary shall prepare (in consultation with the Long-Term Care Advisory Council) and file an annual report with the Congress on January 1 of each year regarding the nature and performance during the preceding fiscal year of the home care quality assurance system established under subsection (e).

"(2) Each report required by paragraph (1) shall include information regarding—

"(A) the number of individuals served by long-term home care providers subject to the provisions of this section;

"(B) the amount of Federal funds expended for long-term home care services under this title;

"(C) examination of noncompliance with the provisions of this section by long-term home care providers who received funds under this title and the sanctions imposed;

"(D) the economic impact on qualified home care agencies of requiring them to comply with the requirements of this section;

"(E) the impact of the requirements of this section on availability of long-term home care services in rural areas and to members of minority and ethnic groups;

"(F) the concerns and recommendations of community advisory boards and Consumer Boards;

"(G) training and grants awarded under subsection (j); and

"(H) the status of studies undertaken under subsection (k).

"(m) DEFINITIONS.—For purposes of this section:

"(1) The term 'long-term home care consumer' means a chronically ill individual who is provided long-term home care services.

"(2) The term 'long-term home care provider' means an individual who provides long-term home care services directly to a home care consumer.

"(3) The term 'long-term home care services' means home health services and long-term home care.

"(4) The term 'Consumer Board' means a Consumer Board established under subsection (e)(2).

"(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund $100,000,000 for each of fiscal years 1993 and 1994 and $15,000,000 for each succeeding fiscal year to carry out subsection (j) (at least two-thirds of which is made available for training related to the provision of long-term home care and case management services) and such sums as may be necessary in each fiscal year to carry out the remaining provisions of this section.".

(b) SURVEYS OF QUALIFIED HOME CARE AGENCIES PROVIDING LONG-TERM HOME CARE SERVICES TO INCLUDE REVIEW OF ADDITIONAL REQUIREMENTS.—Section 1891(c)(1) (42 U.S.C. 13995bbb(c)(1)) is amended by adding at the end the following new subparagraph:

"(F) A standard survey conducted under this paragraph with respect to a qualified home care agency that provides long-term home care services (as defined in section 1893(m)(3)) shall include review of whether the agency meets the requirements imposed under section 1893(c) with respect to the provision of such services.".

(c) PROMULGATION OF REGULATIONS.—The Secretary of Health and Human Services, after consultation with the Administration on Aging, shall promulgate regulations by not later than 6 months after the date of the enactment of this Act, to implement section 1893 of the Social Security Act, to be effective for home care services furnished on or after 12 months after the date of the enactment of this Act.

(d) APPOINTMENT OF LONG-TERM CARE ADVISORY COUNCIL.—The Director of the Office of Technology Assessment shall complete appointments to the Long-Term Care Advisory Council under section 1893(i) of the Social Security Act within 1 month after the date of the enactment of this Act.

SEC. 5. DETERMINATION AND USE OF MEDICAID SAVINGS.

(a) IN GENERAL.—Title XIX is amended by adding at the end the following new section:

"DETERMINATION AND USE OF MEDICAID SAVINGS FROM PROVISION OF LONG-TERM CARE UNDER THE MEDICARE PROGRAM

"SEC. 1931. (a) Before the beginning of each calendar year to begin on or after January 1, 1993, the Secretary shall—

"(1) estimate and determine the amount of excess savings with respect to each State with a plan approved under section 1902(a), and

"(2) notify each such State of such amount.

"(b)(1) With respect to any State for which the Secretary determines (under paragraph (1)) there is excess savings for a calendar year, the Secretary shall reduce (for quarters in such year) the amount of the Federal matching share applied to expenditures for medical assistance in the State by an

amount necessary to increase the amount of the State's expenditure for such assistance with respect to the items and services described in paragraph (2) by an amount equal to the amount of such excess savings.

"(2) The items and services described in this paragraph are items and services furnished to the disabled and children (as defined by the Secretary).

"(c) For purposes of this section, the term 'excess savings' means with respect to a calendar year the amount (if any) by which—

"(1) the total amount that would have been expended from State funds under such plan but for the amendments made by section 2 of the Long-Term Home Care Act, exceeds

"(2) the total amount that is expended from State funds under such plan.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the date of enactment of this Act.

SEC. 6. DEMONSTRATION PROJECTS.

(a) CASE MANAGEMENT DEMONSTRATION PROJECTS.—

(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct at least 5 (but not more than 10) demonstration projects to determine the relative effectiveness, cost, and impact on quality of long-term home care of using different models of providing and reimbursing of case management services under title XVIII of the Social Security Act.

(2) Demonstration projects under this subsection shall—

(A) each be conducted over a period of 3 years;

(B) be conducted in sites which are chosen to be geographically diverse and include at least one rural site;

(C) include testing methods of improving the delivery case management services by long-term care management agencies;

(D) include case management services provided to the elderly, the disabled, and children;

(E) include testing payment for case management services on a capitated basis; and

(F) include testing methods of minimizing variation among case managers and long-term care management agencies in eligibility and coverage determinations under title XVIII of the Social Security Act.

(3) The Secretary shall provide for the evaluation of the projects on a concurrent basis and shall submit to the Congress, not later than 18 months after the initiation of the projects and upon the completion of the projects, a report on the findings of the evaluation. The Secretary shall include in such reports recommendations for appropriate legislative changes.

(4) There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for the 3-fiscal year period beginning with fiscal year 1993, not to exceed $10,000,000 to carry out demonstration projects under this subsection and not to exceed $1,000,000 to carry out the evaluation of such projects under this subsection.

(b) DEMONSTRATION PROJECTS FOR CERTAIN INDIVIDUALS WITH SEVERE FUNCTIONAL LIMITATIONS NOT OTHERWISE COVERED.—

(1)(A) The Secretary shall conduct at least 5 (and no more than 10) demonstration projects to determine the feasibility of providing long-term home care benefits under the medicare program for certain individuals with severe functional limitations not otherwise covered.

(B) In this subsection, the term "individual with severe functional limitations not otherwise covered" means an individual over 18 years of age, but under 65 years of age, who is not entitled to benefits under title XVIII of the Social Security Act but is a chronically ill individual, within the meaning of section 1861(kk)(3)(A)(i) of such Act.

(2) Demonstration projects under this subsection—

(A) shall include, in the items and services covered under long-term home care, personal care services, short-term respite, and emergency assistance and shall permit coverage of items and services provided either by qualified home care agencies or by other qualified persons;

(B) may provide for limited cost-sharing for long-term home care;

(C) shall provide that payment rates for long-term home care provided by persons other than qualified home care agencies shall be comparable to the payment rates for such care provided by qualified home care agencies;

(D) shall provide that each individual's plan of care shall take into account the individual's capability to direct the individual's own long-term home care and to train persons in providing that care;

(E) shall test the effectiveness of consumer-directed living centers that are primarily engaged in assisting working age individuals with severe functional limitations in maximizing their independence;

(F) shall, to the maximum extent practicable, cover working age individuals with severe functional limitations who (i) are at imminent risk of institutionalization within 30 days without long-term home care, (ii) are institutionalized but who, if provided long-term home care, could be discharged from the institution, or (iii) need long-term home care to secure or continue employment, to increase independence, to enable present caregivers to secure or continue employment, or to stabilize families;

(G) shall include projects under which personal care services are made available away from an individual's primary residence, as well as at that residence; and

(H) shall include projects under which family members may be employed as caregivers if the family members would be employed if not providing such care or if the individual requires more than 20 hours a week of long-term home care.

(3)(A) In designing and evaluating the projects, the Secretary shall consult with experts in the field of disability policy and independent living and with groups representing working age individuals with severe functional limitations.

(B) The Secretary shall provide for the evaluation of the projects on a concurrent basis. Such evaluation shall include an evaluation of the size of the demand, cost, relative effectiveness, and impact on quality of life, of providing long-term home care to working age individuals with severe functional limitations.

(C) The Secretary shall submit to the Congress, not later than 18 months after the initiation of the projects and upon the completion of the projects, a report on the findings of the evaluation under subparagraph (B). The Secretary shall include in such reports recommendations for appropriate legislative changes.

(4) There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund—

(A) for each of fiscal years 1993, 1994, and 1995 not to exceed $10,000,000 to carry out demonstration projects under this subsection, and

(B) for the 3-fiscal-year period beginning with fiscal year 1993 not to exceed $1,000,000 to carry out the evaluation of such projects under this subsection.

(c) GENERAL AUTHORITY.—

(1) Payments under demonstration projects under this section may be made in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section.

(2) The Secretary may waive such requirements of title XVIII of the Social Security Act as may be required to carry out demonstration projects under this section.

SEC. 7. PERMITTING DISABLED INDIVIDUALS TO PURCHASE MEDICARE COVERAGE DURING THE 24-MONTH WAITING PERIOD FOR MEDICARE ENTITLEMENT; PERMITTING DISABLED INDIVIDUALS NOT ENTITLED TO LONG-TERM HOME CARE BENEFITS TO BUY-IN TO MEDICARE TO OBTAIN SUCH BENEFITS.

(a) DISABLED BUY-IN.—Section 1818(a) (42 U.S.C. 1395i-2(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) has not attained the age of 65 and would be described in section 226(b)(2) if the phrases ', and has for 24 calendar months been entitled to,' ', and has been for not less than 24 months,' and 'including the requirement that he has been entitled to the specified benefits for 24 months,' were deleted from subparagraphs (A), (B), and (C)(ii), respectively, of such section,";

(2) by striking paragraph (2), and

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) LIMITED BUY-IN FOR LONG-TERM HOME CARE BENEFITS.—Section 1818(a) (42 U.S.C. 1395i-2(a)) is amended by adding at the end the following: "In enrolling under this section, for months beginning with the first month that begins 1 year after the date of the enactment of this sentence, an individual has the option of enrolling for all benefits under this part (other than long-term home care benefits described in section 1812(a)(2)), for long-term home care benefits described in section 1812(a)(2), or for both.".

(c) PREMIUMS.—Section 1818(d) (42 U.S.C. 1395i-2(d)) is amended—

(1) in the first sentence of paragraph (2), by striking "for months occurring in the following calendar year" and inserting before the period the following: "for benefits (other than for long-term home care benefits described in section 1812(a)(2)) for months occurring in the following calendar year for individuals described in subsection (a)(1)(A)", and

(2) by adding at the end the following new paragraphs:

"(4) The Secretary shall, during the next to last calendar quarter of each year, determine and promulgate the dollar amount which shall be applicable for premiums (other than for long-term home care benefits described in section 1812(a)(2)) for months occurring in the following year for individuals described in subsection (a)(1)(B). Such amount shall be equal to the amount the Secretary estimates to be necessary so that the aggregate amount for such calendar year with respect to such individuals will equal 100 percent of the total of the benefits and administrative costs which he estimates will be payable from the Federal Hospital Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such individuals (other than with respect to long-term home care benefits). In calculating such amount the Secretary shall include an ap-

propriate amount for a contingency margin. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1, or, if a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1.

"(5) The Secretary shall, during the first calendar quarter of 1993 and during the next to last calendar quarter of each year (beginning with 1993), determine and promulgate the dollar amount which shall be applicable for premiums for individuals enrolled for long-term home care benefits under this section for months occurring in 1993 or in the following year, respectively. Such amount shall be equal to the amount the Secretary estimates to be necessary so that the aggregate amount for such period or calendar year with respect to individuals so enrolled will equal 100 percent of the benefits and administrative costs which will be payable from the Federal Hospital Insurance Trust Fund for long-term home care benefits provided and related administrative costs incurred in the period or year with respect to individuals so enrolled under this section. In calculating such amount the Secretary shall include an appropriate amount for a contingency margin. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning with January 1, 1993.

SEC. 8. FINANCING BY REPEALING DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE AND DISABILITY INSURANCE TAXES.

(a) EMPLOYMENT TAXES.—

(1) IN GENERAL.—Paragraph (1) of section 3121(a) of the Internal Revenue Code of 1986 (defining wages) is amended—

(A) by inserting "in the case of OASI taxes (as defined in subsection (x)),," after "(1)",

(B) by striking "applicable contribution base (as determined under subsection (x))" and inserting "contribution and benefit base (as determined under section 230 of the Social Security Act)" each place it appears, and

(C) by striking "such applicable contribution base" and inserting "such contribution and benefit base".

(2) OASI TAXES.—Subsection (x) of section 3121 of such Code is amended to read as follows:

"(x) OASI TAXES.—For purposes of subsection (a)(1), the term 'OASI taxes' means the taxes imposed by sections 3101(a) and 3111(a) to the extent such taxes are determined at a rate in excess of the applicable rate specified in section 201(b)(1)(A) of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Paragraph (1) of section 1402(b) of such Code is amended—

(A) by inserting "in the case of the OASI tax (as defined in subsection (k)),," after "(1)", and

(B) by striking "applicable contribution base (as determined under subsection (k))" and inserting "contribution and benefit base (as determined under section 230 of the Social Security Act)".

(2) OASI TAX.—Subsection (k) of section 1402 of such Code is amended to read as follows:

"(k) OASI TAX.—For purposes of subsection (b)(1), the term 'OASI tax' means the tax imposed by section 1401(a) to the extent such tax is determined at a rate in excess of the applicable rate specified in section 201(b)(1)(B) of the Social Security Act."

(c) RAILROAD RETIREMENT TAXES.—

(1) IN GENERAL.—Subparagraph (A) of section 3231(e)(2) of such Code is amended by adding at the end thereof the following new clause:

"(iii) LIMITATION NOT TO APPLY TO TAXES EQUIVALENT TO HOSPITAL INSURANCE AND DISABILITY INSURANCE TAXES.—Clause (i) shall not apply to—

"(I) so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as exceeds the rate of the OASI tax (as determined under section 3121(x)) in effect, and

"(II) so much of the rate of tax applicable under section 3211(a)(1) as exceeds the rate of the OASI tax (as determined under section 1401(k)) in effect."

(2) TECHNICAL AMENDMENT.—Clause (i) of section 3231(e)(2)(B) of such Code is amended to read as follows:

"(i) TIER 1 TAXES.—Except as provided in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year."

(d) DEPOSITS INTO TRUST FUNDS REDUCED BY DECREASES IN INCOME TAX REVENUES.—

(1) FEDERAL DISABILITY INSURANCE TRUST FUND.—Subsection (b) of section 201 is amended by adding at the end thereof the following new sentence:

"The amounts determined under paragraphs (1) and (2) shall be reduced by the decrease in the tax imposed by chapter 1 of the Internal Revenue Code of 1986 resulting from the amendments made by section 8 of the Long-Term Home Care Act."

(2) HOSPITAL INSURANCE TRUST FUND.—Subsection (a) of section 1817 is amended by adding at the end thereof the following new sentence:

"The amounts determined under paragraphs (1) and (2) shall be reduced by the decrease in the tax imposed by chapter 1 of the Internal Revenue Code of 1986 resulting from the amendments made by section 8 of the Long-Term Home Care Act."

(e) OTHER TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 6413(c) of such Code is amended to read as follows:

"(3) REFUNDS NOT ALLOWED FOR HOSPITAL INSURANCE AND DISABILITY TAXES.—Paragraphs (1) and (2) shall apply only to so much of the taxes imposed by sections 3101(a) (or any amount equivalent to such tax) and 3201(a) which do not apply to remuneration in excess of the contribution and benefit base (as determined under section 230 of the Social Security Act)."

(2) Sections 3122 and 3125 of such Code are each amended—

(A) by striking "section 3111" each place it appears and inserting "section 3111(a)", and

(B) by striking "applicable contribution base limitation" and inserting "contribution and benefit base limitation."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to 1992 and later calendar years.●

By Mr. BURDICK (for himself and Mr. INOUYE):

S. 2194. A bill to assure a priority to Indian lands in the location of certain facilities; to the Select Committee on Indian Affairs.

LOCATION OF CERTAIN FACILITIES ON INDIAN LANDS

● Mr. BURDICK. Mr. President, I rise today to propose legislation to give a priority to Indian reservation lands for the location of projects of the Indian Health Service and the Bureau of Indian Affairs.

Mr. President, the Nation's Indian reservations suffer from unemployment rates between 30 and 85 percent. American Indians have the lowest standard of living and the most severe social problems of any people in the United States. Numerous hearings and reports concerning American Indians conclude that unemployment is the primary factor contributing to the economic distress on Indian reservations.

Recently, the Indian Health Service has reorganized its central distribution of pharmaceutical supplies into regional centers and has not given fair hearings to a recent proposal by one tribe to locate a pharmaceutical center on its reservation that would create 40 new jobs on that reservation—a reservation which suffers from a 50-percent unemployment rate.

The Priority to Indian Reservation Lands bill would require the Indian Health Service [IHS] and Bureau of Lands Affairs [BIA] to give priority to Indian reservation lands when these agencies are planning service facilities or employment projects. The legislation would require IHS and BIA to take into consideration the impact of employment opportunities on Indian reservations. Ultimately this will result in the reduction of health care costs to IHS and BIA through improved social and economic conditions for American Indians residing on Indian reservation lands.●

By Mr. DOLE (for himself, Mr. BOND, Mr. BROWN, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. CRAIG, Mr. D'AMATO, Mr. DANFORTH, Mr. DOMENICI, Mr. GARN, Mr. GORTON, Mr. GRAMM, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mr. HELMS, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KASTEN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. PRESSLER, Mr. ROTH, Mr. RUDMAN, Mr. SEYMOUR, Mr. SIMPSON, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, and Mr. WARNER):

S. 2195. A bill entitled the "Economic Growth Acceleration Act of 1992"; to the Committee on Finance.

(The remarks of Mr. DOLE and others, and the text of the legislation, appear earlier in today's RECORD.)

By Mr. ROTH:

S. 2196. A bill to establish a Teacher Job Bank Program; to the Committee on Labor and Human Resources.

TEACHER JOB BANK PROGRAM

● Mr. ROTH. Mr. President, this fall the Office of Educational Research and Improvement released the most de-

tailed analysis of teacher employment to date. The report is entitled "Characteristics of Stayers, Movers and Leavers: Results From the Teachers Follow-up Survey 1988–89." This report in conjunction with the report entitled "Aspects of Teacher Supply and Demand in Public School Districts and Private Schools: 1987–88" provide some insight on who does and does not leave the teaching profession and on how many new teachers and teacher vacancies there were at the beginning of the school year.

The data gathered in the reports indicate that over 130,000 public school teachers and nearly 40,000 private school teachers left the teaching profession at the end of the 1987–88 school year. The National Center for Educational Statistics estimates that 2.8 million teachers were on the job this fall. The school and staffing survey found that 8 percent of the full-time equivalent public school teachers and 17 percent of the private school teachers were newly hired in the 1987–88.

As in any profession, teachers may choose to leave for a variety of reasons; retirement, career changes, or child rearing and homemaking. In other words, there is and will be, a regular need to fill teaching jobs and to find qualified teachers for these positions.

We all know and agree that good teachers are viewed as critical to our objective of educational improvement and achievement. The Federal Government and some States have established programs to encourage people to enter or remain in the teaching profession. Concerns have also been raised with respect to teacher shortages either by geographic areas or in certain subject areas such as math and science.

Now I would imagine that most people like myself, have not previously considered how available teaching positions are matched with individuals who wish to teach in our over 15,000 public school districts.

Mr. President, there is currently no uniform computerized system to match available positions with would-be applicants. Incredibly, if a student were graduating from college today with a teaching degree, the student would have to contact individual school districts—and remember there are 15,559 of them—to inquire as to the availability of a position.

Last year in Delaware, the State instituted an early retirement program as a means to respond to the increasing fiscal pressures brought on by the downturn in the economy. As a result of this initiative 1,607 teachers and other school employees left the system. Fortunately, the State was able to fill these positions. When I was contacted by a individual interested in moving to Delaware to teach, I called a State office to inquire where an application could be sent. At that time, I learned that there was no centralized or computerized system, and the individual would need to contact every district directly.

Now in a small State like my own that is not necessarily a problem—we have 19 school districts; but what if an individual was interested in California, or Texas, or moving from one region of the country to another? I was advised that virtually every State operates in a fashion similar to Delaware. This indeed must be a daunting prospect for a new college graduate eager to start a teaching career. It would be similarly difficult for existing teachers who might wish to change districts, schools, or move to another State.

Mr. President, the legislation I am introducing today is aimed at addressing this problem. The purpose of my bill is to facilitate the match between available teaching positions and qualified applicants. I am proposing that the Office of Educational Research and Improvement undertake the development of a software system which could be adopted by every State. In undertaking the design of the system it is the intent that OERI develop the program with the input of the potential users of the system. Such groups would include, but not be limited to, teachers, school administrators, governors, school board members, and colleges and universities interested in the placement of graduates. The system should be designed so that access by computer could call up characteristics of the school system in each State, the number of districts, the positions which are open, and the subject area and grade level for which there is an opening. The objective of this legislation, is to develop this software within 1 year after the date of enactment.

Following the development of this system, my bill provides seed money for States to make the system operational. States would be required to match the Federal funds they received with $1 for every $2 of assistance.

Mr. President, I think it is time to apply our available technology to facilitate the hiring of teachers and to encourage talented people to enter this vital profession. I would add, as a strong proponent of State and local control over education, that this measure in no way affects hiring decisions which remain in place as they currently operate. The goal, as I stated earlier, is to reduce paperwork burdens, provide greater efficiency, and information to all who are interested in the teaching profession. I hope my colleagues will join me in enacting this legislation.

Mr. President, I ask unanimous consent that the text of my bill be inserted at the end of my remarks.

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

S. 2196

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) nearly 2,800,000 individuals are engaged in teaching at the elementary and secondary level;

(2) it is necessary to fill teaching positions with qualified individuals;

(3) there is no readily available means of matching available teaching positions with applicants for teaching positions;

(4) there may be teacher shortages by geographic area or subject matter;

(5) it will be necessary to fill teaching positions on an annual basis;

(6) there are over 15,000 school districts, and there is no readily available means to identify available teaching positions in such districts;

(7) many new college graduates may wish to enter the teaching profession but are unable to match their interests with available teaching jobs; and

(8) individuals employed as teachers may wish to remain in the teaching profession but desire to change their teaching position.

SEC. 2. PURPOSE.

It is the purpose of this Act to—

(1) match available teaching positions with applicants for teaching positions;

(2) facilitate the hiring of teachers;

(3) make information on job openings for teachers widely available;

(4) assist individuals seeking to enter the teaching profession; and

(5) help school districts recruit the best qualified applicants for teaching positions.

SEC. 3. TEACHER JOB BANK.

(a) PROGRAM ESTABLISHED.—The Assistant Secretary of the Office of Educational Research and Improvement is authorized to develop a program to be known as the Teacher Job Bank Program.

(b) PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—The program described in subsection (a) shall include—

(A) the development of a model computer program to link available teaching positions with applicants for teaching positions; and

(B) the awarding of grants to States in accordance with section 4 to enable such States to utilize the model program developed under subparagraph (A) to establish in the State a teacher job bank.

(2) CONSULTATION.—In carrying out paragraph (1), the Office of Educational Research and Improvement shall consult with the potential beneficiaries and users of the model program described in paragraph (1)(A), including teachers, school administrators, Governors, colleges and universities, and local educational agencies.

(c) STATE ADOPTION.—The Assistant Secretary of the Office of Educational Research and Improvement shall attempt to ensure that the model program described in subsection (b)(1)(A) is readily adopted by every State.

(d) SYSTEM CONTENTS.—The model program described in subsection (a)(1)(A) shall have the capability to provide to users with—

(1) the characteristics of the school system in a State;

(2) the number of school districts in a State;

(3) the teaching positions which are available in a State;

(4) the subject area and grade level for which there is an available teaching position; and

(5) any other information which is deemed by the Assistant Secretary of the Office of Educational Research and Improvement to be appropriate to facilitate the matching of available teaching positions with applicants for teaching positions.

(e) DATE.—The Office of Educational Research and Improvement shall have the model program described in subsection (b)(1)(A) available for implementation 1 year after the date of enactment of this Act.

SEC. 4. STATE IMPLEMENTATION; GRANTS

(a) IN GENERAL.—After the development of the model program described in section 3(b)(1)(A), the Assistant Secretary of the Office of Educational Research and Improvement shall notify the Governors of each State of the availability of such model program for implementation in the State.

(b) GRANTS.—

(1) GRANTS AUTHORIZED.—The Assistant Secretary of the Office of Educational Research and Improvement shall award grants to States to enable such States to utilize the model program described in section 3(b)(1)(A) to establish in the State a teacher job bank.

(2) MATCHING REQUIREMENTS.—Grants awarded under this section shall be matched from non-Federal sources on a dollar-for-dollar basis.

(c) APPLICATION.—In order to receive a grant under this title, a State shall submit an application to the Assistant Secretary for the Office of Educational Research and Improvement at such time, in such manner, and containing such information as the Assistant Secretary may require.

(d) LEAD AGENCY.—The Governor of each State desiring to participate in the program assisted under this Act shall specify in the application submitted under this section an appropriate State agency to act as the lead State agency for the purposes of administering the funds provided to the State under this Act and to establish and maintain a teacher job bank for such State.

(e) USE OF FUNDS.—

(1) IN GENERAL.—Grant funds under this section shall be used to establish in the State a teacher job bank and may be used for the purchase of the necessary equipment and hardware to make the teacher job bank operational.

(2) LIMITATION.—Grant funds under this section may not be used for ongoing maintenance and operation of a teacher job bank in a State.

SEC. 5. DEFINITIONS.

For the purpose of this section—

(1) the term "local educational agency" has the same meaning given to such term in section 1471(12) of the Elementary and Secondary Education Act of 1965;

(2) the term "State" means each of the 50 States and the District of Columbia; and

(3) the term "teacher job bank" means a system, developed pursuant to a model computer program described in section 3(b)(1)(A), of matching available teaching positions with applicants for teaching positions.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There authorized to be appropriated such sums as may be necessary in each of the fiscal years 1993, 1994, 1995, and 1996 to carry out the provisions of this Act.•

By Mr. GRAHAM (for himself, Mr. MCCAIN, Mr. KASTEN, Mr. LIEBERMAN, Mr. MACK, and Mr. LAUTENBERG):

S. 2197. A bill to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people; to the Committee on Foreign Relations.

CUBAN DEMOCRACY ACT OF 1992

Mr. GRAHAM. Mr. President, Fidel Castro is as isolated and repressive as he has ever been during his 33 years in power. He is on the ropes. The end of his tyrannical rule is thankfully in sight.

We all share in the hope of the Cuban people for a peaceful transition to democracy. This must be our goal. To achieve it, our Government must have a policy that will encourage peaceful change.

I am introducing legislation today that provides a blueprint for action. Joining me as original cosponsors are Senators LIEBERMAN, MACK, LAUTENBERG, MCCAIN, and KASTEN.

The bill we are sponsoring today is based upon several fundamental premises.

First, Castro is as weak as he has ever been. This is no time to take steps, even inadvertent ones, that might strengthen his hand. Rather, we continue to hear from dissidents inside Cuba to keep the pressure on, to take all peaceful steps to end the repression and violence once and for all.

Second, we should do all that we can to increase the flow of information to the Cuban people. That is the idea behind Radio and TV Marti. Expanding mail and telephone service, as called for under our bill, will have a similar impact.

It will increase pressure on Castro, while humanely expanding the means for the tens of thousands of families on the island to remain in touch with their loved ones who have fled.

Third, we should call on our allies to support our efforts. By no means do we try to punish countries doing business with Castro. Instead, we simply state that countries conducting subsidized trade with Cuba should expect no help from us. After all, if we wanted to subsidize Cuba, we could more effectively do so directly.

Fourth, our Government's policy toward Cuba seems to be one of letting events run their natural course. I am not sure what the natural course is in this case. What I do know is this. If we are to achieve a peaceful transition to democracy, we must have in place a coherent and comprehensive policy that will help achieve that goal.

Mr. President, let me briefly review the bill's major points.

This legislation represents the first significant change in the U.S. embargo since it was established in 1963 and altered in 1975.

That year, a provision prohibiting trade with Cuba by foreign subsidiaries was removed because of strong diplomatic pressures by foreign governments wishing to allow United States subsidiaries operating in their countries to trade with Cuba.

We would reinstate that provision. In 1990, applications by U.S. firms for sales by their foreign subsidiaries totaled more than $500 million, up from only $189 million in 1990. That is an unacceptable loophole, and we must close it.

For the first time, we establish civil penalties for organizations engaging in illegal trade with Cuba. Currently only criminal penalties are provided for, making it unnecessarily difficult to punish violators.

We authorize United States funding for nongovernmental organizations in Cuba. We want to accomplish in Cuba what we achieved in Eastern Europe, the Soviet Union, and Nicaragua. We want to support labor leaders and human rights activists. Some will suggest that United States support will compromise Cuban dissidents.

That is what they argued in the case of Vaclav Havel and Lech Walesa. We should let Cuba's Havels and Walesas decide that for themselves.

We require our Government to establish strict limits on remittances to Cuba by United States citizens financing the travel of Cubans to the United States. The Treasury recently placed a $500 ceiling on travel remittances to Cuba. We support that level, but we believe it is important to have this provision in law.

We expand phone service between Cuba and the United States. Existing service is of poor quality, and Cuban-American families pay 5 to 10 times the normal rate to place calls through Canada or other countries which do not limit phone service to Cuba.

Although a telephone cable agreement is being hammered out between the governments, our bill would include satellite and data transmission.

We also direct the United States postal service to provide direct mail service to and from Cuba. Although Cuba now opposes direct mail service, our Postal Service has never been encouraged to aggressively try to negotiate an agreement.

Lack of service causes great hardship for divided families. We hope that those in power in Cuba begin to finally acknowledge the interests of the Cuban people, at least in this instance.

Finally, the bill outlines a policy toward a post-Castro government. If that government is freely and fairly elected, the United States would grant full diplomatic recognition, provide emergency relief during Cuba's transition to a viable economic system, encourage debt rescheduling or cancellation, and end the embargo.

These steps will be taken only after the fall of communism. Any shipments of food and medicine in the meantime will be granted only for humanitarian reasons and will benefit only the Cuban people, not the Cuban authorities.

Mr. President, Fidel Castro's days are numbered. His economy is implod-

ing, his leadership evaporating. Milk and bread deliveries are being made by oxcart, according to a January 27, 1992, Miami Herald article. I ask unanimous consent that this article be printed in the RECORD.

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

[From the Miami Herald, Jan. 27, 1992]

ENERGY DIET LEAVES CUBA RUN-DOWN

(By Mimi Whitefield)

Towns in Cuba's Villa Clara province got zapped recently. They exceeded their daily power limit, electricity was turned off several times the next day to make up their energy-gobbling.

Milk and bread deliveries being made by ox cart, and oxen being used once again to plow fields.

Just getting across town Havana has become a major headache because many bus routes have been axed and people with their cars can buy only about a gallon of gas per week.

Traffic lights no longer function in a number of intersections. With few cars, there is no need for them.

Housewives can no longer do their ironing while watching daytime television, because week TV is now limited to evening. And their irons go on the blink, clothes stay wrinkled. Newlyweds are the only ones eligible to buy rationed irons.

At the office, secretaries had been asked to use manual instead of electric typewriters, and air conditioners are supposed to be turned off.

A television newscast exhorted: "An extraordinary effort is needed from the people. Only in this way will we be able to avoid power cuts."

Since the year began, Cubans have been on a drastic energy-reducing diet. There is virtually no chance the economy will perk up soon, according to economists, and Cuban officials themselves have warned that 1992 will be a most difficult year.

What impact all this austerity will have on internal politics is difficult to predict.

Some argue that this is the very time to make the U.S. trade embargo against Cuba even more stringent. The economy is already sinking, they say, and to pursue any other policy would help maintain Cuban President Fidel Castro in power and delay change.

That is the intent behind Florida Republican Sen. Connie Mack's legislation to limit the ability of foreign subsidiaries of U.S. companies to trade with Cuba.

However, Jorge Dominguez, a Cuba specialist at Harvard University, disagrees. "The effects of increasing economic hardship may be the opposite of what you might think," he said. "At least for the time being * * * increasing economic hardship makes the politics of opposition more difficult."

To organize and build political organizations, he said, Cubans need free time, and free time is a precious commodity these days.

If a Cuban has to rise at 5 a.m. to get food, ride a bicycle to work, perhaps arrive late and therefore angry, then ride the bike home and wait in line again for food for dinner, "he may not have the energy or the desire to assume the risks associated with attending a political meeting," Dominguez said.

"The main effect of economic hardship to date is to consolidate the current political regime," he said.

Castro has said that the island will probably have to get by with about one-third of the petroleum that it has traditionally used. About 80 percent of that oil was imported from the old Soviet Union, which delivered less than promised last year. Cuba is now trying to negotiate with Russia and other oil producers, but chances for sufficient supplies this year are bleak.

"This is why I consider the worst * * * is still to come, in 1992," Castro said.

The Committees for the Defense of the Revolution, the neighborhood watchdog groups that keep an eye out for counter-revolutionary activity, have been given an additional job: visiting families to explain the need to conserve.

The energy cutbacks have touched all aspects of Cuban life.

With the reduced bus routes, getting to work can be a major headache (only 113 routes will remain in Havana after Feb. 9, down from 161).

Many people now use bicycles, but some women whose families can scrape by without their income have quit working, both because getting to their jobs is so difficult, and because they need more time to hunt for food.

The energy shortage also has touched Cubans' favorite leisure activities. Television programming has been reduced from 129 to 81 hours weekly. Movie theater hours have been reduced, and most nighttime baseball games have been switched to days.

Cubans also are coping with worse-than-ever food shortages caused by large shortfalls in deliveries of food and raw materials from the old Soviet Union, plus disappointing results from the island's own production.

Food availability news has now become a feature of Cuban radio broadcasts. Often, the news is that a food item that should have been distributed weeks before has finally arrived.

Delays in delivery of chicken have become so common that the government has begun distributing live chicks and encouraging people to raise their own.

Just Wednesday, the government announced that the ration of a liter of milk every other day allotted to families with more than five members would be suspended immediately. Milk is still distributed to children under 7.

The colas (lines) where people wait to buy rum and beer in bottles, jars and pails have become unruly, so each person has been limited to two bottles. The move is also intended to end speculation; because many people sell the beverages on the black market for profit.

The new year also brought changes to newspapers. TeleRebelde recently reported that shipments of newsprint were minimal during 1991 and that Cuba hasn't been able to contract for any shipments for this year.

Granma, the Communist Party newspaper, has been cut back to six pages twice a week and four pages three times a week.

Hours at the post office have been reduced, too.

Because products to make soap and detergent haven't arrived from the Soviet Union, the Cubans are groping for alternatives. A small factory in Trinidad, for example, has developed a detergent from the maguey plant that is now being sold and used for dry cleaning in Cuba.

Radio Rebelde recently reported that 22 Havana hospitals are using sap from the hemp plant as a detergent to wash bed clothes.

Mr. GRAHAM. Mr. President, Castro has no one to blame but himself. He is reaping the whirlwind of his megalomaniacal revolution. He has brought this sad state of affairs on himself. Unfortunately, the Cuban people are suffering for his mistakes.

The Cuban people have about had enough. The day when we will be dealing with a post-Castro government is fast approaching. We must adopt a policy that hastens that day and prepares for the day after. This bill advances us toward that goal.

In conclusion, this legislation, Mr. President, has as its original cosponsors, Senators LIEBERMAN, MACK, LAUTENBERG, MCCAIN, and KASTEN. It is submitted in hopes that it will speed the day when there is a democracy in Cuba and when the United States will be able to demonstrate its good neighbor policy in rebuilding a free Cuba.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section summary be printed in the RECORD.

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

S. 2197

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 "Cuban Democracy Act of 1992".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The government of Fidel Castro has demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values. It restricts the Cuban people's exercise of freedom of speech, press, assembly, and other rights recognized by the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948. It has refused to admit into Cuba the United Nations human rights representative appointed to investigate human rights violations on the island.

(2) The Cuban people have demonstrated their yearning for freedom and their increasing opposition to the Castro government by risking their lives in organizing dissident activities on the island and by undertaking hazardous flights for freedom to the United States and other countries.

(3) The Castro government maintains a military-dominated economy that has decreased the well-being of the Cuban people in order to enable the government to engage in military interventions and subversive activities throughout the world and, especially, in the Western Hemisphere. These have included involvement in narcotics trafficking and support for the FMLN guerrillas in El Salvador.

(4) There is no sign that the Castro regime is prepared to make any significant concessions to democracy or to undertake any form of democratic opening. Efforts to suppress dissent through intimidation, imprisonment, and exile have accelerated since the political changes that have occurred in the former Soviet Union and Eastern Europe.

(5) Events in the former Soviet Union and Eastern Europe have dramatically reduced Cuba's external support and threaten Cuba's food and oil supplies.

(6) The fall of communism in the former Soviet Union and Eastern Europe, the now

universal recognition in Latin America and the Caribbean that Cuba provides a failed model of government and development, and the evident inability of Cuba's economy to survive current trends, provide the United States and the democratic community with an unprecedented opportunity to promote a peaceful transition to democracy in Cuba.

(7) However, Castro's intransigence increases the likelihood that there could be a collapse of the Cuban economy, social upheaval, or widespread suffering. The recently concluded Cuban Communist Party Congress has underscored Castro's unwillingness to respond positively to increasing pressures for reform either from within the party or without.

(8) The United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe. Therefore, it is appropriate for those allies to cooperate with United States policy to promote a peaceful transition in Cuba.

SEC. 3. STATEMENT OF POLICY.

It should be the policy of the United States—

(1) to seek a peaceful transition to democracy and economic prosperity in Cuba through the careful and sophisticated application of sanctions directed at the Castro government and support for the Cuban people;

(2) to seek the cooperation of other democratic countries in this policy;

(3) to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;

(4) to make assistance to the Commonwealth of Independent States or any of its republics conditional on the termination of military and technical assistance, subsidies, and other forms of assistance to Cuba from such Commonwealth or such republic, as the case may be;

(5) to continue vigorously to oppose the human rights violations of the Castro regime;

(6) to maintain sanctions on the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;

(7) to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;

(8) to encourage free and fair elections to determine Cuba's political future;

(9) to prevent Cuba from evading the United States embargo of that country through a North American Free Trade Agreement;

(10) to withhold nondiscriminatory (most-favored-nation) treatment from the People's Republic of China until the President has certified that the government of that country has made significant progress in reducing that country's assistance to Cuba, whether such assistance is provided in the form of subsidized trade, management of trade balances, or in any other form; and

(11) to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era.

SEC. 4. INTERNATIONAL COOPERATION.

(a) MAJOR CUBAN TRADING PARTNERS.—The President shall direct the United States Trade Representative to enter into negotiations with the governments of countries that conduct trade with Cuba for the purpose of securing the agreement of such countries to restrict their trade and credit relations with Cuba in a manner consistent with United States policy and the purposes of this Act.

(b) SANCTIONS AGAINST COUNTRIES ASSISTING CUBA.—

(1) SANCTIONS.—In the case of any country that provides assistance to Cuba—

(A) the government of such country shall not receive assistance under the Foreign Assistance Act of 1961 or assistance under the Arms Export Control Act;

(B) the United States shall not enter into any agreement with such country to establish free trade areas;

(C) such country shall not be an eligible country under the Enterprise for the Americas Initiative; and

(D) such country shall not be eligible, under any other program, for forgiveness or reduction of debt owed to the United States Government.

(2) DEFINITION OF ASSISTANCE.—For purposes of paragraph (1), "assistance to Cuba"—

(A) means assistance to or for the benefit of the Government of Cuba that is provided by grant, concessional sale, guaranty, or insurance, or by any other means on terms more favorable than that generally available in the applicable market, whether in the form of a loan, lease, credit, or otherwise, and such term includes subsidies for exports to Cuba and favorable tariff treatment of articles that are the growth, product, or manufacture of Cuba; and

(B) does not include—

(i) donations of food to Cuba through international organizations, or

(ii) exports to Cuba of medicines that would be permitted under section 5(c) of this Act.

(3) APPLICABILITY OF SECTION.—This section, and any sanctions imposed pursuant to this section, shall cease to apply at such time as the president makes and reports to the Congress a determination under section 8.

SEC. 5. SUPPORT FOR THE CUBAN PEOPLE.

(a) PROVISIONS OF LAW AFFECTED.—The provisions of this section apply notwithstanding any other provision of law, including section 620(a) of the Foreign Assistance Act of 1961, and notwithstanding the exercise of authorities, before the enactment of this Act, under section 5(b) of the Trading With the Enemy Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979.

(b) DONATIONS OF FOOD.—Nothing in this or any other Act shall prohibit donations of food to Cuba through international organizations.

(c) EXPORT OF MEDICINES.—The export to Cuba of medicines for humanitarian purposes and only for the use and benefit of the Cuban people shall not be restricted except to the extent authorized by section 5(m) of the Export Administration Act of 1979.

(d) TELECOMMUNICATIONS SERVICES AND FACILITIES.—

(1) TELECOMMUNICATIONS SERVICES.—Telecommunications services between the United States and Cuba shall be permitted.

(2) TELECOMMUNICATIONS FACILITIES.—Telecommunications facilities, including cable and satellite facilities, are authorized in such quantity and of such quality as may be necessary to provide the services permitted under paragraph (1).

(3) LICENSING OF PAYMENTS TO CUBA.—(A) The President shall provide for the issuance of licenses for the full or partial payment to Cuba of amounts due Cuba as a result of the provision of telecommunications services authorized by this subsection, taking into account the United States public interest and the purposes of this Act.

(B) If only partial payments are made to Cuba under subparagraph (A), the amounts withheld from Cuba shall be deposited in an account in a banking institution in the United States. Such account shall be blocked in the same manner as any other account containing funds in which Cuba has any interest, pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(4) AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION.—Nothing in this subsection shall be construed to supersede the authority of the Federal Communications Commission to issue such licenses and authorizations for the provision of services or acquisition of facilities as may be required under the Communications Act of 1934.

(e) DIRECT MAIL DELIVERY TO CUBA.—The United States Postal Service shall take such actions as are necessary to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers.

(f) ASSISTANCE TO SUPPORT DEMOCRACY IN CUBA.—The President may provide assistance, through appropriate nongovernmental organizations, for the support of individuals and organizations to promote nonviolent democratic change in Cuba.

SEC. 6. SANCTIONS.

(a) PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.—

(1) PROHIBITION.—Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) APPLICABILITY TO EXISTING CONTRACTS.—Paragraph (1) shall not affect any contract entered into before the date of the enactment of this Act.

(b) PROHIBITION RELATING TO TAX DEDUCTIONS.—

(1) PROHIBITION.—A domestic concern may not receive a tax deduction for that portion of the otherwise deductible expenses of such domestic concern, or of a foreign subsidiary or affiliate of such domestic concern, which is allocated or apportioned to income derived from Cuba. For purposes of this subsection, income paid through one or more entities shall be treated as derived from Cuba if such income was, without regard to such entities, derived from Cuba.

(2) DEFINITION.—For purposes of this subsection, a "foreign subsidiary or affiliate" of a domestic concern is a partnership, corporation, or other enterprise organized under the laws of a foreign country which is controlled in fact by such domestic concern (as determined under regulations of the President).

(c) PROHIBITION ON VESSELS THAT ENTER CUBAN PORTS TO ENGAGE IN TRADE.—

(1) IN GENERAL.—Beginning on the 61st day after the date of the enactment of this Act, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight at any place in the United States.

(2) DEFINITIONS.—As used in this subsection—

(A) the term "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft; and

(B) the term "United States" includes the territories and possessions of the United States and the customs waters of the United States (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)).

(d) RESTRICTIONS ON REMITTANCES TO CUBA.—The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Castro regime as a means of gaining access to United States currency.

(e) CLARIFICATION OF APPLICABILITY OF SANCTIONS.—The prohibitions contained in subsections (a), (b), and (c) shall not apply with respect to any activity otherwise permitted by section 5 or section 7.

SEC. 7. POLICY TOWARD A TRANSITIONAL CUBAN GOVERNMENT.

Food, medicine, and medical supplies for humanitarian purposes may be made available for Cuba under the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 if the President determines and certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba—

(1) has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;

(2) has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and

(3) is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.

SEC. 8. POLICY TOWARD A DEMOCRATIC CUBAN GOVERNMENT.

(a) WAIVER OF RESTRICTIONS.—The President may waive the requirements of section 6 if the President determines and reports to the Congress that Cuba has established democratic institutions through free, fair, and open elections, under international supervision, that represent the will of the majority of the Cuban people.

(b) POLICIES.—If the President makes a determination under subsection (a), it shall be the policy of the United States to take the following actions with respect to a Cuban Government elected pursuant to elections described in subsection (a):

(1) To grant full diplomatic recognition to such government, and to encourage the admission of such government to international organizations and international financial institutions.

(2) To provide emergency relief during Cuba's transition to a viable economic system.

(3) To encourage rescheduling or cancellation of Cuba's external debt.

(4) To end the United States trade embargo of Cuba.

(5) To enter into negotiations for a framework agreement providing for trade with Cuba.

SEC. 9. EXISTING CLAIMS NOT AFFECTED.

Except as provided in section 5(a), nothing in this Act affects the provisions of section 620(a)(2) of the Foreign Assistance Act of 1961.

SEC. 10. ENFORCEMENT.

(a) ENFORCEMENT AUTHORITY.—The authority to enforce this Act shall be carried out by the Secretary of the Treasury. The Secretary of the Treasury shall exercise the authorities of the Trading With the Enemy Act in enforcing this Act. In carrying out this subsection, the Secretary of the Treasury shall take the necessary steps to ensure that activities permitted under this Act are carried out for the purposes set forth in this Act and not for purposes of the accumulation by the Cuban Government of excessive amounts of United States currency or the accumulation of excessive profits by any person or entity.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this Act.

(c) PENALTIES UNDER THE TRADING WITH THE ENEMY ACT.—Section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16) is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following:

"(b) The Secretary of the Treasury may impose a civil penalty of not more than $100,000 on any person who violates any license, order, rule, or regulation issued under this Act.".

(d) APPLICABILITY OF PENALTIES.—The penalties set forth in section 16 of the Trading With the Enemy Act shall apply to violations of this Act to the same extent as such penalties apply to violations under that Act.

(e) OFFICE OF FOREIGN ASSETS CONTROL.—The Department of the Treasury shall establish and maintain a branch of the Office of Foreign Assets Control in Miami, Florida, in order to strengthen the enforcement of this Act.

SEC. 11. DEFINITION.

As used in this Act, the term "United States person" means any United States citizen or alien admitted for permanent residence in the United States, and any corporation, partnership, or other organization organized under the laws of the United States.

SEC. 12. EFFECTIVE DATE.

This Act shall take effect on the date of the enactment of this Act.

CUBAN DEMOCRACY ACT OF 1992—SECTION-BY-SECTION SUMMARY

Section 1. Short title.

Section 1 provides that the Act may be cited as the "Cuban Democracy Act of 1992."

Section 2. Findings.

Section 2 provides findings with respect to Cuba.

Section 3. Statement of Policy.

Section 3 provides a statement of policy with respect to Cuba.

Section 4. International Cooperation.

(a) Major Cuban Trading Partners.

Section 4(a) provides that the President shall direct the United States Trade Representative to enter into negotiations with countries that conduct trade with Cuba for the purpose of securing their agreement to restrict their trade and credit relations in a manner consistent with U.S. policy and with this Act.

(b) Sanctions Against Countries Assisting Cuba.

Section 4(b) states that countries that provide assistance to Cuba are ineligible for U.S. assistance, for free trade agreements with the United States, for benefits under the Enterprise for the Americas Initiative, and for any other form of forgiveness of U.S. government debt, unless the President makes a determination under section 8.

Section 5. Support for the Cuban People.

(a) Provisions of Law Affected.

Section 5(a) is a technical provision.

(b) Donations of Food.

Section 5(b) provides that nothing in this or any other Act shall prohibit donations of food to Cuba through international organizations.

(c) Export of Medicines.

Section 5(c) permits the export to Cuba of medicines for humanitarian purposes and only for the use and benefits of the Cuban people.

(d) Telecommunications Services and Facilities.

Section 5(d): Permits the establishment of telecommunications services between the United States and Cuba; authorizes such telecommunications facilities as may be necessary to provide such services; directs the President to permit appropriate payments to Cuba of amounts due it for the provision of such services; directs that any portion of such payments that is withheld from Cuba shall be deposited in blocked accounts; and provides that this section does not supersede the authority of the FCC under the Communications Act of 1934.

(e) Direct Mail Delivery to Cuba.

Section 5(e) directs the U.S. Postal Service to provide direct mail service to and from Cuba.

(f) Assistance to Support Democracy in Cuba.

Section 5(f) authorizes the President to provide assistance to individuals and organizations to promote nonviolent democratic change in Cuba, through appropriate nongovernmental organizations.

Section 6. Sanctions.

(a) Prohibition of Certain Transactions.

Section 6(a) prohibits exports to Cuba by foreign subsidiaries of United States firms, except that existing contracts may be fulfilled.

(b) Prohibition Relating to Tax Deductions.

Section 6(b) prohibits a domestic concern from receiving a tax deduction for that portion of otherwise deductible expenses which is allocated or apportioned to income derived from China.

(c) Prohibition on Vessels That Enter Cuban Ports.

Section 6(c) provides that a vessel that enters a port in Cuba to engage in trade may not within the ensuing 180 days engage in trade in a United States port.

(d) Restrictions on Remittances to Cuba.

Section 6(d) directs the President to establish strict limits on remittances to Cuba for the purpose of financing the travel of Cubans to the United States.

Section 7. Policy Toward a Transitional Cuban Government.

Section 7 provides that food, medicine, and medical supplies for humanitarian purposes may be made available to Cuba if the President determines that the government in power in Cuba has made and is implementing a public commitment to hold free and fair elections within six months and to respect human rights and democratic freedoms, and is no longer supporting the violent overthrow of other governments.

Section 8. Policy Toward a Democratic Cuban Government.

(a) Waiver of Restrictions.

Section 8(a) provides that the President may waive the requirements of section 6 if he determines that Cuba has a democratic government.

(b) Policies.

Section 8(b) provides that, if the President makes a determination under subsection (a), the following shall be U.S. policy with respect to Cuba: to grant full diplomatic recognition, to provide emergency relief, to encourage debt relief, to end the trade embargo, and to enter into negotiations for a free trade agreement.

Section 9. Existing Claims Not Affected.

Section 9 states that nothing in this Act affects the provisions of section 620(a)(2) of the Foreign Assistance Act of 1961.

Section 10. Enforcement.

(a) Enforcement Authority.

Section 10(a) provides that the authority to enforce this Act shall be carried out by the Secretary of the Treasury, and directs the Secretary to ensure that activities permitted under this Act are carried out for the purposes set forth in this Act and not for purposes of accumulation by the Cuban Government of excessive amounts of U.S. currency or the accumulation of excessive profits by any person or entity.

(b) Authorization of Appropriations.

Section 10(b) authorizes the appropriation of such sums as may be necessary to carry out this Act.

(c) Penalties Under the Trading With the Enemy Act.

Section 10(c) amends section 16 of the Trading With the Enemy Act to provide civil penalties of up to $100,000 for violations of the Act.

(d) Applicability of Penalties.

Section 10(d) provides that the penalties of section 16 of the Trading With the Enemy Act shall apply to violations of this Act.

(e) Office of Foreign Assets Control.

Section 10(e) directs the Department of the Treasury to establish a branch of the Office of Foreign Assets Control in Miami in order to strengthen enforcement of this Act.

Section 11. Definitions.

Section 11 provides definitions.

Section 12. Effective Date.

Section 12 provides that this Act shall become effective upon enactment.

Mr. McCAIN. Mr. President, I am very pleased to be an original cosponsor of the Cuban Democracy Act of 1992, and I commend the bill's sponsors, Senators GRAHAM and LIEBERMAN, and the other cosponsors of this legislation for their dedication to the peaceful democratization of Cuba.

This is the age of democracy. The clash of ideas and civilizations that have defined this century through cold war and armed conflict is nearly over. The advocates of freedom have defeated the architects of totalitarianism for leadership of human history.

Successive generations of Americans have given generously of our resources—including our most precious resources—to the cause of human freedom. The values which we have defended from our Declaration of Independence to the present are ascendant in nearly all societies on Earth, and we are justifiably proud of this historic accomplishment.

However, Mr. President, even as we celebrate our victory we must remain mindful that there remain exceptions—important exceptions—to the global progress of democracy. And we must persevere in our determination to see that all peoples everywhere share in the blessings of liberty.

Nowhere are the remnants of Communist tyranny more disturbing to Americans than here in our own hemisphere. While virtually all the nations of the Americas are now united in our allegiance to democratic principles and free market economies, Fidel Castro stands alone and defiant.

While nearly all the countries of the Americas are joined in building the institutions of democracy and free markets, Castro hopes to perpetuate his tyranny on the crumbling foundation of a politically and economically bankrupt regime.

While nearly all the countries of the Americas pursue the creation of a hemispheric free trade regime, Castro instructs his people to ride bicycles.

While nearly all the countries of the Americas have emptied their jails of political prisoners, Castro counters dissent with the firing squad.

Castro is blinded by his nostalgia for a time when the world was vastly different than it is today. He longs for the return of a time when the emerging nations of the Third World were attracted to young revolutionaries who disguised dictatorship as social justice.

But as we all know, the inhumanity of Marxist-Leninists has isolated them from their people and from contemporary mass movements. For the purpose of contemporary mass movements is the establishment of democratic government. The historical antecedents to recent events in Prague and Gdansk and Managua and Moscow did not occur in La Sierra Maestra. They occurred in Boston, in Philadelphia, in Williamsburg.

Thus, Mr. President, the United States has a special obligation as leader and principal architect of the age of democracy to sustain our advocacy of freedom until the moment when no regime on earth stands as an impediment to any societies' transition to democracy.

The Cuban Democracy Act exemplifies our determination not to relinquish our leadership of this just cause. It seeks to firmly establish our support for the oppressed people of Cuba by shaping the united opposition of the ever expanding free world to the maintenance of Castro's rule.

Mr. President, this legislation calls for the employment of strong measures to compel concerted international action to hasten the liberation of Cuba. I do not agree with every provision of this bill, but, on balance, this bill recommends a necessary program of action to accomplish our goal.

There is one provision with which I take strong exception. Among the sanctions we intend to impose against countries assisting Cuba is the United States refusal to "enter into any agreement with—a country that assists Cuba—to establish free trade areas." This provision would directly affect the conclusion of a free trade agreement with Mexico.

While no sponsor of this bill is pleased with Mexico's lingering support for Castro, I fear that by rejecting the development of a hemispheric free trade market, for which the North American Free Trade Agreement would serve as a cornerstone, the United States would unintentionally jeopardize the democratic and economic development of many other nascent democracies in North and South America. It would constitute a severe setback to the political reformers in Mexico, led by President Salinas, who have made such great strides in bringing Mexico into the fold of modern, democratic nations.

The United States is right to express our dissatisfaction with the remnants of a Mexican foreign policy which sought to appease local tyrants. But our dissatisfaction should not move us to put at risk the future political and economic progress of the Americas.

Accordingly, I hope that in consultations with the sponsors of this bill, and with members of the committees with jurisdiction over it, we can modify the language of this provision in recognition of these concerns. If we are unable to affect this change, I would be obliged to regretfully withdraw my support of the bill. I wish to be perfectly clear on this point, Mr. President. If the provision that would prevent the United States from entering into a free-trade agreement with Mexico remains in the bill I would be compelled to oppose adoption of the Cuban Democracy Act.

Having said this, Mr. President, let me stress that I am confident that we can reach a resolution of this question. As I have said, the Cuban Democracy Act, is an excellent expression of United States support for the struggle for freedom. It is vitally important that Americans sustain our fidelity to the cause in these last hours of freedom's conflict with tyranny. It is important not only to the welfare of the Cuban people, but to our own welfare as well.

For, as a nation founded to serve a democratic ideal, we are reaffirmed by every instance where a people free themselves from subjugation to the State or from the ambitions of a ruling elite. And our contribution to their triumph constitutes our finest hour. The Cuban Democracy Act is the most recent example of America's proud legacy to the world. I am proud to be a cosponsor, and, assuming that my reservations concerning the bill's impact on the North American Free-Trade Agreement are satisfactorily addressed I would urge all my colleagues to join with us in helping Cuba enter the community of free nations.

Mr. LAUTENBERG. Mr. President, I am glad to join as an original cosponsor of the Cuba Democracy Act to support freedom for the people of Cuba.

This bill will tighten the screws on the embargo against Cuba and help bring about a democratic end to Castro's regime. Democracy and freedom have spread like wildfire over Eastern Europe and the Soviet Union. Cuba cannot be far behind.

It may not be today. It may not even be tomorrow. But just as surely as

Honnecker, Zhivkov, and Ceausescu fell to the sweep of history, Castro will one day be a man of the past.

Democracy is infectious, and the ideals and freedoms we hold dear have taken root in formerly Communist countries at an astonishing pace. Eastern Europeans and the Soviets have affirmed what Americans knew all along: Freedom is a basic right that people will die for. Ultimately, it cannot be denied in Cuba either. We know that the Cuban people want it, yearn for it, and are willing to fight for it.

Americans are a fortunate people. We have the ultimate freedoms. But those in Cuba have not been so lucky. Fidel Castro has denied them the freedoms we enjoy every day. As Americans, we have a special obligation to help bring democracy to that island.

This bill well help accomplish that goal by tightening the embargo against Cuba. The bill directs the United States Trade Representative to negotiate with countries that conduct trade with Cuba to secure restrictions on that trade. It puts on notice any country contemplating providing grants, subsidies, or credits to Cuba that there will be a price to pay in terms of United States assistance and benefits. It would extend the United States embargo of Cuba to subsidiaries of United States owned or controlled subsidiaries overseas. It would prohibit ships from stopping in the United States for 6 months if they've stopped in Cuba for the purposes of trade.

The bill would also directly help the people of Cuba in their quest for freedom. Supporting the free flow of information from democratic countries into Cuba is critical to spreading democracy in that nation. To that end, the bill would provide for direct mail service to and from Cuba. It would authorize assistance to support individuals and organizations in Cuba that promote democracy. And it would support telecommunication services between the United States and Cuba.

Mr. President, I am proud to be an original cosponsor of this legislation and I urge my colleagues to support it as well.

By Mr. BOREN:

S. 2198. A bill to amend the National Security Act of 1947 to reorganize the U.S. intelligence community to provide for the improved management and execution of U.S. intelligence activities, and for other purposes; to the Select Committee on Intelligence.

INTELLIGENCE REORGANIZATION ACT OF 1992

• Mr. BOREN. Mr. President, last year the Select Committee on Intelligence embarked on a review of the organization of the U.S. intelligence community, focusing particularly on its management structure. We held two hearings on the subject early in the session, and the staff of the committee conducted interviews with over 130 current and former officials to obtain their views. We had planned to issue a report which incorporated the results of our inquiry, and have hearings on that report.

Unfortunately, this effort was sidetracked by the Gates' nomination and by the complications which developed on last year's intelligence authorization bill, and we were unable to carry through on our plans where reorganization is concerned.

This delay may, however, prove somewhat fortuitous. In the intervening period, we have had momentous developments in what had been the Soviet Union, and the future, while far from certain, appears to be a bit clearer at least where the former Soviet Union is concerned. We have also had an opportunity to digest the results of the Persian Gulf war from an intelligence standpoint. The passage of time has, in my view, improved our perspective on this event.

It is my hope that in this session of Congress, which will be my last as chairman of the Select Committee on Intelligence, the committee will be able to devote its attention to rethinking the management structure of the intelligence community.

The time could not be more ripe for such a review. The concerns which motivated the creation of the intelligence community after the Second World War have now dramatically changed, but have been replaced by new challenges and new uncertainties. Indeed, it is difficult to recall any point in the last 40 years where such uncertainty exists with respect to the international situation. Far from being a period where we can do without intelligence, the need for intelligence has never been greater.

We have an intelligence structure, however, that evolved over the last 40 years to cope with a world which is now past, and that structure is in need of considerable recalibration and streamlining. At the same time, funding for intelligence must inevitably decline, and, indeed, can decline, in my view, without damaging our national security interests.

President Bush, as we know, has already set in motion a comprehensive review of the intelligence structure within the executive branch. The administration's goal is to have specific legislative proposals to the Congress in time to be considered in this year's budget cycle. I applaud this initiative, and look forward to working with the administration in a spirit of cooperation and common purpose to craft changes which will lead to a stronger intelligence capability, albeit in a time of shrinking resources. I am convinced this can and should be done.

At the same time, I think our process will be better served by several reform proposals being offered, rather than our simply reacting to a single proposal offered by the administration.

I am, therefore, Mr. President, today introducing a bill to restructure the U.S. intelligence community, the Intelligence Reorganization Act of 1992. This bill was developed as a result of, and reflects, the work done last year by the committee and its staff.

Before highlighting its key provisions, I want to make several preliminary points.

First, I am introducing this legislation now to prompt discussion of the issues involved. I am not wedded to any particular proposal at this stage, and will await the results of the legislative process before making up my mind as to their desirability.

Second, I realize that several provisions of this bill could be implemented by the executive branch without enabling legislation. We may ultimately wish to leave them to the Executive without making them law, but I think it is useful to have them as part of this proposal in order to spark discussion of the issues which they pose.

Third, I recognize that some areas of the bill overlap the jurisdiction of the Committee on Armed Services. I look forward to working with that committee and its distinguished chairman, Senator NUNN, to arrive at something that ultimately makes sense to both committees.

Finally, in introducing this bill now, I have no intent to preempt other reorganization proposals, either from Members of this body, from the House of Representatives, or the administration itself. Indeed, the distinguished chairman of the House Permanent Select Committee on Intelligence, Mr. MCCURDY, is today introducing similar legislation today in the House of Representatives. While it differs in some respects from the bill I am introducing, it deals with most of the same issues. I see it as a welcome contribution to the debate, providing us with a number of additional ideas to consider in the course of our hearings on this subject.

The bill I am introducing today, Mr. President, represents a comprehensive restructuring of the U.S. intelligence community. It has several broad purposes.

The first and most important is to strengthen the management of the intelligence community at all levels. In the past, where there was a clear target for most intelligence collection and analysis, and in an era of rising resources, the need for effective, streamlined management was less critical. Now we need to get the most out of shrinking resources, concentrating them where we need them. We also need better integration of national and tactical intelligence activities. We can no longer afford to manage these areas independent of one another.

A second purpose is to make existing institutions work more effectively. We need to create a structure that elevates and institutionalizes the analytical

function. We need a structure that attracts the brightest and the best and ensures they have a part in the policy process.

A third purpose is to clarify by law the responsibilities of agencies within the intelligence community and to create new management structures where they are needed. In some cases, notably, with respect to the Defense Intelligence Agency, the lack of clear statutory authority has impeded the ability of intelligence agencies to get the job done. In areas such as imagery, the lack of unified management structure has led to duplication, lack of uniformity, and less than an optimum use of resources.

A fourth purpose is to institutionalize certain relationships within the intelligence community. I am particularly concerned that the organizational links between the intelligence community and the White House be stronger. While I share the view that the head of the intelligence community should not be a policy advocate, the intelligence community must be a player in the policy debates at the White House—not simply within the National Security Council apparatus, but also in support of other offices within the Executive Office of the President which have responsibilities with international implications. And while the intelligence community is not in the business of making policy, it cannot be isolated from the policy community it was established to serve.

A fifth purpose is to improve the congressional oversight of these activities. This bill would provide for the confirmation of additional key officials within the intelligence community, and would give the two intelligence committees similar ability to oversee both national and tactical intelligence activities.

Again, Mr. President, I do not pretend that this bill has all the answers. Nor do I pretend that it is free of problems. Few would accept it as written. But I think it poses the issues involved reasonably well and is a credible beginning point for discussion.

Let me now highlight the key features of this proposal, starting with proposals for change at the top.

The bill would create a new director of national intelligence to coordinate U.S. intelligence activities, to serve as the President's principal intelligence adviser, and to provide operational supervision of the Central Intelligence Agency.

The bill would make the Director of National Intelligence a nonvoting participant in the National Security Council. Existing law does not provide any such role for the DCI.

The bill would also create as a committee of the National Security Council a Committee on Foreign Intelligence, chaired by the President's National Security Adviser, with membership composed of the DNI, the Secretaries of State, Defense, and Commerce, and such other officials as the President may designate. It would be the responsibility of this NSC Committee to set the overall course for the intelligence community; to ensure that the overall goals, policies, and resource decisions of a particular administration are translated into goals, priorities, and resource allocations for the intelligence community; and to assess, on behalf of the President, how the intelligence community performs. Although there have been such mechanisms attempted in previous administrations, none is provided for in existing law, and none exists today. I believe it is essential that this type of mechanism exist, otherwise the intelligence community may find itself on its own, out of touch with what it is particular administrations expect of it.

The bill would restate the existing duties and authorities of the Director of Central Intelligence, and transfer them to the new Director of National Intelligence. It also calls for the appointment of two new Deputy Directors, confirmed by the Senate, to assist the Director in carrying out these responsibilities.

The bill would create two Deputy Directors of National Intelligence to assist the DNI in carrying out both of his coordinating roles. Thus, the bill provides for a Deputy Director for Estimates and Analysis, to carry out the DNI's responsibilities to provide intelligence to the President and other senior officials of the Government; and a Deputy Director of National Intelligence for the intelligence community, to carry out the DNI's community coordination role.

The bill goes on to elaborate the Director's responsibilities in each of these areas. While generally these provisions reflect the DCI's existing responsibilities as assigned by Executive order, there are important differences to be noted. The bill also expressly provides for a number of mechanisms under the two Deputy Directors to address particular areas of responsibility.

The Deputy DNI for estimates and analysis, for example, is given responsibility for producing estimates, current intelligence, and other national level analysis. Provision is made for analysts from CIA and other agencies in the intelligence community to be transferred to this office. Indeed, it is contemplated that most analysts currently assigned to the CIA's Directorate for Intelligence would be shifted to the new Deputy DNI, leaving a much reduced analytical capability to support the operations of the CIA itself. This arrangement may also make similar reductions possible in the analytical components of other agencies.

The DNI's responsibilities for the intelligence community itself remain similar to those under the existing executive order, but with a few significant additions. For example, the bill would make the DNI expressly responsible for approving the acquisition of overhead reconnaissance systems to support both signals intelligence and imagery collection. The bill would also require the DNI to establish an independent office to evaluate the performance of the intelligence community, as well as require him to establish a permanent office to provide warning to policymakers and support in crises. Under this bill, the existing intelligence community staff would be formally abolished and its functions assumed by the new deputy or otherwise be apportioned pursuant to the bill.

The bill also provides for the appointment of a separate Director for the Central Intelligence Agency, who will report directly to the DNI, and be subject to his supervision and operational control. While this would create a measure of separation for CIA from the DNI himself, it would leave the DNI with direct responsibility for agency operations.

The bill also contemplates new functions for the CIA. For the first time, CIA would be made responsible for coordinating all intelligence collection by human agents, both overt and clandestine, to ensure that all U.S. requirements for this type of collection are being satisfied in the most efficacious, risk-free manner. No agency performs this function under existing operational arrangements. This is not intended to mean that the CIA will take over the humint operations of other agencies. We are talking here only of making the overall system more effective.

The bill also would considerably enhance the DNI's authorities with respect to the intelligence community, particularly in terms of giving him authority to make overall policy and resource decisions, and to shift personnel and resources to deal with crises.

Under the bill, the National Foreign Intelligence Program would become a separate line item in the President's budget, rather than being a part of the Defense Department budget. It would be appropriated to the DNI, who would allocate funds to recipients within the intelligence community, rather than having these funds come through the Department of Defense or be appropriated to other departments or agencies within the intelligence community.

The bill also provides for streamlining and strengthening the organizational arrangements for intelligence within the Department of Defense. It calls for the designation of an Assistant Secretary of Defense for Intelligence, consolidating the functions currently carried out by five separate offices within the office of the Secretary of Defense. It also would clarify the role of the Secretary of Defense

vis-a-vis the DCI, and provide for DOD management of a new tactical intelligence program, consolidating, for purposes of policy and resource management, the tactical intelligence activities of the military departments. This is key, I believe, to getting control of tactical intelligence activities and making them consistent and complementary of national intelligence activities.

The bill would also provide statutory authority for several intelligence components within DOD.

The National Security Agency, created by order of President Truman in 1952, would be established pursuant to law. Its functions would be similar to those under existing arrangements, with the exception that it would have sole responsibility within the intelligence community, subject to the approval of the DNI, for the procurement and operation of overhead reconnaissance systems to support signals intelligence collection. Under existing arrangements, this function is performed by a separate office within the intelligence community.

There would be a new defense agency created under the bill, called the National Imagery Agency. The bill contemplates the new agency performing for imagery collection and analysis, a role similar to that which NSA plays for signals intelligence. While it is not contemplated that the new agency will itself carry out all such activities, it would be responsible for coordinating and synchronizing such activities in satisfaction of the requirements of the Government as a whole for imagery collection. It, too, would have sole responsibility within the intelligence community, subject to the approval of the DNI, for the procurement and operation of overhead reconnaissance systems to support imagery collection. The bill leaves it to the DCI and Secretary of Defense jointly to determine precisely which elements of the Intelligence community will be transferred to the new agency.

The Defense Intelligence Agency is also given a statutory charter by the bill. While its principal responsibilities under the bill are similar to its existing responsibilities, the bill gives DIA new authorities to carry out these functions within DOD and the intelligence community.

The bill also mandates that the military departments themselves continue to maintain sufficient collection and analytical capabilities to satisfy national and departmental requirements. It is abundantly clear that the intelligence community depends heavily upon the military services to carry out its mission. Indeed, it could not be done without them. Thus, in streamlining and enhancing the authorities of the management structure above the military departments, it is absolutely essential that each of them continue to provide sufficient manpower and resources to the intelligence business, not only to satisfy their own service-unique requirements, but those of the entire government.

Finally, Mr. President, the bill would amend the Senate Resolution establishing the Select Committee on Intelligence to give it jurisdiction over tactical intelligence activities. Our House counterpart committee has had this jurisdiction since its inception while the Senate Intelligence Committee has not. As a practical matter, it is simply impossible for us to carry out our responsibilities for national intelligence programs without considering how tactical intelligence programs interact with and complement national programs. I think it is time that the jurisdictions of the two intelligence committees be made consistent on this point.

In conclusion, I recognize that this bill deals with an area where there is necessarily little public awareness. There is relatively little appreciation of the existing framework for intelligence activities among the American people, much less an appreciation of where the problem areas are, and which solutions should be adopted to fix them. And yet we have to legislate in public and can do so only if we are able to achieve a consensus within the two Houses of Congress and with the administration.

This bill is an attempt to provide a focus for this public debate. It is a starting point for discussion. It raises a number of serious, complicated issues; indeed, some are far more complicated than my statement today suggests. I recognize that. There will be opportunities in the months ahead to discuss them in the depth, and with the seriousness they deserve. We are not going to act precipitously, and we are going to keep an open mind.

Before I yield the floor, Mr. President, I ask unanimous consent that the text of the bill and a section-by-section explanation of the bill's provisions be printed in the RECORD at the conclusion of my remarks.

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

S. 2198

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 "Intelligence Reorganization Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—THE NATIONAL SECURITY COUNCIL

Sec. 101. Participation of the Director of National Intelligence in the National Security Council.
Sec. 102. Establishment of a Committee on Foreign Intelligence.

TITLE II—THE DIRECTOR OF NATIONAL INTELLIGENCE

Sec. 201. Appointment of Director and Deputy Directors of National Intelligence.
Sec. 202. Responsibilities and authorities of the Director of National Intelligence.
Sec. 203. Submission of a separate budget for the National Foreign Intelligence Program.

TITLE III—THE INTELLIGENCE ACTIVITIES OF THE DEPARTMENT OF DEFENSE

Subtitle A—Office of the Secretary of Defense

Sec. 301. Assistant Secretary of Defense for Intelligence.
Sec. 302. Responsibilities of the Secretary of Defense pertaining to the National Foreign Intelligence Program.
Sec. 303. Resource management for Defense intelligence programs.

Subtitle B—The National Security Agency

Sec. 311. Establishment of National Security Agency.

Subtitle C—The National Imagery Agency

Sec. 321. Establishment of National Imagery Agency.

Subtitle D—The Defense Intelligence Agency

Sec. 331. Establishment of the Defense Intelligence Agency.
Sec. 332. Responsibilities of the Agency.
Sec. 333. Authorities of the Director, Defense Intelligence Agency.

Subtitle E—The Military Departments

Sec. 341. Intelligence capabilities of the military departments.

TITLE IV—CONGRESSIONAL OVERSIGHT

Sec. 401. Inclusion of tactical military intelligence activities within jurisdiction of Select Committee on Intelligence.

TITLE V—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

Sec. 501. Definitions.
Sec. 502. Transfer of functions.
Sec. 503. Determinations of certain functions by the Office of Management and Budget.
Sec. 504. Personnel provisions.
Sec. 505. Delegation and assignment.
Sec. 506. Reorganization.
Sec. 507. Rules.
Sec. 508. Transfer and allocations of appropriations and personnel.
Sec. 509. Incidental transfers.
Sec. 510. Effect on personnel.
Sec. 511. Savings provisions.
Sec. 512. Separability.
Sec. 513. Transition.
Sec. 514. References.

TITLE VI—EFFECTIVE DATE

Sec. 601. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The principal threat to the United States which prompted the Congress to establish a permanent, peacetime intelligence capability at the end of World War II, namely the threat posed to the United States and its allies by the hostile actions of the Soviet Union and other Communist States, has now considerably diminished.

(2) At the same time it is clear that the United States must maintain an intelligence

capability, in its own national interests, to collect and analyze information concerning world events which may threaten its security, to be in a position to anticipate and respond to such events in an effective and timely manner.

(3) The existing framework for the conduct of United States intelligence activities, established by the National Security Act of 1947, has evolved largely without changes to the original statutory framework, but rather as a matter of Executive order or directive. In large part, this evolution has been prompted by advances in technology or by ad hoc developments in mission and circumstance, rather than reflecting an overall scheme, design, or purpose.

(4) While the Director of Central Intelligence has had an overall, coordinating role for United States intelligence activities, under existing law and by Executive order, in fact, the Director has lacked sufficient authorities to exercise this responsibility effectively, leaving control largely decentralized within elements of the Intelligence Community. Similarly, the Secretary of Defense has historically played a relatively weak role in coordinating intelligence activities within the Department of Defense.

(5) While a decentralized management system may have served United States interests during a period of rising resources, and where the principal targets for United States intelligence gathering and analysis were clear, the need of strengthened centralized management is greater in a period of declining resources and where United States interests around the world are less clear.

(6) It is also apparent that while, on balance, the Intelligence Community has well served United States security interests over the four decades of its existence, it has not, for various reasons, performed as well as it might. Civilian and military intelligence are not well integrated; unwarranted duplication remains a problem; and intelligence remains too isolated from the governmental process it was created to serve.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide a framework for the improved management of United States intelligence activities at all levels and within all intelligence disciplines;

(2) to provide an institutional structure that will better ensure that the Intelligence Community serves the needs of the Government as a whole in an effective and timely manner;

(3) to clarify by law the responsibilities of United States intelligence agencies; and

(4) to improve the congressional oversight of intelligence activities.

SEC. 3. DEFINITIONS.

The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 2 the following new section:

"SEC. 3. DEFINITIONS.

"As used in this Act—

"(1) the term 'commissioned officer of the Armed Forces' does not include a commissioned warrant officer;

"(2) the term 'Intelligence Community' includes—

"(A) the Office of the Director of National Intelligence, the Office of the Deputy Director of National Intelligence for the Intelligence Community, and the Office of the Deputy Director of National Intelligence for Estimates and Analysis (as established under section 102);

"(B) the Central Intelligence Agency (as established by section 102 of this Act);

"(C) the National Security Agency (as established by section 208 of this Act);

"(D) the Defense Intelligence Agency;

"(E) the National Imagery Agency (as established by section 209 of this Act);

"(F) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

"(G) the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, the Department of Energy and the Drug Enforcement Administration; and

"(H) the Bureau of Intelligence and Research of the Department of State;

"(3) the term 'intelligence' means information relating to the capabilities, intentions, or activities of foreign powers, organizations, or persons;

"(4) the terms 'national intelligence' and 'intelligence related to the national security'—

"(A) each refer to intelligence which pertains to the interests of the Government generally, rather than to the interests of a single department or agency of Government, or to a component of such department or agency; and

"(B) do not refer to intelligence necessary to plan or conduct tactical military operations by United States armed forces; and

"(5) the term 'National Foreign Intelligence Program' refers to all programs, projects, and activities of the Intelligence Community which are intended to produce national intelligence; and

"(6) the term 'overhead reconnaissance systems' includes satellite and airborne reconnaissance systems.".

TITLE I—THE NATIONAL SECURITY COUNCIL

SEC. 101. PARTICIPATION OF THE DIRECTOR OF NATIONAL INTELLIGENCE IN THE NATIONAL SECURITY COUNCIL.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end thereof the following new subsection:

"(h) The Director of National Intelligence (or, in his absence, a Deputy Director of National Intelligence) may, in his role as principal intelligence adviser to the National Security Council and subject to the direction of the President, attend and participate in meetings of the National Security Council. The Director (or, in his absence, the Deputy Director) shall not be entitled to vote on any policy matter before the National Security Council.".

SEC. 102. ESTABLISHMENT OF A COMMITTEE ON FOREIGN INTELLIGENCE.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402), as amended by section 101 of this Act, is further amended by adding at the end thereof the following new subsection:

"(i)(1)(A) There is established within the National Security Council the Committee on Foreign Intelligence (hereafter in this subsection referred to as the 'Committee') which shall be composed of the Director of National Intelligence, the Secretary of State, the Secretary of Defense, the Secretary of Commerce, or their respective deputies, the Assistant to the President for National Security Affairs, and such other members as the President may designate.

"(B) The Assistant to the President for National Security Affairs shall serve as chairman of the Committee.

"(2) The function of the Committee shall be to establish, consistent with the policy and objectives of the President, the overall requirements and priorities for the Intelligence Community and, regularly, to assess, on behalf of the President, how effectively the Intelligence Community has performed its responsibilities under this Act.".

TITLE II—THE DIRECTOR OF NATIONAL INTELLIGENCE

SEC. 201. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTORS OF NATIONAL INTELLIGENCE.

(a) IN GENERAL.—Section 102(a) of the National Security Act of 1947 (50 U.S.C. 403(a)) is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) in the first sentence—

(A) by striking "under the National Security Council"; and

(B) by striking "with a Director" and all that follows through "disability"; and

(3) by striking the second sentence and subsections (b) through (f) and inserting in lieu thereof the following:

"(2)(A) There shall be a Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate—

"(i) who shall serve as head of the United States Intelligence Community and shall act as the principal intelligence adviser to the President; and

"(ii) who shall exercise authority, direction, and control over the Central Intelligence Agency.

"(B) The Director of National Intelligence shall be subject to the policy directives of the President and the National Security Council.

"(b) To assist the Director of National Intelligence in carrying out his responsibilities under this Act, there shall be—

"(1) a Deputy Director of National Intelligence for the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall carry out such duties as the Director may assign with respect to the administration of the United States Intelligence Community; and

"(2) a Deputy Director of National Intelligence for Estimates and Analysis, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall carry out such duties as the Director may assign with respect to his responsibilities as described in section 103(a).

"(c) At any one time, either the Director of National Intelligence or the Deputy Director of National Intelligence for the Intelligence Community, but not both, shall be drawn from among the commissioned officers of the Armed Forces, whether in an active or retired status. The Director of the Central Intelligence Agency and the Deputy Director of National Intelligence for Estimates and Analysis shall be individuals who are not such officers. An individual appointed from among the commissioned officers of the Armed Forces shall be a general or flag officer in the grade of General or Admiral, or shall be promoted into such grade upon appointment, or shall, if retired, have previously attained such grade.

"(d)(1) A commissioned officer of the Armed Forces appointed pursuant to subsection (c), while serving in such position—

"(A) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

"(B) shall not exercise, by reason of his or her status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as authorized by this title; and

"(C) shall not be counted against the numbers and percentages of commissioned offi-

cers of the rank and grade of such officer authorized for the military department of which he is a member.

"(2) Except as provided in subparagraph (A) or (B) of paragraph (1), the appointment of a commissioned officer of the Armed Forces pursuant to subsection (c) shall in no way affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade.

"(3) Such commissioned officer of the Armed Forces appointed pursuant to subsection (c), while serving in such position, shall continue to receive military pay and allowances (including retired or retainer pay) payable to a commissioned officer of his grade and length of service for which the appropriate military department shall be reimbursed from funds available to the Director of National Intelligence. In addition to any pay or allowance payable under this subsection, such officer shall also receive, out of funds available to the Director of National Intelligence, annual compensation in an amount by which the annual rate of compensation payable for such position exceeds the total of his annual rate of military pay (including retired and retainer pay) and allowances.

"(e) The offices of the Deputy Directors of National Intelligence shall constitute a National Intelligence Center which shall be located in the same office building as that of the Director of National Intelligence.".

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—(1) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following new undesignated paragraph:

"Director of National Intelligence.".

(2) Section 5314 of such title is amended by adding at the end thereof the following new undesignated paragraphs:

"Director of the Central Intelligence Agency.

"Deputy Director of National Intelligence for the Intelligence Community.

"Deputy Director of National Intelligence for Estimates and Analysis.".

SEC. 202. RESPONSIBILITIES AND AUTHORITIES OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

(a) IN GENERAL.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended—

(1) by redesignating section 103 as section 106; and

(2) by striking section 102a and inserting in lieu thereof the following new sections:

"SEC. 103. RESPONSIBILITIES OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

"(a) PROVISION OF INTELLIGENCE.—Under the direction of the National Security Council, the Director of National Intelligence shall be responsible for providing timely, objective intelligence, independent of political considerations or bias and based upon all sources available to the United States Intelligence Community—

"(1) to the President; and

"(2) where appropriate—

"(A) to the heads of departments and agencies of the executive branch;

"(B) to the Chairman of the Joint Chiefs of Staff and senior military commanders; and

"(C) to the Senate and House of Representatives and the appropriate committees thereof.

"(b) ESTABLISHMENT OF COUNCIL AND OFFICE.—(1)(A) There is established the National Intelligence Council (hereafter in this section referred to as the 'Council'), composed of senior analysts within the Intelligence Community, who shall be appointed by, and serve at the pleasure of, the Director of National Intelligence.

"(B) The Council shall be responsible for—

"(i) the production of national intelligence estimates for the Government, which shall, among other things, convey, as appropriate, alternative views held by elements of the Intelligence Community; and

"(ii) otherwise assisting the Director in carrying out the responsibilities described in subsection (a).

"(C) Within their respective areas of expertise and under the direction of the Director, the members of the Council shall constitute the senior intelligence advisers of the Intelligence Community for purposes of representing the views of the Intelligence Community within the Government.

"(D) The Director shall make available to the Council such number of staff as may be necessary to permit the Council to carry out its responsibilities under this paragraph.

"(2) There is established under the Deputy Director of National Intelligence for Estimates and Analysis an Office of Intelligence Analysis that shall be headed by a director appointed by, and serving at the pleasure of, the Director of National Intelligence. The Office shall be composed of analysts assigned to agencies within the Intelligence Community and shall be responsible for preparing all current intelligence and other analysis that is intended to be disseminated within the Government as a whole.

"(c) AS HEAD OF THE INTELLIGENCE COMMUNITY.—In his capacity as head of the Intelligence Community, the Director shall, at a minimum, be responsible for—

"(1) developing and presenting to the President and the Congress an annual budget for the National Foreign Intelligence Program of the United States;

"(2) managing the collection capabilities of the Intelligence Community to ensure the satisfaction of national requirements;

"(3) promoting and evaluating the utility of national intelligence to consumers within the Government;

"(4) eliminating waste and unnecessary duplication within the Intelligence Community;

"(5) providing guidance, direction, and approval for the procurement and operation of overhead reconnaissance systems pursuant to sections 208 and 209 of this Act, to ensure appropriate compatibility and integration of such systems; and

"(6) protecting intelligence sources and methods from unauthorized disclosure.

"(d) ESTABLISHMENT OF OFFICE AND BOARD.—(1) There is established under the Deputy Director of National Intelligence for the Intelligence Community an Office for Warning and Crisis Support that shall be composed of full-time senior representatives of the Intelligence Community appointed by the Director of National Intelligence. The Office shall be headed by a director appointed by, and serving at the pleasure of, the Director of National Intelligence. The Office shall be responsible for—

"(A) identifying on a regular, continuing basis, using all available intelligence, any immediate threat to the national security of the United States, or any area or circumstance where United States intervention or involvement is, or may become, necessary or desirable;

"(B) providing to the President and other senior officials options pertaining to such intervention or involvement;

"(C) providing intelligence support during periods of crisis to the President and other senior officials, as appropriate; and

"(D) otherwise assisting the Director of National Intelligence in carrying out the responsibilities described in subsection (c).

"(2) The Director shall establish a board, under his control, composed of experienced current or former Government officials, without conflicting allegiances to particular elements of the Intelligence Community—

"(A) to provide a full-time capability to evaluate objectively the quality and timeliness of intelligence support provided the Government; and

"(B) otherwise to assist the Director of National Intelligence in carrying out the responsibilities described in subsection (c).

"SEC. 104. STRUCTURE OF THE CENTRAL INTELLIGENCE AGENCY.

"(a) APPOINTMENT OF DIRECTOR, CENTRAL INTELLIGENCE AGENCY.—There shall be a Director of the Central Intelligence Agency, who shall be appointed by the President, by and with the advice and consent of the Senate. Subject to the authority, direction, and control of the Director of National Intelligence, the Director shall be responsible for—

"(1) collecting intelligence through human sources and by other appropriate means, except that the Agency shall have no police, subpoena, or law enforcement powers, or internal security functions;

"(2) providing overall direction for the collection of intelligence through human sources by elements of the Intelligence Community to make the most effective use of resources and to minimize the risks to the United States and those involved in such collection, except that responsibility for carrying out such collection shall remain in the existing elements of the Intelligence Community which perform such functions;

"(3) performing such additional services of common concern to the Intelligence Community as the Director of National Intelligence determines can be more efficiently accomplished centrally; and

"(4) performing such other functions and duties related to intelligence affecting the national security as the President or the National Security Council may direct, including the carrying out of such covert actions as are authorized by the President under title V of this Act.

"(b) ESTABLISHMENT OF ASSISTANT DEPUTY DIRECTOR FOR OPERATIONS.—(1) There shall be within the Central Intelligence Agency an Assistant Deputy Director for Operations (Military Support), who shall be appointed by the Director of the Central Intelligence Agency, after consultation with the Chairman of the Joint Chiefs of Staff, from among the general or flag officers of the Armed Services and shall carry the grade of Major General or Rear Admiral.

"(2) The Assistant Deputy Director for Operations (Military Support) shall—

"(A) serve as the principal liaison of the Central Intelligence Agency with the Department of Defense to facilitate the collection of intelligence through the use of human sources; and

"(B) otherwise assist the Director of the Central Intelligence Agency with the responsibilities described in subsection (a)(2).

"SEC. 105. AUTHORITIES OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

"(a) ACCESS TO INTELLIGENCE.—Each component of the Intelligence Community shall provide access to the Director of National Intelligence to any intelligence related to the national security collected by that component.

"(b) USE OF FUNDS.—The Director of National Intelligence shall be responsible for

the allocation, obligation, and expenditure of funds within the National Foreign Intelligence Program budget for the purpose of achieving national objectives.

"(c) ROLE OF DNI IN REPROGRAMMING.—No funds made available under the National Foreign Intelligence Program may be reprogrammed by any component of the Intelligence Community without the prior approval of the Director of National Intelligence.

"(d) REPROGRAMMING PROCEDURES.—The Director of National Intelligence may reprogram funds within the National Foreign Intelligence Program in accordance with established reprogramming procedures in order to satisfy national requirements of a higher priority if prior notice is given to the head of the component of the Intelligence Community whose funds would be reprogrammed and a reasonable opportunity is provided for such head to appeal such action to the President.

"(e) USE OF RESERVE FOR CONTINGENCIES.—The Director of National Intelligence shall have authority to obligate or expend funds from the Reserve for Contingencies of the National Intelligence Agency for any intelligence or intelligence-related activity of the Intelligence Community in accordance with section 502 of this Act.

"(f) TEMPORARY REASSIGNMENT OF PERSONNEL.—Notwithstanding any other provisions of law, the Director of National Intelligence may temporarily reassign, for any period or periods totaling not more than 180 days, any individual assigned to a particular program within the National Foreign Intelligence Program to any other program within the National Foreign Intelligence Program in order to satisfy national requirements of a higher priority if, before such reassignment, the Director of National Intelligence—

"(1) notifies the head of the component of the Intelligence Community to which the individual is currently assigned;

"(2) provides a reasonable opportunity for such head to appeal such action to the President; and

"(3) notifies the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of the proposed reassignment.

"(g) INTELLIGENCE PRIORITIES.—Under the direction of the National Security Council, the Director of National Intelligence is authorized to direct the use of any collection capability within the Intelligence Community in order to satisfy a priority intelligence requirement of the United States.

"(h) COORDINATION WITH FOREIGN GOVERNMENTS.—Under the direction of the National Security Council, the Director of National Intelligence shall coordinate the relationships between elements of the Intelligence Community and the intelligence or security services of foreign governments.

"(i) PREPARATION OF NATIONAL INTELLIGENCE ANALYSES.—The Director of National Intelligence may direct the preparation of intelligence analyses to satisfy national requirements by any element or elements of the Intelligence Community after appropriate consultation with the head or heads of the department or agency concerned.

"(j) USE OF PERSONNEL.—The Director of National Intelligence shall institute policies and programs within the Intelligence Community to provide for the rotation of personnel between components of the Intelligence Community, and to consolidate, wherever possible, personnel, administrative, and security programs to reduce the overall costs of these activities within the Intelligence Community.".

(b) AMENDMENTS TO EXISTING LAW.—(1) Section 1(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a(b)) is amended by striking "Director of Central Intelligence" and inserting "Director of the Central Intelligence Agency".

(2) Section 111(2) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by striking "Director of Central Intelligence" and inserting "Director of the Central Intelligence Agency".

(3) Any reference in any provision of law before the date of enactment of this Act to the Director of Central Intelligence with respect to his duties as head of the Central Intelligence Agency shall, on and after such date, be deemed to refer to the Director of the Central Intelligence Agency.

(c) AMENDMENTS TO THE TABLE OF CONTENTS.—The table of contents of the National Security Act of 1947 is amended by striking out the items relating to sections 102a and 103 and inserting in lieu thereof the following new items:

"Sec. 103. Responsibilities of the Director of National Intelligence.
"Sec. 104. Structure of the Central Intelligence Agency.
"Sec. 105. Authorities of the Director of National Intelligence.
"Sec. 106. National Security Resources Board.".

SEC. 203. SUBMISSION OF A SEPARATE BUDGET FOR THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

(a) SUBMISSION OF BUDGET REQUESTS.—Beginning with fiscal year 1994, and for each fiscal year thereafter, the President shall include in any budget request for that fiscal year submitted to the Congress an aggregate amount for the National Foreign Intelligence Program.

(b) ROLE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.—Any amount authorized to be appropriated, or appropriated, for the National Foreign Intelligence Program shall be considered to be authorized to be appropriated, or appropriated, as the case may be, to the Director of National Intelligence, who shall obligate, expend, and allocate such funds within the Intelligence Community in accordance with the appropriate authorization or appropriation Act.

TITLE III—THE INTELLIGENCE ACTIVITIES OF THE DEPARTMENT OF DEFENSE

Subtitle A—Office of the Secretary of Defense

SEC. 301. ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE.

(a) IN GENERAL.—Section 136(b)(3) of title 10, United States Code, is amended to read as follows:

"(3)(A) One of the Assistant Secretaries shall be Assistant Secretary of Defense for Intelligence, who shall—

"(i) have responsibility for the development of policy, resource allocation, and oversight for all intelligence and intelligence-related activities of the Department of Defense;

"(ii) ensure that the Secretary of Defense and his staff receive appropriate and timely intelligence support from the Intelligence Community; and

"(iii) have principal responsibility for integrating the tactical intelligence programs of the Department of Defense with the National Foreign Intelligence Program, as defined in section 3 of the National Security Act of 1947.

"(B) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, and Communications, who shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense.".

(b) DEFINITION.—Section 101 of such title is amended by adding at the end the following new paragraph:

"(48) The term 'Intelligence Community' has the meaning given such term in section 3 of the National Security Act of 1947.".

(c) CONFORMING AMENDMENT.—Section 921(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 is amended by striking out "section 136(b)(3)" and inserting in lieu thereof "section 136(b)(3)(A)".

SEC. 302. RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

The Secretary of Defense shall be responsible for—

(1) ensuring the implementation of the policies and resource decisions of the Director of National Intelligence by elements of the Department of Defense within the National Foreign Intelligence Program; and

(2) ensuring that the tactical intelligence activities of the Department of Defense complement and are compatible with intelligence activities funded within the National Foreign Intelligence Program.

SEC. 303. RESOURCE MANAGEMENT FOR DEFENSE INTELLIGENCE PROGRAMS.

(a) BUDGET SUBMISSIONS REGARDING TACTICAL INTELLIGENCE MATTERS.—As part of the budget submission made to the Congress for fiscal year 1994, and for each fiscal year thereafter, the Secretary of Defense, in consultation with the Director of National Intelligence, shall identify to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Armed Services of the Senate and House of Representatives those intelligence activities of the Department of Defense currently listed as the Tactical Intelligence and Related Activities (TIARA) which—

(1) produce positive intelligence in peacetime;

(2) interface or interoperate directly with national intelligence systems; or

(3) satisfy the intelligence requirements of Department of Defense elements generally rather than the requirements of a single element.

(b) TACTICAL INTELLIGENCE PROGRAM.—Beginning with fiscal year 1995, and each fiscal year thereafter, the intelligence activities of the Department of Defense which were identified by the Secretary of Defense pursuant to subsection (a), shall be funded as elements of a Tactical Intelligence Program within the budget of the Department of Defense, and shall be managed as a separate program by the Secretary of Defense. Elements of existing Tactical Intelligence and Related Activities (TIARA) not identified by the Secretary under subsection (a) as intelligence activities shall be designated for program management under existing arrangements within the Department of Defense.

Subtitle B—The National Security Agency

SEC. 311. ESTABLISHMENT OF NATIONAL SECURITY AGENCY.

(a) IN GENERAL.—Title II of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 208. ESTABLISHMENT OF NATIONAL SECURITY AGENCY.

"(a) ESTABLISHMENT.—There is established within the Department of Defense a National Security Agency which shall be headed by a Director. The Director shall be appointed by the Secretary of Defense, after consultation with the Director of National Intelligence, from among the active component commissioned officers of the Armed Forces. The term of appointment is four years. The position of the Director shall be a position of importance and responsibility carrying the grade of lieutenant general or admiral. During the period of service as Director, a commissioned officer shall not be counted against the number and percentage of commissioned officers of the grade of such officer authorized for the Director's armed force.

"(b) RESPONSIBILITIES.—The Agency, under the direction of the Secretary of Defense, shall—

"(1) establish and operate, subject to the authorities and guidance of the Director of National Intelligence, an effective unified organization within the Intelligence Community for the conduct of signals intelligence activities and shall ensure that the product of such activities is disseminated in a timely manner to authorized recipients within the Government;

"(2) subject to the authorities and guidance of the Director of National Intelligence, serve as the sole agent within the Intelligence Community for the procurement and operation of such overhead reconnaissance systems as may be required to satisfy the signals intelligence collection requirements of the Intelligence Community; and

"(3) provide for the communications security needs of the Government.".

(b) TABLE OF CONTENTS.—The item relating to section 208 in the table of contents of such Act is amended to read as follows:

"Sec. 208. Establishment of National Security Agency.".

Subtitle C—The National Imagery Agency

SEC. 321. ESTABLISHMENT OF NATIONAL IMAGERY AGENCY.

(a) IN GENERAL.—Title II of the National Security Act of 1947, as amended by section 311, is further amended by adding at the end thereof the following new section:

"SEC. 209. ESTABLISHMENT OF NATIONAL IMAGERY AGENCY.

"(a) ESTABLISHMENT.—There is established within the Department of Defense a National Imagery Agency which shall be headed by a Director appointed by the Secretary of Defense, after consultation with the Director of National Intelligence.

"(b) RESPONSIBILITIES.—Subject to the authorities and guidance of the Director of National Intelligence, the Agency shall—

"(1) establish and operate an effective unified organization within the Intelligence Community for the tasking of imagery collectors, for the exploitation and analysis of the results of such collection, and for the dissemination of the product of such collection in a timely manner to authorized recipients within the Government; and

"(2) serve as the sole agent within the Intelligence Community for the procurement and operation of such overhead reconnaissance systems as may be required to satisfy the imagery collection requirements of the Intelligence Community.

"(c) DEFINITION.—As used in this section, the term 'imagery' refers to the results of photographic reconnaissance undertaken from any type of collection platform.".

(b) TABLE OF CONTENTS.—The item relating to section 209 in the table of contents of such Act is amended to read as follows:

"Sec. 209. Establishment of National Imagery Agency.".

Subtitle D—The Defense Intelligence Agency

SEC. 331. ESTABLISHMENT OF THE DEFENSE INTELLIGENCE AGENCY.

(a) ESTABLISHMENT.—There is established within the Department of Defense a Defense Intelligence Agency which shall be headed by a Director.

(b) DIRECTOR.—The Director shall be appointed by the Secretary of Defense, after consultation with the Director of National Intelligence, from among the active component commissioned officers of the Armed Forces. The term of appointment is four years. The position of the Director shall be a position of importance and responsibility carrying the grade of lieutenant general or admiral. During the period of service as Director, a commissioned officer shall not be counted against the number and percentage of commissioned officers of the grade of such officer authorized for the Director's armed force.

SEC. 332. RESPONSIBILITIES OF THE AGENCY.

(a) IN GENERAL.—Subject to the direction of the Secretary of Defense, the Defense Intelligence Agency shall—

(1) produce timely, objective military and military-related intelligence, independent of political considerations or bias and based upon all sources available to the United States Intelligence Community, and disseminate such intelligence—

(A) to the Secretary of Defense;

(B) to the Joint Chiefs of Staff and senior military commanders, as appropriate;

(C) to other elements of the Department of Defense, as appropriate; and

(D) to other agencies and elements of the Federal Government, as appropriate;

(2) coordinate the production of all military and military-related intelligence by intelligence elements of the Department of Defense to ensure adequacy and objectivity and to avoid unnecessary duplication;

(3) manage the Defense Attache system;

(4) validate, in accordance with applicable guidance, the intelligence collection requirements of intelligence elements within the Department of Defense; and

(5) perform such additional services of common concern to the intelligence elements of the Department of Defense as the Secretary of Defense determines can be more efficiently accomplished centrally.

(b) EFFECTIVE DATE.—This section shall take effect upon the expiration of the period described in section 921(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1452, 10 U.S.C. 201 note).

SEC. 333. AUTHORITIES OF THE DIRECTOR, DEFENSE INTELLIGENCE AGENCY.

To carry out the responsibilities set forth in section 332, the Director of the Defense Intelligence Agency—

(1) shall have access to all intelligence collected by any intelligence element of the Department of Defense, or any component of the Intelligence Community, which bears upon a matter within his area of responsibility;

(2) may evaluate any military and military-related intelligence produced by any component of the Department of Defense for use or dissemination outside the component concerned, to ensure its accuracy, completeness, objectivity, or timeliness;

(3) in order to avoid unnecessary duplication, may evaluate the production of military and military-related intelligence by intelligence elements of the Department of Defense, or within an element of the Department of Defense, and may direct the consolidation or elimination of existing capabilities, or direct that the requirements of a particular element or elements be satisfied by alternative means, except that independent intelligence production capabilities shall be maintained, as required by each of the military departments, pursuant to section 425 of title 10, United States Code; and

(4) shall require the military departments to assign qualified active duty officers of the Armed Forces to the Defense Attache System.

Subtitle E—The Military Departments

SEC. 341. INTELLIGENCE CAPABILITIES OF THE MILITARY DEPARTMENTS.

(a) MAINTENANCE AND CONSOLIDATION.—Chapter 21 of title 10, United States Code, is amended by inserting at the end of subchapter I the following new section:

"§ 425. Intelligence capabilities of the military departments

"(a) REQUIREMENT FOR MAINTENANCE OF CAPABILITIES.—Under the direction of the Secretary of Defense, the Secretaries of the military departments shall maintain sufficient capabilities to collect and produce intelligence in satisfaction of—

"(1) any requirements of the Director of National Intelligence;

"(2) the requirements of the Secretary of Defense or the Chairman of the Joint Chiefs of Staff; and

"(3) the requirements of the military department concerned, including the provision of intelligence support to—

"(A) military planners;

"(B) tactical commanders;

"(C) the process for the acquisition of military equipment;

"(D) training and doctrine; and

"(E) the research and development process.

"(b) LEVEL AND FORM OF CAPABILITIES TO BE MAINTAINED.—The Secretaries of the military departments shall ensure that the capabilities maintained pursuant to subsection (a) do not exceed that which is necessary to satisfy the requirements of their respective departments. To the extent feasible, the Secretaries shall provide for such capabilities to be maintained jointly and in the most efficient and cost-effective form.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter II of such chapter is amended by inserting after the item relating to section 424 the following new item:

"425. Intelligence capabilities of the military departments.".

TITLE IV—CONGRESSIONAL OVERSIGHT

SEC. 401. INCLUSION OF TACTICAL MILITARY INTELLIGENCE ACTIVITIES WITHIN JURISDICTION OF SELECT COMMITTEE ON INTELLIGENCE.

(a) AMENDMENT TO S. RES. 400 (94th CONGRESS).—Section 14(a) of Senate Resolution 400 (94th Congress) is amended by striking the last sentence in its entirety.

(b) EFFECTIVE DATE.—This section shall take effect October 1, 1993.

TITLE V—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

SEC. 501. DEFINITIONS.

For purposes of this title, unless otherwise provided or indicated by the context—

(1) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(2) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(3) the term "transferee agency" means the National Security Agency established under section 208 of the National Security Act of 1947, the National Imagery Agency established under section 209 of that Act, or the Defense Intelligence Agency established under section 331, whenever the transferor agency is an agency by the same name; and

(4) the term "transferor agency", with respect to a transferee agency by the same name, means the Defense Intelligence Agency established pursuant to Department of Defense Directive 5105.21 (effective October 1, 1961, the National Security Agency established pursuant to classified Presidential directive of October 24, 1952, or any component of the Intelligence Community which may be performing functions described in section 209 of the National Security Act of 1947, as jointly determined by the Director of National Intelligence and the Secretary of Defense.

SEC. 502. TRANSFER OF FUNCTIONS.

There are transferred to the transferee agency all functions which the head of the transferor agency exercised before the date of the enactment of this title (including all related functions of any officer or employee of the transferor agency).

SEC. 503. DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.

If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under section 502.

SEC. 504. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The head of the transferee agency may appoint and fix the compensation of such officers and employees as may be necessary to carry out the respective functions transferred under this title. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—The head of the transferee agency may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The head of the transferee agency may pay experts and consultants who are serving away from their homes or regular place of business travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

SEC. 505. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this title, the head of the transferee agency may delegate any of the functions transferred to the head of the transferee agency by this title and any function transferred or granted to such head of the transferee agency after the effective date of this title to such officers and employees of the transferee agency as the head of the transferee agency may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the head of the transferee agency under this section or under any other provision of this title shall relieve such head of the transferee agency of responsibility for the administration of such functions.

SEC. 506. REORGANIZATION.

The head of the transferee agency is authorized to allocate or reallocate any function transferred under section 502 among the officers of the transferee agency, and to establish, consolidate, alter, or discontinue such organizational entities in the transferee agency as may be necessary or appropriate.

SEC. 507. RULES.

The head of the transferee agency is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the head of the transferee agency determines necessary or appropriate to administer and manage the functions of the transferee agency.

SEC. 508. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred to the transferee agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 509. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 510. EFFECT ON PERSONNEL.

(a) IN GENERAL.—Except as otherwise provided by this title, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this title.

(b) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this title, any person who, on the day preceding the effective date of this title, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the transferee agency to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

SEC. 511. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the head of the transferee agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the transferor agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the transferor agency, or by or against any individual in the official capacity of such individual as an officer of the transferor agency, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the transferor agency relating to a function transferred under this title may be continued by the transferee agency with the same effect as if this title had not been enacted.

SEC. 512. SEPARABILITY.

If a provision of this title or its application to any person or circumstance is held invalid, neither the remainder of this title nor the application of the provision to other persons or circumstances shall be affected.

SEC. 513. TRANSITION.

The head of the transferee agency is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the transferor agency with respect to functions transferred to the transferee agency by this title; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this title.

SEC. 514. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delega-

tion of authority, or any document of or relating to—

(1) the head of the transferor agency with regard to functions transferred under section 502, shall be deemed to refer to the head of the transferee agency; or

(2) the transferor agency with regard to functions transferred under section 502, shall be deemed to refer to the transferee agency.

TITLE VI—EFFECTIVE DATE

SEC. 601. EFFECTIVE DATE.

Except for sections 332 and 401, this Act, and the amendments made by this Act, shall take effect 180 days after its date of enactment.

EXPLANATORY STATEMENT—INTELLIGENCE REORGANIZATION ACT OF 1992

RATIONALE FOR THE BILL, GENERALLY

The primary purpose of the Intelligence Reorganization Act of 1992 is to strengthen the management of the Intelligence Community at all levels. A strengthened management structure, in turn, should result in a more focused and effective use of personnel and resources, in better integration of civilian and military intelligence activities, in less waste and duplication, and with better service to the Government consumer.

The U.S. Intelligence Community had its beginnings in the National Security Act of 1947, which established this country's security arrangements in the aftermath of the Second World War. That statute provided for an intelligence structure that cut across department and agency lines, to marshal the resources of the entire Government for the achievement of a common objective. Placed at the head of this structure was a Director of Central Intelligence, but his statutory responsibilities was left purposely vague and his authorities over the Intelligence Community left very limited.

It was clear, however, that the DCI was created to provide the President with assessments based upon all intelligence available to the Government and that he could be independent of the policy process within a particular Administration. Yet the statute did not itself institutionalize the relationship between the DCI and the President. How this relationship was to work was essentially left to be worked out between a particular President and a particular DCI. Historically, this has varied, with some DCIs being closely involved with the particular President they were serving, and others less so.

The Intelligence Community itself has changed enormously since 1947, far exceeding the size and capabilities that the drafters of the National Security Act could have imagined at the time. New agencies have been created by department or agency directives; new technologies, introduced. Organizational relationships have changed and changed again, occasionally in response to an overall scheme, but more often in response to a situation or circumstance. None of these organizational arrangements are reflected in the law itself. Similarly, the role of the DCI itself has evolved, but has never been enunciated in law beyond the vague prescriptions of the 1947 statute.

The extent to which the DCI has historically attempted to exert his management prerogatives over the Intelligence Community has varied from DCI to DCI, with some taking more interest than others. Usually, this has meant working with the heads of departments and agencies within the Intelligence Community to persude them to adopt a particular course, because the DCI, for the most part, lacked the legal authority to direct or manage elements within the Community himself. Even the DCI's role in the development of the National Foreign Intelligence Program budget, which evolved in the mid-1970s, has rarely been used to bring about significant management changes.

A similar situation has existed within the Department of Defense, where most of the collection and analytical resources of the Intelligence Community are located. For the most part, the Office of the Secretary of Defense has taken a relatively minor role in terms of coordinating or managing the intelligence elements of DoD. Whether this was due to the role the DCI was ostensibly playing with respect to the DoD elements of the Intelligence Community, or whether it was a matter of leaving tactical intelligence to the military departments, the result has historically been relatively weak management of the DoD intelligence elements that are part of the National Foreign Intelligence Program, and relatively little DoD-level management of tactical intelligence, either to ensure compatibility within DoD itself or with elements of the National Foreign Intelligence Program.

In any case, far from the centralized management structure suggested by the term "Intelligence Community," in reality, effective management control has rested largely in the hands of the various agency heads (or "program managers") within this "Community" rather than with the DCI or, for the Defense elements of the "Community," the Secretary of Defense. Moreover, even within this decentralized structure, roles and missions have evolved incrementally, usually in response to new requirements levied by their parent organization or to new technical developments, as opposed to an overall organizational scheme.

Arguably, this decentralized structure has served the country well over the last forty years. Despite the absence of a centralized management structure, there was a common target which was well understood by all elements of the Community whatever their mission and capability: the Soviet Union and its Warsaw Pact allies. The lion's share of U.S. intelligence activities were focused upon the threat posed to U.S. interests by the activities of these countries. In the meantime, resources were relatively plentiful. Funds were made available as necessary to keep track of this predominant threat to U.S. security interests.

Those times are now behind. The Soviet empire has now disintegrated, and no longer poses a significant security threat to the United States and its allies. While the U.S. must prepare to meet different challenges and circumstances around the world, its attention is no longer focused upon a single predominant threat to its interests. At the same time, faced with huge budget deficits, funding for intelligence activities is certain to decrease significantly during the next decade. It is clear intelligence agencies will have considerably fewer resources available to carry out their missions. There can be less tolerance of waste and duplication; and, conversely, must be more attention to focus and effectiveness.

The proposed bill attempts to deal with these changed circumstances by establishing clear lines of authority and assigning clear responsibilities within the Intelligence Community. It creates a new Director of National Intelligence and gives him new authorities to manage the Intelligence Community. At the same time, the bill provides new roles to the Secretary of Defense in terms of managing DoD intelligence activities at both the national and tactical levels. It also clarifies the responsibilities of agencies within the Intelligence Community, and in some cases, creates new organizational entities to bring together functions that are now being performed in disparate areas of the Community.

The objective is to strengthen the framework for the management of intelligence activities, and thereby, ensure consistency of policy and emphasis, avoid waste and duplication, get the most from available resources, and provide a quality product to the Government consumer.

EXPLANATORY STATEMENT REGARDING THE PROVISIONS OF THE BILL

Section 1 of the bill contains the short title of the bill and a table of contents.

Section 2 contains the fundings of the Congress which form the basis for the legislation, as well as a statement of its purposes.

Section 3 contains definitions of terms which are used in titles I, II, and III of the bill, each of which amends portions of the National Security Act of 1947.

TITLE I—THE NATIONAL SECURITY COUNCIL

The National Security Council was created by the National Security Act of 1947 to advise the President with respect to national security matters. Named as members were the President, Vice President, Secretary of State, and Secretary of Defense. The statute was subsequently amended to provide, for example, that the Chairman of the Joint Chiefs of Staff and the Director for National Drug Control Policy may participate in meetings of the National Security Council when matters pertaining to their areas of responsibility were concerned. These provisions do not mention the Director of Central Intelligence.

To some extent, this omission is a reflection of the drafters' intent that the Director of Central Intelligence remain an advisor, and should not be an advocate of a particular policy position.

Section 101 of the bill provides that the Director of National Intelligence (DNI), created by the bill, may participate in meetings of the National Security Council but shall not be entitled to vote on policy matters coming before the Council. It is intended to ensure that the head of the U.S. Intelligence Community is part of the policy process, though not an advocate for policy.

Section 102 of the bill provides for the establishment of a Committee on Foreign Intelligence of the National Security Council to establish overall requirements and priorities for the U.S. Intelligence Community. It also provides that this Committee will regularly assess for the President the performance of the Intelligence Community in satisfying these requirements and priorities. From time to time, there have been similar bodies created on an ad hoc basis within the NSC structure. The form and effectiveness of these bodies has fluctuated, however, from Administration to Administration.

This provision provides for a permanent structure, composed of the senior policymaking officials within the principal consumer agencies of the Government, to set the course for U.S. intelligence activities from year to year. Indeed, the purpose of this provision is to make the senior policymakers whom the Intelligence Community was primarily created to serve expressly responsible for providing such direction and to make them responsible for assessing, for the President, how well the Intelligence Community has responded to their needs. For example, the Committee might define what it sees as

the most likely scenarios where the United States could be involved in crisis or war, and ask the Intelligence Community to develop collection or analytical strategies to provide appropriate intelligence support. In addition, the Committee might address itself to what proportion of the overall budget should be devoted to intelligence, what areas should receive priority, or what means of collection or analysis should be emphasized.

The bill provides that the Committee be chaired by the Assistant to the President for National Security Affairs. In addition to the DNI and representatives of the NSC principals, the bill also provides that the Secretary of Commerce, or his representative, should be a member of the Committee on Foreign Intelligence, in order to involve a policy-making official who can integrate the needs of the Government for economic intelligence into this process.

TITLE II—THE DIRECTOR OF NATIONAL INTELLIGENCE

SECTION 201

Section 201 of the bill amends section 102 of the National Security Act of 1947 which created the Central Intelligence Agency and the office of Director of Central Intelligence (DCI). This section, indeed, has remained virtually unchanged since its enactment in 1947.

Reflecting the trifurcated role of the DCI which has evolved over time, Section 201 provides for the appointment of a Director of National Intelligence (DNI) and two Deputy Directors, and provides that the DNI will exercise operational control of the Central Intelligence Agency. (Section 202 of the bill provides for the appointment of a separate Director for the Central Intelligence Agency.) Each of the deputies would assist the DNI in carrying out his principal coordinating roles assigned by the bill: as principal intelligence adviser to the President and as head of the Intelligence Community. The DNI, both deputies, and the Director of the Central Intelligence Agency would be appointed by the President and confirmed by the Senate.

This structure is intended to enhance the ability of the DNI to manage effectively each of his functional areas of responsibility. It is also intended that certain of the DNI's responsibilities, which, under present arrangements, are carried out by CIA, are more appropriately placed under the DNI directly. Thus, it is contemplated that the new Deputy Director for Estimates and Analysis will be responsible for national estimates and other national-level analysis (including current intelligence products) that will be produced by a staff of Community (as opposed to CIA) analysts.

It is intended that the new Deputy DNI for the Intelligence Community would supersede the position of Director, Intelligence Community Staff under existing law. Indeed, the bill repeals section 102a of the National Security Act of 1947 which created the position of Director, Intelligence Community Staff. It is intended that the staff positions which currently support the Director, Intelligence Community Staff, would be transferred to the new Deputy Director of National Intelligence for the Intelligence Community. It is further intended that the positions currently filled by persons on rotational assignments from elements of the Intelligence Community be filled on a permanent basis by persons selected by the Deputy Director of National Intelligence from elements within the Intelligence Community.

The bill provides that either the position of DNI or the position of Deputy DNI for the Intelligence Community will be filled by a military officer in the rank of four-star general. This is to ensure a tie at the senior management level to the military components of the Intelligence Community, which, indeed, compose a larger part of the Community's overall capability.

Section 201 also provides that the Director of National Intelligence shall be at level I of the Executive Schedule, the same level as Cabinet officials. The duties of the Director merit the same status as the heads of many departments and agencies included at Executive level I. It is also important that the DNI be at a level that is comparable to the heads of agencies within the Intelligence Community with whom he must often interact. The level of the two Deputies and the Director of the CIA is set at Executive level III, where the current Deputy Director of Central Intelligence is now positioned.

Section 201 also provides that the offices of the two Deputy Directors shall form a "National Intelligence Center" physically located with the offices of the DNI. This is believed necessary inasmuch as the existing physical separation between the DCI and the existing Intelligence Community Staff is viewed as having been a practical hindrance to this relationship.

SECTION 202

Section 202 would amend the National Security Act of 1947 to elaborate, for the first time in statute, the areas of the DNI's responsibilities mentioned above: as provider of substantive intelligence; as head of the Intelligence Community; and as exercising control of the CIA itself.

Subsection 202(a) amends the National Security Act of 1947 by adding three new sections, 103 through 105, to that Act.

Subsection 103(a) charges the DNI with providing timely, objective intelligence, free of bias, based upon all sources available to the U.S. Intelligence Community, public and non-public, to the President personally and the Executive Office of the President, and, where appropriate, to the heads of departments and agencies, to the Joint Chiefs of Staff and military commanders in the field, and to the Congress. This charge is more specific than exists in current law, and, for the most part, encapsulates the DNI's responsibility to provide intelligence to all Government consumers.

Subsection 103(b) creates two specific mechanisms to assist the DNI in performing this function. It is contemplated that both of these mechanisms would be under the Deputy DNI for Estimates and Analysis, created under section 201.

The first is the creation of a National Intelligence Council, composed of the senior analysts of the Intelligence Community appointed by the DNI, which will be solely responsible for producing national estimates, and whose members are recognized as the senior substantive experts of the Intelligence Community within their respective areas of expertise. It is intended that this mechanism will serve as the primary substantive "voice" of the Intelligence Community in terms of advising policymakers within the Government. In short, by creating this Council by statute and providing for the appointment of its members, it is intended to give permanence to this structure and increase its stature government-wide.

The DNI is expressly directed to provide an adequate, full-time staff to the Council to assist in the execution of its responsibilities. The absence of such staff support appears to have considerably hampered the existing council in fulfilling its objectives.

The second mechanism created under subsection (b) is the Office of Intelligence Analysis headed by a director appointed by the DNI. This office is made responsible for the current intelligence production (e.g. the President's Daily Brief, the National Intelligence Daily) as well as other forms of national-level analysis (other than national estimates which are prepared by the National Intelligence Council). The bill expressly provides that this Office shall be staffed with analysts assigned to various elements of the Intelligence Community. These would include CIA, the Departments of State and Defense. Indeed, it is contemplated that while some residual analytical capability would remain within CIA to support its collection operations, most of the analysts currently assigned to the CIA Directorate of Intelligence would be shifted under this construct to the staff of the Deputy DCI for Estimates and Analysis. Such a realignment is intended, in part, to provide the analytical side greater organizational independence from the clandestine service of CIA, which has in the past prevented experts on the outside from contributing their talents or sharing their expertise with the Directorate of Intelligence.

By structuring this office with senior analysts from the Intelligence Community, it is also intended that national-level analysis will be more representative of a "community" view and at the same time become sharper and more focused (rather than being merely a compendium of what every agency thinks). Such a structure should also alleviate the need for repetitive and duplicative analytical structures within the Intelligence Community itself, leading to down-sizing and streamlining intelligence production capabilities generally. While it is clear that some analytical capabilities serving purely departmental interests must be retained, the manpower devoted to such activities could be significantly reduced.

Subsection 103(c) sets forth six general responsibilities of the Director of National Intelligence as head of the Intelligence Community.

Subsection (c)(1) provides that the DNI will have responsibility for developing an annual budget for the National Foreign Intelligence Program, and for presenting this budget to the President and to the Congress. This is akin to the responsibility the DNI currently has pursuant to Executive order. It is the intent of this provision, however, to give the DNI an effective tool to manage the Intelligence Community, not merely to establish him as a conduit for apportioning budget allocations among departments and agencies within the Intelligence Community.

Subsection (c)(2) makes the DNI responsible for managing the collection capabilities of the Intelligence Community to ensure the satisfaction of national requirements. This subsection contemplates that the DNI will not only establish policies and procedures to identify standing and recurring intelligence requirements, but also will institute policies and procedures to satisfy short-term, contingency requirements of the Government. Taken in conjunction with section 104, below, it is intended that the DNI will have the ability to direct certain types of collection, as needed to satisfy priority intelligence requirements.

Subsection (c)(3) makes the DNI responsible for promoting and evaluating the utility of national intelligence for consumers within the Government. This subsection contemplates that the DNI will be responsible for evaluating the adequacy of the links between the Intelligence Community and consumers, and for evaluating the quality and timeliness of intelligence analysis provided

such consumers. Various efforts by past DCIs to carry out such responsibilities have largely failed due to the objections or lack of cooperation from elements of the Intelligence Community, yet the functions remain crucial ones.

Subsection (c)(4) gives the DNI authority to eliminate waste and unnecessary duplication within the Intelligence Community. To a degree, this responsibility may be carried out within the context of the annual budget process to develop the National Foreign Intelligence Program, but this provision is also intended to give the DNI authority to terminate or require the consolidation of redundant programs and activities within the Intelligence Community on an *ad hoc* basis.

Subsection (c)(5) charges with DNI with providing guidance, direction and approval for the procurement and operation of overhead reconnaissance systems pursuant to section 208 and 209 of the Act to ensure the compatibility and integration of such systems. Sections 208 and 209 of the bill make the Director of the National Security Agency and the Director of the National Imagery Agency (a new agency created by the bill) responsible for the procurement and operation of overhead reconnaissance systems to satisfy signals intelligence requirements and imagery requirements, respectively, subject to the authorities of the DCI. Subsection (c)(5) expressly makes the DNI responsible for approving such procurement decisions. While the bill is intended to alter existing arrangements for the performance of the procurement function by placing such responsibility directly with the collection agencies, it recognizes that such systems are typically costly, requiring tradeoffs and long-term financing within the National Foreign Intelligence Program, and may, indeed, serve multiple purposes. Accordingly, the bill gives the DNI responsibility for approving such procurement decisions.

Finally, the DNI is made responsible by subsection (c)(6), as the DCI is under existing law, for the protection of intelligence sources and methods from unauthorized disclosure. Under this authority, the DNI is expected to issue uniform policies for the Intelligence Community to provide for the protection of information which reveals intelligence sources and methods, as well as take appropriate measures on an *ad hoc* basis for the protection of such information.

It is contemplated that the Deputy Director of National Intelligence for the Intelligence Community would have principal responsibility for executing these functions on behalf of the DNI.

Indeed, subsection (d) provides for the establishment of two separate mechanisms under the Deputy Director for the Intelligence Community to carry out the functions set forth in subsection (c).

The first is the establishment of an Office for Warning and Crisis Support to be staffed with senior representatives of the Intelligence community selected by the DNI. This office is given specific responsibility for identifying potential threats to the United States, or areas where U.S. involvement or intervention may be called for, and providing possible options for U.S. actions to the President and other senior officials. This office also is charged with maintaining a permanent capability to provide intelligence support in times of crisis, in terms of arranging for collection and/or analytical support to policymakers. The absence of such a permanent mechanism in the past appears to have hampered the performance of the Intelligence Community in past crises.

The second mechanism established by subsection (d) is an independent board, composed of experienced current or former senior officials of the Government (not necessarily the Intelligence Community itself), appointed by the DNI, to provide a full-time capability to evaluate the performance of the Intelligence Community. It is the intent of this subsection that this board look at intelligence support both in terms of specific cases or support to specific decisions made by the Government, and in terms of satisfying standing and recurring intelligence requirements. It is anticipated that reports prepared by this board would go directly to the DNI for appropriate action without prior coordination with affected agencies of the Intelligence Community.

Similar mechanisms established by previous DCIs have been largely unsuccessful. As a consequence, there is at present no mechanism to provide independent, objective assessments of the Intelligence Community's performance to the DCI. By providing for such a mechanism in law, the bill provides an authoritative mandate for the performance of this critical function.

Section 104 provides for the appointment by the President of a separate Director for the Central Intelligence Agency, subject to Senate confirmation, and provides that he will carry out his responsibilities under the supervision and operational control of the DNI. These responsibilities are set forth in subsection (a).

Subsection (a)(1) makes the Director of CIA responsible for the collection of intelligence through human sources and through other appropriate means. This latter reference refers to various types of technical sources which might be appropriately employed by the CIA. This subsection also incorporates the provision in existing law that the CIA shall have no police, subpoena, law-enforcement powers, or internal security functions. This limitation has been an important restraint upon CIA's activities within the United States, including its role in domestic counterintelligence activities, and thus is retained in this reformulation of its responsibilities.

Subsection (a)(2) makes the Director of CIA responsible for providing overall direction for the collection of intelligence through human sources by elements of the Intelligence Community. While CIA under existing law coordinates the human source collection activities abroad of other agencies in the Intelligence Community, it does not provide "direction" to these activities. Indeed, there is no element in the Intelligence Community which effectively performs this role under the existing structure.

It is the intent of this subsection that CIA have responsibility for ensuring that the human source collection capabilities of the Government as a whole, both overt and covert, are effectively utilized to satisfy the intelligence requirements of the Government as a whole, as well as to minimize the risks to those involved in such collection activities. This would entail examining U.S. requirements at particular locations abroad, and determining how such requirements might best be satisfied, given the capabilities of the Intelligence Community as well as departments and agencies outside the Intelligence Community. Subsection (a)(2) makes clear, however, that it is not the intent of this subsection that CIA supplant the human source collection activities of other agencies which may currently perform such functions. Rather, this provision anticipates CIA will analyze such activities in terms of how they might best be employed to meet the requirements of the Government as a whole for such collection.

Subsection (a)(3) also incorporates a provision of existing law, making the Director of the CIA responsible for providing additional services of common concern to the Intelligence Community as the DNI determines can be more efficiently accomplished centrally. This has been a useful provision in existing law, permitting the CIA to perform a variety of services for the Intelligence Community as a whole, and is therefore retained in this section.

Subsection (a)(4) is also akin to current law, authorizing the Director of the CIA to perform such other functions and duties as may be directed by the President or the National Security Council. Specifically identified is the conduct of covert actions authorized by the President under the intelligence oversight provisions of title V of the National Security Act of 1947. Under existing law, the authority for CIA to carry out covert actions has been implied in the general provision authorizing CIA to carry out functions at the direction of the NSC. This subsection makes explicit such authority.

Subsection 104(b) addresses a particular aspect of the CIA's responsibilities: The provision of intelligence support to the military. This subsection provides for the appointment of an Assistant Deputy Director for Operations (Military Support) within the CIA Directorate of Operations. The incumbent would be a general or flag officer of 2-star rank, selected by the Director, CIA, after consultation with the Chairman of the Joint Chiefs of Staff, and would serve as the principal liaison between CIA and the Department of Defense to facilitate CIA intelligence support to military plans and operations. The establishment of this office is intended to address a long-standing weakness in the existing structure.

Section 105 sets forth the authorities of the Director of National Intelligence, which are specified in ten separate subsections.

Subsection (a) provides that all departments and agencies within the Intelligence Community shall provide the DNI access to national intelligence collected by their respective department or agency. This provision is similar to existing law, and is needed to ensure that the DNI has access to intelligence from all sources available to the Government. It is the intent of this provision that departments and agencies who have intelligence which bears upon national intelligence requirements (and not solely those of a particular department or agency), such intelligence shall be made available to the DNI in an appropriate fashion.

Subsection (b) provides that the DNI shall be responsible for allocating and disbursing funds within the National Foreign Intelligence Program (NFIP) budget to elements within the Intelligence Community. This provision should be read together with Section 203 of the bill, which requires a separate budget for the National Foreign Intelligence Program (NFIP), appropriated to the DNI, beginning with fiscal year 1994. Subsection (b) makes the DNI responsible for the allocation and disbursement of NFIP funds.

Under the existing structure, the National Foreign Intelligence Program is not a separate line item in the President's budget. Instead, most of it, including the budget of the CIA, is "buried" in various line items of the DoD budget. Accordingly, the amount devoted to the NFIP within the DoD budget has in the past been determined by the agreement of the DCI and the Secretary of

Defense The funds authorized and appropriated for most of the NFIP are appropriated to the Secretary of Defense, who disburses such funds to DoD elements within the NFIP and to the CIA.

Subsection (b), together with Section 203, below, would change this structure. The NFIP would no longer be a part of the DoD budget, but rather would be a separate line item in the President's budget. This means that while the NFIP would no longer be tied to fluctuations in Defense spending, it would have to compete against other funding priorities within the President's budget, something it does not do under the existing arrangement.

Funds appropriated for the NFIP would be appropriated to the DNI, who would make the appropriate allocations and disbursements to departments and agencies within the Intelligence Community, including the intelligence elements of the Department of Defense.

Subsection (c) provides that no funds appropriated for the National Foreign Intelligence Program may be reprogrammed for any other purpose by a department or agency which receives such funds without the prior approval of the DNI. This is intended to prevent departments and agencies from using funds appropriated for the NFIP for other purposes unless the DNI is consulted in advance and approves the use of such funds for the purposes identified. Although the DCI has had authority by Executive order to review and approve requests for reprogramming of NFIP funds, this has not been cast in terms of a prohibition binding upon heads of departments and agencies. From time to time, in fact, department and agency heads have reprogrammed NFIP funds without the prior approval of the DCI despite the Executive order language giving the DCI the authority to approve such requests.

Subsection (d) provides that the DNI, upon his own initiative, may reprogram funds within the NFIP in accordance with established reprogramming procedures (which include prior notice and/or approval to appropriate congressional committees) in order to satisfy national requirements of a higher priority, so long as prior notice is given to the head of the department or agency concerned and a reasonable opportunity is provided for an appeal of the DNI's proposed reprogramming to the President. The DCI does not now have such authority apart from the ability to reprogram funds appropriated for CIA activities. It is the intent of this provision to permit the DNI to reprogram funds across NFIP accounts to satisfy significant national requirements which have a higher priority so long as the department or agency head concerned has an opportunity to seek appeal of the DNI's proposed decision should he choose to do so.

Subsection (e) provides additional flexibility for the DNI by authorizing him to shift funds to satisfy contingency requirements by allowing the DNI to obligate or expend funds from the CIA Reserve for Contingencies for other intelligence and intelligence-related activities. While section 502 of the National Security Act of 1947 appears to allow for such transfers, as a practical matter, DCIs have not used the CIA Reserve for Contingencies to fund other than CIA activities. Subsection (e) would clarify that the DNI may use the CIA Reserve to fund the intelligence activities of other departments and agencies should he choose to do so, so long as the provisions of section 502 are adhered to.

Subsection (f) authorizes the DNI to temporarily reassign personnel assigned to one NFIP program to another NFIP program, for periods not to exceed an aggregate of 180 days in a given year, in order to meet national requirements of a higher priority, provided the DNI gives prior notice to the head of the department or agency concerned and permits a reasonable time for such agency head to appeal such action to the President, and provides prior notice to the two congressional intelligence committees. The DCI does not have such authority under existing law. The bill provides such authority in order to give the DNI an ability to deal effectively and quickly with emergency situations facing the Intelligence Community.

Subsection (g) authorizes the DNI, under the direction of the National Security Council, to direct the use of any collection capability within the Intelligence Community to satisfy a priority collection requirement of the United States. The DCI does not currently have such authority, either under law or Executive order. He is given authority under Executive order to establish mechanisms to provide guidance on collection as well as to resolve conflicts in priority. But he lacks formal authority to task collection assets owned by other departments and agencies within the Intelligence Community to satisfy national requirements of a higher priority. By providing that the DNI shall exercise this authority under the direction of the National Security Council, it is intended that department or agency heads affected by the decision of the DNI will have a forum in which to raise possible objections to the DNI's actions.

Subsection (h) authorizes the DNI to coordinate the relationships between elements of the Intelligence Community and the intelligence or security services of foreign governments. The DCI is currently given similar authority by Executive order, but it has not been well adhered to by other elements of the Intelligence Community. By making this authority a matter of law, the intent is to strengthen it. It is not intended that the DNI shall be responsible for making all liaison contacts with foreign governments, but rather that the DNI, or his representative, will be given prior notice of such arrangements in order to avoid duplication or creating confusion in such relationships by having various elements of the Intelligence Community establish separate liaison arrangements oblivious to other actions on the part of the United States.

Subsection (i) provides that the DNI may direct any element or elements of the Intelligence Community to prepare intelligence analyses after consultation with the head of the department or agency concerned. The DCI currently does not have this authority today, either by statute or Executive order. He may request such assistance, but he may not direct it. It is intended that this authority be used, as necessary, to carry out the responsibilities of the DNI as a provider of intelligence to the Government as a whole. While the DNI must take into account the capabilities and departmental requirements of analytical elements within the Intelligence Community in levying such tasking, he should be in a position to require such assistance to meet high priority national needs.

Subsection (j) directs the DNI to institute policies and programs within the Intelligence Community to provide for the rotation of personnel between departments and agencies, and to consolidate where possible administrative programs to reduce the overall costs of these activities within the Intelligence Community.

With respect to the rotation of personnel within the Intelligence Community, it is intended that the DNI will take actions to eliminate barriers which currently exist to such rotation, and will, in conjunction with other departments and agencies in the Intelligence Community, establish programs which will encourage and facilitate rotational assignments among Intelligence Community agencies, either by providing monetary or career incentives. Greater use of rotational assignments should improve the understanding and cooperation which now exists between elements of the Intelligence Community, and ultimately lead to more effective mission accomplishment.

With respect to the consolidation of personnel, administrative, or security costs within the Intelligence Community, it is intended that the DNI will take actions to assess where costs savings in these areas may be achieved by consolidating activities within the Intelligence Community, and will institute appropriate actions to achieve such savings. For example, in the area of security for contractors who have contracts with several elements of the Intelligence Community, the DNI should consolidate security administration for such contractors, so they will not be subject to repeated inspections by various elements of the Intelligence Community. Another area for examination is training, where the DNI should explore the consolidation of training programs for personnel in the Intelligence Community who are performing comparable functions. A third possible area is communications, where the DNI should explore the feasibility of Intelligence Community elements sharing available communications systems, rather than each having its own. In short, this authority is intended to provide the DNI, in his role as head of the Intelligence Community, with the authority to institute changes that will result in costs savings within the Intelligence Community as a whole.

SECTION 203

Section 203 provides that beginning with the budget submission for fiscal year 1994 and for each fiscal year thereafter, the President will submit as a separate line item an aggregate amount for the National Foreign Intelligence Program. This section further provides that any amounts authorized and appropriated for this program will be appropriated to the Director of National Intelligence who will disburse such funds to the elements of the Intelligence Community.

The effect of this section would be to remove the National Foreign Intelligence Program budget from the Defense Department budget, and have it considered as a separate program budget. This would mean that the NFIP would compete (as other programs) for a slice of the overall Administration budget request, rather than being established by an informal agreement between the Secretary of Defense and Director of Central Intelligence as has been the practice. It would also mean the NFIP would no longer be tied to the fluctuations in the Defense budget but would be treated on its own terms.

By providing that the NFIP will be appropriated to the DNI rather than to other department or agency heads as is now the case (even with the budget for CIA), it is intended that the DNI, as head of the Intelligence Community, be placed in a position of ostensible control of these funds. While clearly the DNI would be legally obliged to disburse appropriated funds to Intelligence Community agencies in accordance with congressional enactments, this enhanced administrative role is nonetheless viewed as consistent with his overall responsibility.

TITLE III—THE INTELLIGENCE ACTIVITIES OF THE DEPARTMENT OF DEFENSE

Subtitle A—The Office of the Secretary of Defense

SECTION 301

Under existing law (10 U.S.C. 136), the Secretary of Defense is authorized to establish among his Assistant Secretaries an Assistant Secretary of Defense for Intelligence, but to date he has chosen not to exercise this authority. Responsibility for intelligence has been lodged with the Assistant Secretary of Defense responsible for Command, Control, Communications—the Assistant Secretary of Defense (C3I). Section 301 would, in fact, require shifting the staff responsibility for intelligence from the Assistant Secretary of Defense (C3I) to a new Assistant Secretary of Defense (Intelligence), who would have sole responsibility on the staff of the Secretary of Defense for all intelligence and intelligence-related matters.

Under the present organizational arrangement, the Assistant Secretary (C3I) is expected to cover two large substantive areas (C3 and I), which are, for the most part, unrelated. Each area is so broad that it is physically impossible for one Assistant Secretary to do justice to both. Under previous Administrations, the incumbents, for the most part have had little experience with, or interest in managing, Defense intelligence activities. Effective control was left largely in the hands of intelligence program managers in DoD Components, with the Office of the Secretary of Defense itself playing a relatively small role.

Exacerbating the management difficulties within the OSD staff, there are at least three offices in addition to the ASD (C3I) which report to the Secretary directly on intelligence or intelligence-related matters: the Under Secretary for Policy, which has cognizance of international security policy and special access programs, and staffs the Secretary on certain types of intelligence activities, the Assistant to the Secretary for intelligence activities; the Assistant to the Secretary for Intelligence Policy; and the Assistant to the Secretary for Intelligence Oversight. It is intended that a new Assistant Secretary for Intelligence would subsume all of these functions, resulting in fewer officials (not more) reporting directly to the Secretary on intelligence matters. This section is also intended to establish clearer accountability for intelligence activities at the DoD level, both from the standpoint of the Congress and others outside DoD.

Finally, the provisions of the bill itself provide an enhanced role for the Office of the Secretary of Defense in managing intelligence activities of both a national and tactical nature. Only the Secretary of Defense can set policy for all elements of the Department of Defense; only the Secretary of Defense can assess the resources needed for intelligence in terms of the broader DoD interest; and only the Secretary of Defense can effectively integrate national and tactical intelligence activities. Without the designation of an Assistant Secretary dedicated solely to intelligence, none of these critical functions will be performed as well as it might be.

SECTION 302

Section 302 sets forth the responsibilities of the Secretary of Defense as they pertain to the National Foreign Intelligence Program (NFIP). These responsibilities are the subject of neither statutory nor regulatory enactment, and the lack of an authoritative statement of the Secretary's role vis-a-vis the NFIP has in the past led to considerable confusion. To illustrate, the Office of the Secretary of Defense is not part of the Intelligence Community, yet a number of DoD Components are part of the Intelligence Community. To what extent, then, is the Secretary of Defense bound by the decisions of the DCI? On the other hand, who represents the interests of DoD intelligence components to the DNI? the Secretary of Defense? Or is this left to individual program managers within DoD Components?

Subsection 302(1) provides that the Secretary of Defense shall be responsible for implementation of the DNI's policy and resource decisions by DoD elements within the NFIP. The Office of the Secretary of Defense has historically performed this function, but without a specific charge to do so.

Subsection 302(2) charges the Secretary of Defense with ensuring that the tactical intelligence activities of DoD are compatible with and complement the intelligence activities funded within the NFIP. This subsection should be read in conjunction with section 303, below, which requires the creation of a new budget program for tactical intelligence activities, and program management by OSD.

SECTION 303

Section 303 institutes a procedure leading to the establishment of a new DoD Tactical Intelligence Program, to be managed by the Secretary of Defense. Subsection (a) provides that beginning with the annual budget submission for fiscal year 1994, the Secretary of Defense, in consultation with the Director of National Intelligence, shall identify those intelligence activities currently found in the list of Tactical Intelligence and Related Activities (TIARA) which constitute true "intelligence" activities which serve the interests of DoD generally. Subsection (b), in turn, requires that with the submission of the budget for fiscal year 1995, the intelligence activities identified the preceding year shall be funded as elements of a new Tactical Intelligence Program, to be managed as a separate program by the Secretary of Defense.

Several problems which plague the existing system would be addressed by Section 303. First, activities currently identified by the Department of Defense as part of TIARA are, in fact, not intelligence activities at all and should not be part of the management structure for intelligence, either within DoD or within the Congress. Second, activities identified within the TIARA category are not themselves managed as "program" at all, in the sense of being a discrete group of activities under the control of a single manager, but rather are managed on a decentralized basis within Defense Components as "non-intelligence", operational activities. Thus, as currently structured, TIARA is a not susceptible of overall program management by an intelligence manager. This situation has significantly hampered the effective integration of national and tactical intelligence activities either by the Office of the Secretary of Defense or by the DCI. Section 303 attempts to address this requiring true tactical intelligence activities to be grouped together to form a single program under a single DoD manager. It is also contemplated that within the military departments, those activities identified as elements of the DoD Tactical Intelligence Program would be managed by the intelligence elements of the departmental staffs rather than by the operations staffs as is now the case with TIARA.

Subtitle B—The National Security Agency

Section 311 of the bill would amend the National Security Act of 1947 to provide for the establishment of the National Security Agency (NSA) within the Department of Defense. NSA, while subsequently recognized in several statutory enactments, was created by presidential directive on October 24, 1952. While NSA has since carried out signals intelligence activities and communications security activities on behalf of the Government as a whole, it has remained a creature of Executive directive, with its principal missions and functions set forth only in such issuances. Section 311 would provide a statutory basis for its existence as well as for its principal missions. In recognition of the national role it has played and continues to play, NSA would be established under the National Security Act of 1947.

Under the existing framework, the Director of NSA has historically been a general or flag officer at the three-star level appointed by the Secretary of Defense, who serves at the pleasure of the Secretary. While length of actual service has varied, a "normal" tour as Director has heretofore been considered three years. This position has not been exempt from the statutory ceilings on general or flag officer positions within DOD, occasionally causing the military services to decline to nominate for the position, or leading them to nominate officers with little or no intelligence experience for the position.

Subsection (a) of the new section 208 of the National Security Act (as set forth in section 311 of the bill) would make several significant changes to this framework. While the Director would continue to be selected by the Secretary of Defense, the bill would require prior consultation with the DNI, reflecting the critical role which NSA plays in the Intelligence Community. Under the bill, the Director would be subject to a fixed term of four years, providing greater stability both to the Director and to the programs which he administers than which currently exists. Finally, while the bill would retain a requirement that the Director be a military officer (recognizing the necessity of a close and continuing relationship between NSA and the military services), it would exempt the position of Director from the statutory ceilings set for general and flag officers. This is intended to achieve several objectives: (1) to encourage each of the military departments to nominate for this position; (2) to encourage the military departments to groom qualified senior officers for this assignment; and (3) more generally, to create a senior officer position that military intelligence officers (as opposed to officers in non-intelligence branches of service) can aspire to.

Subsection (b) sets forth the principal responsibilities of NSA.

Subsection (b)(1) provides that NSA will operate an effective unified organization for the conduct of signals intelligence activities, which, in fact, has been its basic mission since its creation in 1952.

Subsection (b)(2) sets forth a responsibility that NSA does not have under current organizational arrangements. It makes NSA the sole agent within the Intelligence Community, subject to the authorities of the DNI, for the procurement and operation of overhead reconnaissance systems as may be needed to satisfy U.S. signal intelligence requirements. This places responsibility for the procurement of such systems in the purview of the agency charged with carrying out the signals intelligence mission rather than having such decisions made elsewhere. This

responsibility is predicted on the assumption that the director of NSA is at the outset in the best position to assess resource decisions concerning overhead systems within the context of the expenditures for his particular collection discipline. However, in view of the paramount need to ensure that such systems (which are normally quite costly) are needed, affordable, and provide maximum value for all collection disciplines, ultimate approval authority for these procurement decisions in placed by the bill in the hands of the DNI.

Subsection (b)(3) charges NSA with providing for the communications security needs of the Government as a whole. This, too, has been a long-standing part of NSA's mission, but has not heretofore been recognized in statute.

Subtitle C—The National Imagery Agency

Section 321 of the bill would also amend the National Security Act of 1947 to create a new intelligence agency with national responsibilities, which is not already in existence: the National Imagery Agency.

The bill gives the new agency responsibility for operating an effective unified organization for the tasking of imagery collectors (i.e. satellites and airborne platforms), for the exploitation and analysis of imagery collection, and for the dissemination of imagery production within the Government as a whole. Under the existing framework, these functions are performed by a number of disparate elements of the Intelligence Community, located within CIA, the Intelligence Community staff, DIA, and other intelligence elements of the Department of Defense. This decentralized framework had resulted in a lack of uniform governmental standards to govern exploitation, analysis and dissemination; considerable waste and duplication of effort; and a failure to integrate effectively U.S. capabilities.

The bill attempts to address this situation by placing these functions under a single manager (similar to the role which the Director NSA plays in coordinating U.S. signals intelligence activities). In recognition of its role as the largest consumer of imagery within the Government, the bill would place this new organization within the Department of Defense (similar to the National Security Agency). It is intended, however, that the new Agency will establish and operate an imagery system to support all of the Government's requirements for this type of collection, not simply those of the Department of Defense.

In addition, the bill makes the National Imagery Agency the sole agent within the Intelligence Community, subject to the authorities of the DNI, for the procurement and operation of overhead reconnaissance systems as may be needed to satisfy U.S. imagery requirements. As with NSA, this places responsibility for the procurement of such systems within the purview of the agency charged with carrying out the imagery intelligence mission rather than having such decisions made elsewhere. This responsibility is also predicated on the assumption that the director of the agency is at the outset in the best position to assess resource decisions concerning overhead systems within the context of the expenditures for his particular discipline. However, in view of the paramount need to ensure that such systems (which are normally quite costly) are needed, affordable, and provide maximum value for all collection disciplines, ultimate approval authority for these procurement decisions is placed by the bill in the hands of the DNI.

The bill also provides that the Director of the new agency be appointed by the Secretary of Defense, after consultation with the DNI. This is a reflection of the essential role this agency will play within the Intelligence Community. Subsection (a) leaves the Secretary with discretion to appoint either a military officer or civilian as Director in recognition that the Agency's responsibilities are broader than satisfying only military requirements.

Section 501 of the bill, which generally addresses the various transfers of functions made by the bill, provides that the new National Imagery Agency will be composed of those elements of the Intelligence Community currently performing the functions described in section 209, as jointly determined by the Director of National Intelligence and the Secretary of Defense.

Subtitle D—The Defense Intelligence Agency

Section 331 of the bill provides for the establishment of the Defense Intelligence Agency (DIA) within the Department of Defense. DIA was created by order of the Secretary of Defense on October 1, 1961, to consolidate analytical and production activities at the DoD level. While its existence has been recognized in several previous statutory enactments, it has until recently remained a creature of DoD directive with its principal functions and authorities set forth only in DoD regulations. Indeed, the lack of clear missions and authorities, established in an authoritative manner, has historically hampered DIA in the performance of these functions.

In section 921 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, responsibilities for DIA were set forth for the first time in law, but, under the terms of the law, this provision expires on January 1, 1993.

Sections 331 through 333 would provide a permanent statutory basis for DIA's existence as well as for its principal missions and authorities.

SECTION 331

Under the existing framework, the Director of DIA has historically been a general or flag officer at the three-star level appointed by the Secretary of Defense, who serves at the pleasure of the Secretary. While length of actual service has varied, a "normal" tour as Director has heretofore been considered three years. In addition, this position has not been exempt from the statutory ceilings on general or flag officer positions within DoD, occasionally causing the military services to decline to nominate for the position, or leading them to nominate officers with little or no intelligence experience for the position.

Subsection (b) would make several changes to this framework. First, while it would left appointment of the Director with the Secretary of Defense, it would require prior consultation with the DNI, in recognition of the critical contribution made by DIA to the Intelligence Community. Under the bill, the Director would be subject to a fixed term of four years, providing greater stability both to the Director and to the programs which he administers than which currently exists. Finally, while the bill would retain a requirement that the Director be a military officer (recognizing the necessity of a close and continuing relationship between DIA and the military services), it would exempt the position of Director from the statutory ceilings set for general and flag officers. This is intended to achieve several objectives: (1) to encourage each of the military departments to nominate for this position; (2) to encourage the military departments to groom qualified senior officers for this assignment; and (3) more generally, to create a senior officer position that military intelligence officers (as opposed to officers in non-intelligence branches of service) can aspire to.

SECTION 332

Section 332 sets forth the responsibilities of DIA, each of which is made subject to the direction of the Secretary of Defense. In general terms, these relate to the production of intelligence and to providing services of common concern to other intelligence elements of the Department of Defense. While these functions do not differ markedly from those currently assigned DIA under departmental regulation, it is intended that placing them in the law will provide a more authoritative base for DIA's exercise of these responsibilities.

Subsection 332(1) provides that DIA shall produce timely and objective military and military-related intelligence, based upon all sources available to the Intelligence Community, and disseminate such intelligence to the Secretary of Defense, Joint Chiefs of Staff and senior military commanders, as appropriate; other elements of the Department of Defense, as appropriate; and to other agencies and elements of the federal government, as appropriate. This is currently DIA's principal mission, assigned by DoD directive.

Subsection 332(2) provides that DIA will coordinate the production of military and military-related intelligence by other intelligence elements of the Department of Defense to ensure the adequacy and objectivity of intelligence support and to avoid unwarranted duplication. DIA has a similar function under DoD directive but its coordination role is limited primarily to avoiding duplication by DoD production elements.

Subsection 332(3) charges DIA with management of the Defense Attache System, a function DIA performs under its existing regulatory charter. Recognition of this function in statute is intended to strengthen DIA's ability to obtain qualified military officers to serve as military attaches.

Subsection 332(4) charges DIA, as principal producer of intelligence within DoD, with validating the intelligence collection requirements imposed on other DoD intelligence elements. It is intended that DIA will review such requirements to determine if they have been, or are being, satisfied by other U.S. intelligence collectors, prior to assigning such requirements to collectors within the Department of Defense.

Subsection 332(5) provides that DIA will perform such additional services of common concern to DoD intelligence elements as the Secretary of Defense might determine can be accomplished more efficiently in a central location. For example, it might be more efficient for DIA to provide certain administrative or personnel services to all career personnel in intelligence positions within DoD rather than having separate programs in each intelligence component; or it may be more efficient for DIA to provide communications system design services to all DoD intelligence components to ensure compatibility and lower procurement costs.

SECTION 333

To carry out the responsibilities set forth in section 332, section 333 provides the Director of DIA with certain authorities. These generally exceed the authorities which DIA currently has under departmental regulation. Indeed, it is the intent of this section to enhance such authorities to improve

DIA's capability to perform its basic mission.

Subsection 333(1) provides that the Director, DIA shall have access to all intelligence collected by any intelligence element of the Department of Defense, or any component of the intelligence Community (outside the Department of Defense), which bears upon a matter within his area of responsibility. This exceeds the existing authority of the DIA Director, insofar as it addresses access to intelligence beyond DoD. It also permits the DIA Director to obtain access to intelligence held in special compartmented channels among DoD components which bears upon his production responsibilities, an area where DIA has previously experienced difficulty in obtaining access.

Subsection 333(2) provides that the Director, DIA may evaluate intelligence on military and military-related topics produced by any DoD intelligence component for use outside such component, in order to assess its accuracy, completeness, objectivity, or timeliness. This is an authority the Director, DIA does not have under existing regulation. It is intended to give the Director DIA the ability to effectuate his role as coordinator of intelligence production within the Department of Defense.

Subsection 333(3) provides the director, DIA with complementary authority to evaluate intelligence production within intelligence components of the Department of Defense, and to direct the consolidation or elimination of existing capabilities, or direct that the requirements of a particular component for production be satisfied by alternative means. This is authority that the Director, DIA does not now possess under currently DoD regulations. It is intended to permit the Director of DIA to satisfy his responsibilities as coordinator of intelligence production within DoD, providing authority to deal effectively with unnecessary duplication in the production area. The subsection also makes clear, however, that each of the military departments shall maintain separate, independent production capabilities to support the departmental functions set for in section 341 of the bill.

Section 333(4) provides the Director of DIA with authority to require the military department to assign qualified active duty officers to the Defense Attache System. It is intended that the Director, DIA shall establish uniform standards governing the qualifications of such officers, and that the military departments will institute programs to develop and train officers capable of filling such positions.

Subtitle E—The Military Departments

Section 341 of the bill would amend Chapter 21 of title 10, United States Code, by adding a new section 425, imposing a requirement upon the Secretaries of the military departments to maintain sufficient capabilities to collect and produce intelligence in satisfaction of national, DoD, and service requirements.

This provision is included to ensure that with the drawdown in defense resources, sufficient intelligence capabilities will be maintained by the military departments, to serve both national purposes and their own service needs. It is also intended to acknowledge that even as the management arrangements for the conduct of U.S. intelligence activities are centralized and strengthened at higher levels, it is imperative to the continued vitality and effectiveness of U.S. intelligence activities, that the military departments continue to provide adequate personnel and logistical support to these efforts.

TITLE IV—CONGRESSIONAL OVERSIGHT

Section 401 of the bill amends Senate Resolution 400 (94th Congress), which established the Senate Select Committee on Intelligence (SSCI), to bring within its jurisdictional tactical intelligence activities. When the SSCI was established in 1976, the resolution establishing the Committee expressly excluded "tactical foreign military intelligence serving no national policy-making function." It was believed at the time that such activities more properly belonged in the jurisdiction of the Committee on Armed Services.

When the House counterpart to the SSCI was established in 1977, however, the same limitation upon its jurisdiction was not included in the resolution establishing the Committee. Moreover, the House Permanent Select Committee on Intelligence (HPSCI) was expressly given jurisdiction over "intelligence-related" activities, which, over time, has come to include various DoD programs and activities whose relationship to intelligence was, arguably, minimal.

Section 401 would adopt a "middle of the road" approach. It would eliminate the limitation in the Senate resolution which excludes "tactical intelligence" from "intelligence activities" under the jurisdiction of the SSCI, but it would not give the SSCI jurisdiction over "intelligence-related activities.

There are several reasons for this approach.

First, it is consistent with the changes proposed by section 303 of the bill which mandate the development of a DoD "Tactical Intelligence Program," eliminating those elements of the existing TIARA which do not qualify as "intelligence" activities, i.e. are "intelligence-related."

Second, experience has made clear that congressional oversight of national and tactical intelligence programs cannot be effectively performed separately or in a vacuum. Programmatic decisions made in the tactical area can have a direct bearing upon programmatic decisions made in the national area, and vice-versa. Support to military commanders and military planners necessarily involves national and tactical elements. To separate intelligence into two major segments for purposes of congressional oversight, and for the authorization of appropriations, establishes an arbitrary and artificial distinction that does not exist in reality.

Indeed, the SSCI has found it necessary as a practical matter—even though it is expressly excluded from jurisdiction over tactical intelligence activities—to establish a capability to monitor and oversee developments in the tactical intelligence arena. It cannot perform its functions vis-a-vis national programs without making this analysis. Typically, the Committee's recommendations in the tactical area are conveyed to the Committee on Armed Services which has previously accorded them substantial weight in arriving at its annual authorizations for tactical intelligence programs.

Because the House intelligence committee has jurisdiction over tactical intelligence programs, and the Senate intelligence committee does not, the annual authorizations for these activities are agreed upon in conference between the Senate Armed Services Committee and the House Permanent Select Committee on Intelligence within the context of the action on the DoD authorization, rather than the intelligence authorization, and the SSCI has played only an informal, advisory role in this process.

The purpose of section 401 would be to make the Senate's jurisdiction consistent with that of its House counterpart committee, and to ensure that all intelligence issues are dealt within the context of congressional action on the annual intelligence authorization bill. It would not alter the provisions of S. Res. 400 which give the Committee on Armed Services the right to ask for and receive sequential referral of the annual intelligence authorization bill. Accordingly, its right to review and recommend changes to the annual authorization for tactical intelligence activities would be preserved by this proposal. Similarly, when read in conjunction with the proposed section 303, this would leave DoD "intelligence-related" activities with arguably little direct relationship with intelligence outside the scope of SSCI or HPSCI jurisdiction altogether.

TITLE V—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

Sections 501 through 514 contains provisions which apply to the transfers of functions mandated by title III of the bill, namely, the transfer of functions to the newly-created National Imagery Agency, as well as the transfer of functions from the National Security Agency and Defense Intelligence Agency, both of which exist pursuant to Executive branch regulations, to the succeeding statutory agencies.

The effect of these provisions is basically to provide, as a matter of law, for the effective transition of functions, legal authorities, appropriations, personnel and equipment, obligations, and liabilities from the previously-established organizational entities to the newly-created ones.

TITLE VI—EFFECTIVE DATE

Section 601 provides that the effective date of the Act shall be 180 days from the date of its enactment, except for the amendment to Senate Resolution 400 which takes effect upon enactment. The 180-day delay in the effective date is intended to provide sufficient time for the actions called for by the bill to be implemented.•

By Mr. SIMPSON (for himself and Mr. SHELBY):

S. 2199. A bill to provide for the protection of Haitian nationals with a well-founded fear of persecution, to provide for the orderly return of those Haitian nationals without such a fear, and to discourage the departure of those Haitians who are unlikely to qualify for refugee status; read the first time.

PROTECTION OF HAITIAN NATIONALS

Mr. SIMPSON. Mr. President, I want to comment on legislation introduced by my two fine colleagues on the Subcommittee on Immigration and Refugee Affairs, Senator KENNEDY and Senator SIMON. I would also like to introduce my own legislation on this important issue, and let me briefly describe its different approach.

The Kennedy-Simon bill—and I am speaking now of the Haitian migrants and refugee issue, which is a burning issue before us in society—would effectively prohibit the United States Government from returning any Haitian nationals to Haiti until the President certifies that international observers have unimpeded access to monitor the conditions in Haiti and that the violence that existed in Haiti on the day

of the coup, September 30, 1991, has receded sufficiently so that Haitians may return without fear of persecution or politically motivated violence.

Mr. President, while I commend my colleagues for a very good-faith response to the current situation, I nonetheless believe that this legislative response is mistaken and inadvertently very counterproductive. This bill goes beyond our current refugee laws to state in effect then the following rule, that if you come from an unstable country, or if conditions in your country are generally unsettled, you have a right to safe haven in the United States. That is what this bill is saying.

Mr. President, that rule would set a most dangerous precedent for us. How many countries in the world can now be defined as "generally unsettled" or "unstable"?

The list is quite extensive—South Africa, Sri Lanka, Yugoslavia, the former Soviet Republics of Georgia, and Azerbaijan, many of the countries in the Middle East, Algeria, Somalia, and many other countries in the African Continent. Should every national of these countries receive a safe-haven right in the United States? I think the answer is clearly no.

In saying that, we are not being mean spirited, ugly, evil, or devoid of compassion. I have been in this issue now my entire time in the U.S. Senate. I have had all the opprobrium and heavy language you can take on when you deal with immigration and refugee issues—xenophobia, harshness. Whatever happened to the Statue of Liberty?

So far we have managed to wind our way through those extremes because we have a refugee act which I was very proud to support when I came to this place which was sponsored by Senator KENNEDY of Massachusetts, my friend.

Senator KENNEDY set the tone for the compassionate bill in the 1980 act, and this bill, unfortunately, did not adhere to that as it should in my mind.

We adopted the definition of refugee in 1980. We recognize that. We adopted the international definition of refugee. Instead, we have agreed with most of the Western World to offer refugee status. Here is what we have done. Here is what the law reads. We give that status to any person whose "life or freedom is in danger or who shall have a well-founded fear of persecution based on race, religion, national origin, nationality, or membership in a particular social group or political opinion."

That is the law. That is the law of the United States. It is the law of the United Nations. It is this group of people that I have just described to whom we and the rest of the world provide a very special protection.

If our refugee laws were to provide protection to every single resident of a country in turmoil, then our refugee laws would become absolutely meaningless because we could not hope to accommodate or provide meaningful assistance to that large a number of people. In short, we would be overwhelmed.

I work very closely with a marvelous man, the chairman of the Commission on Refugee Policy, Immigration and Refugee Policy, Father Ted Hesburgh, a former president of Notre Dame, one of the most respected people, I think, in the United States, at least he is, in my mind, one of the finest.

We are fortunate that the Creator put him here to work with the rest of us in his perceptive and extraordinary way. I remember we talked about these things, we talked about the overwhelming problems that could come to the world—and they are coming and will come.

But I think, therefore, we must focus our refugee benefits on those people who would face a particular individualized fear of mistreatment if returned to Haiti or to any other country. In fact, we have a well-founded idea of who these people are in Haiti—high-level members of President Aristide's government—officials of trade unions, and other popular organizations which were his strongest supporters, owners, operators, and employees of Haitian radio stations, the most persuasive form of communication in Haiti, and other Haitians involved in political opposition to the current military government.

However, refugee status is neither warranted nor necessary for the protection of every single person who had to have the misfortune to be living in Haiti when the coup occurred. That is the mistake that this bill makes. It requires that no foreign national may be returned to Haiti until the situation becomes more settled.

Finally, let me point out one part of the bill that might be confusing.

The Kennedy-Simon bill does not terminate automatically on February 21, 1992, indeed not. Instead, it would indefinitely prohibit us from returning any Haitian national no matter how flimsy his or her claim to refugee status until certain country conditions are met in Haiti.

Mr. President, when was the last time that country's conditions improved? The answer is a very, very long time ago.

So despite my problems with the bill of Senator KENNEDY and Senator SIMON, I share their deep concern in their desire to address the tragic situation in Haiti. Therefore, I am today introducing an alternative bill to provide refugee status to deserving Haitians.

I ask my colleagues for their consideration and support of it.

My legislation does four things:

It requires the U.S. Government to begin processing Haitians in Guantanamo to determine which ones qualify as refugees.

It allows us to admit to the United States any Haitian found to qualify as a refugee.

It prohibits us from admitting any Haitian before his or her refugee determination is final.

It states the sense of the Congress that any Haitian found not to qualify for refugee status may be returned to Haiti.

The key to this legislation is that we will determine whether a Haitian fleeing his or her country has a well-founded fear of persecution. If that person can show a well-founded fear of persecution, if returned to Haiti, then that person will not be returned to Haiti but will be admitted to the United States. However, if that person cannot show that he or she has a well-founded fear or persecution in Haiti, then our Government may return that person to Haiti.

Mr. President, if we are not able to return nonrefugees to Haiti, then it is so very possible that hundreds of thousands of Haitians may again set out in their leaky, unsafe boats to try to make it to our country.

Ironically, Mr. President, the deaths on the high seas that would result are likely to be much higher than the number of deaths that have occurred in Haiti since the September coup. It is quite possible, assuredly, that more Haitians have already died on the high seas attempting to get to the United States than have died as a result of that coup.

Cautious estimate is that 10 percent of the approximately 15,000 Haitian boat departures never make it to shore or to a Coast Guard cutter. Perhaps 1,500 have died on the high seas. In comparison, the State Department states that 200 to 300 people have died due to the political violence in Haiti since the September coup—an interesting statistic, a sad statistic. But even the human rights monitoring groups have said that the maximum number of deaths attributed to the coup is 1,500. My experience is that those numbers are inflated historically.

Thus, it is quite probable that more persons have died trying to reach the United States by this extraordinary method of conveyance in these very inadequate vessels than have died in Haiti because of the political violence since last September.

Mr. President, I think it is simply irresponsible to send the wrong signal to the average Haitian and encourage him or her to risk a journey to the United States.

However, if we stop all involuntary returns of any Haitians to Haiti, we send exactly that signal. We will encourage innumerable perilous boat journeys by persons desperate to find a job in the United States. I refuse to take part in such a dangerous approach.

We are literally playing with fire when we send these messages to poor,

desperate countries of the Third World. Let us be clear about the situation in Haiti. While it is not a place that is devoid of violence, certainly it is also not a place where corpses are lining the street. It is difficult to talk about these issues in this way, because I know the attitude, I know the response, I know the reaction. But some of the Haitian refugee advocates would have us believe that, and that is not so.

I gave you the figure that, since September, the coup, between 200 and 300 persons have died as a result of political violence. By way of comparison, over 400 persons have died in Washington, DC, who were homicide victims last year—the ultimate of life's disaster.

Some groups allege a higher toll exists in Haiti, but my experience has been that these human rights groups have a tendency to make very high estimates. And in discussions with Assistant Secretary of State for the Inter-American Affairs this week, I was reminded of a very important fact, and I will conclude on this fact.

In the nearly 11 years that we have been returning the interdicted Haitians who do not qualify for refugee status, there has not been a single reported case of a repatriated Haitian being harmed, imprisoned, or persecuted in any way as a result of the repatriation. I think that is an extraordinary statement.

I think this bill that I present is simple and straightforward. It says that if you have a well-founded fear of persecution in Haiti, we will not return you. If you do not have such a fear, then we will return you.

Mr. President, my bill's approach is logical, rational, generous, compassionate, and fair, and it avoids the unintended consequence of increased departures by Haitians on unseaworthy craft. It addresses, in a very difficult situation, that issue in a way calculated to save the largest number of lives, not to lead people to false hopes and unfortunate results. I urge its consideration and adoption.

Mr. SHELBY. Mr. President, I rise today to support a bill introduced by Senator SIMPSON, which fairly and responsibly addresses the Haitian refugee problem.

Despite the emergency ruling by the U.S. Supreme Court on January 31, 1991, and the subsequent upholding of the Court's decision to repatriate the Haitians by the court of appeals, there are some in the Congress who still believe that the answer to this problem is to block the return of the Haitians. I disagree.

The bill that Senator SIMPSON is offering is in everyone's best interest. It is consistent with existing immigration and naturalization laws and it treats Haitian refugees as it would treat all other refugees. The bill provides for the processing of the Haitians in Guantanamo as refugees, according to the Refuge Act of 1980. Those Haitians that meet the existing refugee criteria will be admitted to the United States. However, those Haitians who cannot show that they have "a well-founded fear of persecution in Haiti," will be repatriated.

The bill is straightforward and would provide refugee status to deserving Haitians. In addition, the bill expresses a sense of the Senate that sends a very important message to all Haitians. It is estimated that as many as five times more Haitians have died in the waters between Florida and Haiti than were killed in the violence that accompanied the coup d'etat in September. We should make it perfectly clear that it is not going to be in a Haitian's best interest to risk one's life by braving the rough waters on makeshift, overcrowded boats to come to the United States. It is irresponsible of the U.S. Government to continue to send Haitians mixed signals about their opportunities in the United States, encouraging them to risk their lives. This bill would discourage such attempts.

Mr. President, in closing I would like to emphasize what a practical response this bill is to an unfortunate and tragic problem. This is not a pleasant situation for the Haitians, the Supreme Court, the President, and certainly not for the Congress. Nevertheless, I believe it is important to respond to this crisis with consistency, fairness, and speed, not only to resolve this immediate matter, but to discourage a similar crisis in the future. I am confident that this bill will accomplish this.

ADDITIONAL COSPONSORS

S. 316

At the request of Mr. CRAIG, the names of the Senator from Kentucky [Mr. MCCONNELL] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors 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. 837

At the request of Mr. BUMPERS, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 837, a bill to amend the Internal Revenue Code of 1986 with respect to the discharge, or repayment, of student loans of students who agree to perform services in certain professions.

S. 1257

At the request of Mr. SYMMS, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1257, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 1578

At the request of Mr. THURMOND, the names of the Senator from Colorado [Mr. WIRTH], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1578, a bill to recognize and grant a Federal charter to the Military Order of World Wars.

S. 1902

At the request of Mr. ADAMS, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1902, a bill to amend title IV of the Public Health Service Act to require certain review and recommendations concerning applications for assistance to perform research and to permit certain research concerning the transplantation of human fetal tissue for therapeutic purposes, and for other purposes.

S. 1932

At the request of Mr. BUMPERS, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 1932, a bill to amend the Internal Revenue Code of 1986 to provide a capital gains tax differential for individual and corporate taxpayers who make high-risk, long-term, growth-oriented venture and seed capital investments in start-up and other small enterprises.

S. 1972

At the request of Mr. LEAHY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1972, a bill to amend the Public Health Service Act to provide grants for the establishment of State demonstration projects for comprehensive health care reform, and for other purposes.

S. 1997

At the request of Mr. KASTEN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1997, a bill to amend the Internal Revenue Code of 1986 to exclude from the social security tax on self-employment income certain amounts received by insurance salesmen after retirement.

S. 2064

At the request of Mr. HATFIELD, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2064, a bill to impose a one-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period.

S. 2070

At the request of Mr. MOYNIHAN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2070, a bill to provide for the Management of Judicial Space and Facilities.

S. 2089

At the request of Mr. NICKLES, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2089, a bill to repeal exemptions from civil rights and labor laws for Members of Congress.

S. 2176

At the request of Mr. KASTEN, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 2176, a bill to provide that Federal tax reduction legislation enacted in 1992 be effective January 1, 1992.

S. 2182

At the request of Mr. DECONCINI, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2182, a bill to amend the Child Nutrition Act of 1966 to make the special supplemental food program for women, infants, and children (WIC) and entitlement program, and for other purposes.

S. 2183

At the request of Mr. SHELBY, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2183, a bill to prohibit the Secretary of Veterans Affairs from carrying out the Rural Health Care Initiative.

S. 2185

At the request of Mr. KENNEDY, the names of the Senator from Florida [Mr. MACK], the Senator from New York [Mr. D'AMATO], the Senator from Oregon [Mr. HATFIELD], the Senator from New York [Mr. MOYNIHAN], the Senator from Connecticut [Mr. DODD], the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. BRADLEY], the Senator from Rhode Island [Mr. PELL], the Senator from Maryland [Mr. SARBANES], the Senator from Iowa [Mr. HARKIN], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Illinois [Mr. DIXON], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 2185, a bill to suspend the forcible repatriation of Haitian nationals fleeing after the coup d'etat in Haiti until certain conditions are met.

SENATE JOINT RESOLUTION 139

At the request of Mr. THURMOND, the names of the Senator from Delaware [Mr. BIDEN] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Joint Resolution 139, a joint resolution designating October 1991, as "National Lock-In-Safety Month."

SENATE JOINT RESOLUTION 224

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Joint Resolution 224, a joint resolution designating March 1992 as "Irish-American Heritage Month."

SENATE JOINT RESOLUTION 230

At the request of Mr. REID, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 230, a joint resolution providing for the issuance of a stamp to commemorate the Women's Army Corps.

SENATE JOINT RESOLUTION 231

At the request of Mr. THURMOND, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from North Dakota [Mr. CONRAD], the Senator from New York [Mr. MOYNIHAN], the Senator from Washington [Mr. ADAMS], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 231, a joint resolution designating the month of May 1992, as "National Foster Care Month."

SENATE JOINT RESOLUTION 238

At the request of Mr. RIEGLE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 238, a joint resolution designating the week beginning September 21, 1992, as "National Senior Softball Week."

SENATE JOINT RESOLUTION 241

At the request of Mr. SPECTER, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Missouri [Mr. BOND], the Senator from South Dakota [Mr. DASCHLE], the Senator from Alabama [Mr. SHELBY], the Senator from Alaska [Mr. STEVENS], the Senator from Connecticut [Mr. DODD], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 241, a joint resolution designating October 1992 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 242, a joint resolution designating the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 243

At the request of Mr. KASTEN, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 243, a joint resolution to designate the period commencing March 8, 1992, and ending on March 14, 1992, as "Deaf Awareness Week."

SENATE JOINT RESOLUTION 247

At the request of Mr. DOLE, the names of the Senator from Utah [Mr. GARN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from California [Mr. SEYMOUR], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of Senate Joint Resolution 247, a joint resolution designating June 11, 1992, as "National Alcoholism and Drug Abuse Counselors Day."

SENATE RESOLUTION 95

At the request of Mr. GORE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Resolution 95, a resolution urging the Administrator of the Environmental Protection Agency to accelerate the scheduled phaseout of production of ozone-destroying substances in the United States as required pursuant to the Clean Air Act Amendments of 1990 and calling on the President to urge the United Nations to call a special session of the Contracting Parties to the Montreal Protocol in order to conclude an agreement accelerating the scheduled phaseout of such substances and for other purposes based on recent scientific findings concerning the degradation of the stratospheric ozone layer and increased atmospheric concentrations of substances that lead to the degradation of the stratospheric ozone layer.

SENATE RESOLUTION 123

At the request of Mr. KASTEN, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of Senate Resolution 123, a resolution relating to State taxes for mail-order companies mailing across State borders.

SENATE RESOLUTION 249

At the request of Mr. D'AMATO, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Resolution 249, a resolution expressing the sense of the Senate that the United States should seek a final and conclusive account of the whereabouts and definitive fate of Raoul Wallenberg.

AMENDMENT NO. 1159

At the request of Mr. GORE, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of amendment No. 1159 proposed to H.R. 2686, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

AMENDMENT NO. 1526

At the request of Mr. CHAFEE, his name was added as a cosponsor of amendment No. 1526 intended to be proposed to S. 2166, a bill to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes.

AMENDMENTS SUBMITTED

NATIONAL ENERGY SECURITY ACT

JEFFORDS (AND OTHERS) AMENDMENT NO. 1530

Mr. JEFFORDS (for himself, Mr. GRASSLEY, Mr. GLENN, and Mr. EXON) proposed an amendment to the bill (S. 2166) to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes, as follows:

On page 57, line 11, strike "and".

On page 57, line 14, strike the period and insert "; and".

On page 57, between lines 14 and 15, insert the following new paragraph:

(7) such program should provide long-term stability to industries producing replacement and alternative fuels.

On page 57, line 18, insert "and improve environmental quality" after "pollution".

On page 58, line 13, strike "including stripper wells" and insert "excluding domestic petroleum recovered from stripper wells".

On page 58, line 16, strike "or Canada" and insert "Canada, or any country in the Western Hemisphere with which the United States has a free trade agreement".

On page 59, line 2, after "gasoline," insert the following: "not manufactured from conventional petroleum,".

On page 59, line 3, before the semicolon, insert the following: ", liquid fuels derived from coal, oil shale, tar sands, natural gas (including natural gas liquids), and biomass and waste products".

On page 59, line 11, strike "and".

On page 59, strike lines 12 through 23 and insert the following new paragraphs:

(9) the term "provider" means—

(A) a person engaged in the production of replacement or alternative fuels, for sale and use as a motor fuel; or

(B) a person who recovers domestic petroleum from stripper wells;

(10) the term "refiner" means a person engaged in the refining of crude oil to produce motor fuel, an importer of motor fuel, or an affiliate of the person or importer;

(11) the term "prohibitive cost" means an expense that would result in a refiner's product being economically nonviable; and

(12) the term "stripper well" has the same meaning as is provided for "stripper well property" in section 613A(c)(6)(E) of the Internal Revenue Code of 1986.

On page 60, line 11, insert "(1) IN GENERAL.—" before "Under".

On page 60, line 17, strike "(1)" and insert "(A)".

On page 60, line 21, strike "(2)" and insert "(B)".

On page 61, line 3, strike "(3)" and insert "(C)".

On page 61, strike line 7 and insert the following: "(D) assess the suitability, cost-effectiveness, and environmental impact".

On page 61, line 10, strike "; and" and insert a semicolon.

On page 61, line 11, strike "(5)" and insert "(E)".

On page 61, line 15, strike the period and insert "; and".

On page 61, between lines 15 and 16, insert the following new subparagraph:

(F) establish a goal of achieving, by the year 2000, utilization of domestic renewable resources for at least 5 percent of annual gasoline consumption.

(2) SUBSTITUTE PERCENTAGE GOAL.—The Secretary shall prescribe, by rule, a substitute percentage goal for the purpose of paragraph (1)(B), if the Secretary determines that 30 percent is unachievable because of technological or cost constraints, or because of environmental considerations analyzed in the report required under section 4307(b)(5)(B).

Beginning on page 62, strike line 11, and all that follows through page 64, line 2, and insert the following new sections:

Sec. 4307. REPLACEMENT AND ALTERNATIVE FUELS SUPPLY.—(a) TIMETABLE FOR REFINERS.—(1) IN GENERAL.—Of the total quantity of gasoline, alternative fuels, and replacement fuels sold in commerce during each of the 1996 and subsequent calendar years by a refiner (including sales to the Federal Government), domestic-produced replacement and alternative fuels shall constitute, at a minimum, the percentages as determined in accordance with the following table:

In each of the calendar years:	The minimum percentage that replacement fuels and alternative fuels constitute, shall be—
1996 through 2000	Determined by the Secretary under paragraph (2)(A).
2001 through 2009	10 percent, subject to paragraph (2)(B).
2010 and each year thereafter.	The percentage determined feasible under paragraph (2)(B).

(2) ESTABLISHMENT OF PERCENTAGES BY SECRETARY.—

(A) CALENDAR YEARS 1996 THROUGH 2000.—

(i) IN GENERAL.—Not later than October 1, 1994, the Secretary shall, by rule, prescribe the minimum percentage (on an energy equivalent basis) of the total quantity of gasoline, alternative fuels, and replacement fuels sold in commerce during each of the 1996 through 2000 calendar years by a refiner for use as motor fuel (including sales to the Federal Government), that must be domestic-produced replacement and alternative fuels.

(ii) FACTORS.—In establishing the percentages, the Secretary shall—

(I) take into account the demand for and the availability of reliable sources of replacement and alternative fuels; and

(II) establish the percentages at a level that is consistent with a goal for domestic production of replacement and alternative fuels for calendar year 2001 and thereafter of not less than 10 percent on an energy equivalent basis of the projected consumption of gasoline, alternative fuels, and replacement fuels in the United States for each year.

(B) CALENDAR YEARS 2001 AND THEREAFTER.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii) and the development plan required under section 4305(b), the Secretary shall, by rule, prescribe the minimum percentage (on an energy equivalent basis) of the total quantity of gasoline, alternative fuels, and replacement fuels sold in commerce during calendar year 2001 and each of the subsequent calendar years by a refiner for use as motor fuel (including sales to the Federal Government), that must be domestic-produced replacement and alternative fuels.

(ii) MINIMUM PERCENTAGE.—Subject to clause (iii), the minimum percentage established under this subparagraph shall be 10 percent.

(iii) INCREASED PERCENTAGE.—In the case of calendar year 2001 and each of the subsequent calendar years, the Secretary may increase the minimum percentage established under this subparagraph if the Secretary determines that the increase is feasible based on findings made under sections 4305, 4306, and subsection (b)(5).

(3) CREDITS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations allowing the sale, other exchange, banking, carry-forward, and carry-back of marketable credits, in order to satisfy the requirements of this section, among—

(i) refiners;

(ii) providers;

(iii) manufacturers of dedicated alternative-fuel vehicles; and

(iv) owners of public and private refueling stations (who may obtain credits for the installation of the equipment and facilities needed to sell or dispense alternative fuels).

(B) DEDICATED ALTERNATIVE-FUEL VEHICLES.—The Secretary shall determine the value of credits for dedicated alternative-fuel vehicles that shall be available to manufacturers of the vehicles based on a reasonable estimate of the quantity of gasoline or diesel motor fuel that would otherwise be consumed, over the life cycle of each dedicated alternative-fuel vehicle, in a comparable conventionally fueled vehicle achieving the average fuel economy for the current model year for vehicles in the conventionally fueled vehicle's size and utility class.

(C) PUBLIC AND PRIVATE REFUELING STATIONS.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary shall determine the value of credits for alternative fuel refueling facilities at public and private refueling stations that shall be available to owners of the facilities based on a reasonable estimate of the quantity of gasoline or diesel motor fuel that would have been sold at a similar gasoline or diesel motor fuel refueling facility in a calendar year.

(ii) LIMITATION.—Credits under this subparagraph shall be available only for the installation of the facilities described in clause (i) and shall not be available on a continuing basis.

(4) EXEMPTIONS.—

(A) SMALL REFINERS.—In the case of a domestic refiner of domestic crude oil that (on the date of enactment of this Act) has a capacity per calendar day of less than 20,000 barrels, the requirements of this subsection shall become effective 3 years after the date of enactment of this Act.

(B) HARDSHIP.—On the application of a person and based on prohibitive costs or an inability to obtain raw materials, sufficient replacement or alternative fuels, or marketable credits, the Secretary may make an adjustment to reduce the minimum percentage requirement as it applies to that person.

(b) REPORTING REQUIREMENTS.—(1) REFINERS.—Each refiner shall report annually to the Secretary on—

(A) the percentage of domestic-produced replacement fuels, on an energy equivalent basis, contained in the total quantity of gasoline that the refiner sold during the preceding calendar year; and

(B) the quantity of replacement and alternative fuels sold by or credited to the refiner during the year.

(2) DISTRIBUTORS.—Each distributor of alternative fuels, and each manufacturer of dedicated alternative fuel vehicles, shall report annually to the Secretary on—

(A) the quantity of alternative fuels or the number of dedicated alternative fuel vehicles sold into commerce for transportation purposes; and

(B) the quantity of credits that the distributor or manufacturer sold to refiners during the year.

(3) PUBLIC AND PRIVATE REFUELING STATIONS.—Each owner of a public or private refueling station who sells credits for the installation of equipment and facilities needed to sell or dispense alternative fuels shall report annually to the Secretary on the quantity of credits sold to refiners during the year.

(4) SECRETARY OF TRANSPORTATION.—The Secretary of Transportation shall cooperate with the Secretary on developing a reporting system for the number of dual fuel and dedicated alternative fuel vehicles manufactured and sold into commerce by each manufacturer during the year.

(5) ADMINISTRATOR.—

(A) IN GENERAL.—The Administrator shall report to Congress not later than 2 years after the date of enactment of this Act, and at least every 4 years thereafter, on the potential environmental impact of developing replacement and alternative fuels.

(B) ANALYSIS.—The report shall analyze the existing and potential—

(i) benefits and detriments to air and water quality (including climate change);

(ii) ramifications for solid and hazardous waste management;

(iii) implications for public land management; and

(iv) other environmental effects as identified by the Administrator.

(c) COORDINATION WITH OTHER ACTS.—This section shall be administered and enforced in coordination with the administration and enforcement of the Energy Security Act (42 U.S.C. 8701 et seq.) and the Clean Air Act (42 U.S.C. 7401 et seq.).

Sec. 4308. ENFORCEMENT BY THE SECRETARY.—(a) VIOLATION.—(1) IN GENERAL.—

(A) IN GENERAL.—A person who violates a requirement imposed under section 4307(a) shall be subject to a civil penalty, assessed by the Secretary, which shall be based on the product obtained by multiplying—

(i) a monetary per gallon penalty determined in accordance with subparagraph (B); by

(ii) the difference between—

(I) the number of gallons of alternative and replacement fuels required under section 4307(a); and

(II) the number of gallons of replacement and alternative fuels sold and credited.

(B) DETERMINATION OF MONETARY PENALTY.—

(i) IN GENERAL.—The Secretary shall issue regulations establishing a monetary per gallon penalty system that—

(I) encourages compliance with this Act;

(II) provides stability and growth in the production of replacement and alternative fuels; and

(III) allows for the recovery of administrative costs incurred by the Secretary in enforcing the requirements of this Act.

(ii) AMOUNT OF PENALTY.—The Secretary shall—

(I) consider linking the penalty system to the market price of nonqualifying petroleum or motor vehicle fuels; and

(II) ensure that the penalty system establishes a penalty for each violation calculated to—

(aa) approximate the minimum monetary expenditure that the violator would have made to obtain sufficient credits to comply with the requirements of section 4307; and

(bb) include the administrative costs incurred by the Secretary in enforcing the requirements of this Act.

(iii) REVISIONS.—The Secretary may revise the penalty system, by rule, as is necessary to reflect changing market conditions.

(2) FAILURE TO REPORT.—Failure to meet the reporting requirements of section 4307(b) shall be punishable by a civil penalty of not more than $25,000 per day.

(b) AUDITS.—The Secretary, and authorized representatives of the Department of Energy, shall have access for the purpose of audit and examination to any books, documents, papers, and records, of refiners, providers, manufacturers of dedicated alternative-fuel vehicles, and owners of public and private refueling stations, that are pertinent to the requirements of section 4307.

(c) JUDICIAL REVIEW.—(1) IN GENERAL.—A person against whom a penalty is assessed under this section may, not later than 60 days after the date of the order of the Secretary assessing the penalty, institute an action in the United States Court of Appeals for the appropriate judicial circuit for review of the order in accordance with chapter 7 of title 5, United States Code.

(2) JURISDICTION.—The court shall have jurisdiction to—

(A) enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary; or

(B) remand the proceeding to the Secretary for such further action as the court may direct.

Sec. 4309. AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

DIXON (AND OTHERS) AMENDMENT NO. 1531

Mr. DIXON (for himself, Mr. GORE, Mr. DECONCINI, Mr. LEVIN, Mr. DASCHLE, Mr. BURDICK, Mr. GLENN, Mr. HARKIN, and Mr. D'AMATO) proposed an amendment to the bill S. 2166, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . SUPPORT FOR UNITED STATES WORKERS.

(a) FINDINGS.—The Senate finds that—

(1) the United States worker is one of the most productive in the world;

(2) based on gross domestic product produced per employed person, the United States is rated number one in productivity compared to Canada, Japan, Korea, Germany, and Britain;

(3) according to a study (based on statistics from the Organization for Economic Cooperation and Development) during the mid-1980's, America produced almost twice as much as Japan for every man-hour worked;

(4) it was the hard work, dedication, and efficiency of United States workers that made the United States the number one industrial power in the world;

(5) the quality of United States products is one of the best in the world;

(6) the United States leads in many areas including computer software and hardware technology, pharmaceuticals, biotechnology, construction engineering, entertainment, agriculture, and energy and environmental control;

(7) the United States has been able to successfully export to other areas of the world;

(8) the trade deficit with Japan for 1991 is approximately $42 billion;

(9) United States and other foreign auto makers attempting to sell in Japan have less than 3 percent of the Japanese market;

(10) Japan's structural impediments, such as restrictive distribution system, exclusionary business practices, keiretsu relationships, regulatory system, land policy, and predatory pricing practices, prevent United States companies from fairly competing in Japan;

(11) Japan's tariffs and quotas on foreign agricultural goods restrict the import of United States agricultural products into Japan;

(12) Japan continues to violate United States copyright, patent, and trademark protection laws; and

(13) Japan continues to restrict foreign direct investment in certain industries, while the United States permits unrestricted foreign investment.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Senate objects to—

(1) the comments made by Japan's Speaker of the House, Yoshio Sakurauchi, regarding American workers, and

(2) the statements made by Prime Minister Kiichi Miyazawa disparaging the American work ethic and undermining the commitment that was made with President Bush.

JOHNSTON (AND OTHERS) AMENDMENT NO. 1532

Mr. JOHNSTON (for himself, Mr. WALLOP, and Mr. WIRTH) proposed an amendment to the bill S. 2166, supra, as follows:

On page 12, lines 9 through 14, delete subsection (c) and designate subsection (d) as subsection (c).

JOHNSTON (AND WIRTH) AMENDMENT NO. 1533

Mr. JOHNSTON (for himself and Mr. WIRTH) proposed an amendment to the bill S. 2166, supra, as follows:

On page 83, line 24, amend section 5201 by inserting a new subsection (b) as follows, and redesignating subsections (b) and (c) as subsections (c) and (d) accordingly:

"(b) Section 6(d)(1) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended as follows:

(1) after the semicolon by deleting the word "or"; and

(2) by inserting after paragraph (B) a new paragraph (C) as follows: "; or (C) there is insufficient Federal funding to adequately fund each of the joint venture technologies as required under subsection (b)(1),"."

Amend page 84, line 19, by inserting a new paragraph (4) to read as follows:

"(4) By inserting after the word "shall" in paragraph (b)(5), the word "not"."

Amend page 87, line 22 by inserting a new subsection (d) as follows:

"(d) ADDITIONAL DUTIES OF JOINT VENTURE ADVISORY COMMITTEE.—Section (b)(3) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended by adding a new subparagraph as follows:

"(C) Not later than 18 months after the date of the enactment of the National Energy Security Act of 1991, the Advisory Committee shall provide the Secretary with a report assessing the implementation of the joint venture program under this section including specific recommendations for improvements or changes to the program and solicitation process.".

JOHNSTON (AND WIRTH) AMENDMENT NO. 1534

Mr. JOHNSTON (for himself and Mr. WIRTH) proposed an amendment to the bill S. 2166, supra, as follows:

On page 117, after line 14, amend Section 6102 by adding the following new subsection (d):

"(d) ENERGY EFFICIENT MORTGAGE PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Veterans Affairs shall, within six months after the date of enactment of this Act, jointly establish an energy efficient mortgage pilot program in five States, to promote the purchase of new and existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

"(2) PILOT PROGRAM.—The pilot program established under this subsection shall include the following criteria, where applicable:

"(A) the lender shall originate an otherwise normal VA or FHA home loan;

"(B) the mortgagor's income and credit record is found to be satisfactory and his base loan application is approved; and

"(C) the cost of cost-effective energy efficiency improvements do not exceed five percent of the property value (not to exceed $8,000) or $4,000, whichever is greater.

"(3) ADDITIONAL.—When granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority to:

"(A) permit the final loan amount to exceed the normal VA, FHA, loan limits by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, provided that the mortgagors request to add the cost of such improvements is received by the mortgage prior to funding of the base loan;

"(B) hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

"(C) transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

"(4) PROMOTION OF PILOT PROGRAM.—The Secretary of Housing and Urban Development and the Secretary of Veteran's Affairs shall encourage participation in the energy efficient mortgage pilot program by:

"(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

"(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot programs; and

"(C) requiring all applicants for VA and FHA mortgages in those States participating under this pilot program to sign a statement stating that they have been informed of the program and understand the benefits of energy efficient mortgages.

"(5) TRAINING PROGRAM.—Not later than nine months after the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with the Secretary of Veteran's Affairs and the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

"(6) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Housing and Urban Affairs and the Secretary of Veteran's Affairs shall prepare a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, as well as an assessment of the potential for expanding the pilot program nationwide.

"(7) EXTENSION OF PROGRAM.—Not later than two years after the date of the implementation of the Energy Efficient Mortgage Pilot Program, the Secretary of Housing and Urban Development and the Secretary of Veteran's Affairs shall extend the pilot program nationwide unless the Secretary's can demonstrate to Congress that such an extension would not be practicable.

"(8) DEFINITIONS.—As used in this subsection the term—

"(1) "energy efficient mortgage" means a mortgage on a residential property that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan;

"(2) "cost-effective" means those energy efficiency improvements to an attached or unattached single family residence that will produce an immediate and quantifiable positive cash flow and will result in monthly energy savings greater than the resulting increase in the monthly loan payment when 100 percent of the cost of improvements is added to the base loan;

"(3) "base loan" means any FHA or VA loan that does not include the cost of cost-effective energy improvements; and

"(4) "residential buildings" means any attached or unattached single family residence.".

JOHNSTON (AND OTHERS) AMENDMENT NO. 1535

Mr. JOHNSTON (for himself, Mr. FOWLER, and Mr. WIRTH) proposed an amendment to amendment No. 1534 proposed by Mr. JOHNSTON (and Mr. WIRTH) to the bill S. 2166, supra, as follows:

Amend the amendment which provides for an energy efficient mortgage program by inserting the following text in the first definition, in subparagraph (d)(8)(1), after the phrase, "recognizes the energy savings of a home that has cost-effective energy saving construction or improvements": "(including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film)".

JOHNSTON (AND OTHERS) AMENDMENT NO. 1536

Mr. JOHNSTON (for himself, Mr. WALLOP, and Mr. WIRTH) proposed an amendment to the bill S. 2166, supra, as follows:

On page 159, after line 9, redesignate subsections (b) and (c) as subsections (c) and (d), respectively, and add the following new subsection:

"(b) The Public Utility Regulatory Policies Act of 1978 is further amended by inserting the following new paragraph at the end of subsection 111(c):

" '(3) If a State regulatory authority implements a standard established by subsection (d)(7), such authority shall (A) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy conservation, energy efficiency or other demand side management measures, and (B) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.' "; and

On page 160, after line 8, insert the following new paragraph:

"(4) an analysis by the Federal Trade Commission of the competitive impact of implementation of energy conservation, energy efficiency and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation or servicing of similar energy conservation, energy efficiency or other demand side management measures and whether any unfair, deceptive or predatory acts or practices exist, or are likely to exist, from implementation of such programs.".

JOHNSTON (AND OTHERS) AMENDMENT NO. 1537

Mr. JOHNSTON (for himself, Mr. WALLOP, and Mr. WIRTH) proposed an amendment to the bill S. 2166, supra, as follows:

On page 109, after line 2, insert the following new subsection (d) and reletter the existing subsection (d) as (e).

"(d) The Secretary shall periodically, but no less than once every five years, review the Federal building energy code and shall, if significant energy savings would result, upgrade such code to include all new energy efficiency measures that are technologically feasible and economically justified."

JOHNSTON (AND AKAKA) AMENDMENT NO. 1538

Mr. JOHNSTON (for himself and Mr. AKAKA) proposed an amendment to the bill S. 2166, supra, as follows:

On page 176, lines 22, insert the following new section:

"SEC. 6508. USE OF SOLAR THERMAL WATER HEATERS FOR LOW-INCOME WEATHERIZATION.

Section 412(9)(e) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)(E)) is amended by inserting a new clause as follows and relettering accordingly: "solar thermal water heaters".

JOHNSTON (AND WIRTH) AMENDMENT NO. 1539

Mr. JOHNSTON (for himself and Mr. WIRTH) proposed an amendment to the bill S. 2166, supra, as follows:

Amend subtitle E of title VI by adding a new section as follows:

"SEC. 6508. BUILDING RETROFIT STANDARDS.

(a) Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by renumbering paragraph (13) as paragraph (14) and inserting before the "; and" in paragraph (12) a new paragraph (13) as follows:

"(13) programs for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of the building;"

"(b) Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323) is amended by adding a new subsection (f) as follows:

"(f) Technical assistance pursuant to subsection (a) may include: (i) reports on experience with existing retrofit programs; and (ii) model State laws and proposed regulations relating to the development of building retrofit standards and regulations, including retrofit ordinances."

JOHNSTON (AND OTHERS) AMENDMENT NO. 1540

Mr. JOHNSTON (for himself, Mr. SARBANES, and Ms. MIKULSKI) proposed an amendment to the bill S. 2166, supra, as follows;

On page 144, after line 17, add the following new section:

"SEC. . VIBRATION TECHNOLOGY STUDY.

(a) The Secretary of Energy shall, in consultation with the appropriate industry representatives, conduct a study to assess the cost-effectiveness, technical performance, energy efficiency, and environmental impacts of active noise and vibration cancellation technologies that use fast adapting algorithms.

(b) In carrying out such study, the Secretary shall—

(1) estimate the potential for conserving energy and the economic and environmental benefits that may result from implementing active noise and vibration abatement technologies in demand-side management; and

(2) evaluate the cost effectiveness of active noise and vibration cancellation technologies as compared to other alternatives for reducing noise and vibration.

(c) The Secretary shall transmit to the Congress, within 12 months after the date of the enactment of this Act, a report containing the findings and conclusions of the study carried out under this subsection.

(d) The Secretary may, based on the findings and conclusions of such study, carry out at least one project designed to demonstrate the commercial application of active noise and vibration cancellation technologies using fast adapting algorithms in products or equipment with a significant potential for increased energy efficiency.

JOHNSTON (AND WALLOP) AMENDMENT NO. 1541

Mr. JOHNSTON (for himself and Mr. WALLOP) proposed an amendment to the bill S. 2166, supra, as follows:

Amend section 6302 on page 161:

(1) by adding at the end of line 5, "Such grants may be utilized by a State regulatory authority to provide financial assistance to subgrantees of the Department of Energy's Weatherization Assistance Program to facilitate participation by such subgrantees in proceedings of such regulatory authority to examine least-cost planning."; and

(2) by adding at the end of line 10, "Such actions—

"(1) shall include procedures to facilitate the participation of subgrantees of the Department of Energy's Weatherization Assistance Program in proceedings of such regulatory authority to examine least-cost planning, and

"(2) may include provision for utility coverage of the costs of such subgrantees participation in such proceedings."

WELLSTONE AMENDMENT NO. 1542

Mr. JOHNSTON (for Mr. WELLSTONE) proposed an amendment to the bill S. 2166, supra, as follows:

On page 303, strike line 15 and all that follows through line 21.

GLENN (AND OTHERS) AMENDMENTS NOS. 1543 THROUGH 1545

Mr. JOHNSTON (for Mr. GLENN, for himself, Mr. JOHNSTON, Mr. KOHL, Mr. FOWLER, Mr. LAUTENBERG, Mr. COHEN, Mr. SEYMOUR, Mr. GRASSLEY, Mr. LEVIN, Mr. DODD, and Mr. WIRTH) proposed three amendments to the bill S. 2166, supra, as follows:

AMENDMENT NO. 1543

On page 87, line 22, amend section 5201 of subtitle B of Title V by inserting at the end thereof the following new subsection (d):

"(d) NATIONAL RENEWABLE ENERGY AND ENERGY EFFICIENCY MANAGEMENT PLAN.—Section 9(b) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Public Law 101-218) is amended:

"(A) in paragraph (1) by inserting "three-year" before "management plan"; and

"(B) by deleting paragraph (5) and inserting the following new paragraphs (5) and (6) in lieu thereof:

"(5) In addition, the Plan shall—

"(A) contain a detailed assessment of program needs, objectives, and priorities for each of the programs authorized under sections 4, 5, and 6 of this Act;

"(B) use a uniform prioritization methodology to facilitate cost-benefit analyses of proposals in various program areas;

"(C) establish milestones for setting forth specific technology transfer activities under each program area;

"(D) include annual and five-year cost estimates for individual programs under this Act; and

"(E) identify program areas for which funding levels have been changed from the previous year's Plan.

"(6) Within one year after the date of the enactment of this paragraph, the Secretary shall submit a revised management plan under this section to Congress. Thereafter, the Secretary shall submit a management plan every three years at the time of submittal of the President's annual budget submission to the Congress.".

AMENDMENT NO. 1544

Amend page 9, line 23, by deleting the word "and", and on line 25 by inserting a new subsection (16) before the period as follows: "; and (16) encourage the Federal government to play a lead role in the widespread commercialization of alternative fuel vehicles.".

Amend page 18, section 4101 by adding the following new definitions (1) and (4) and renumbering the existing definitions accordingly:

"(1) "Administrator" means the Administrator of the General Services Administration;

"(4) "comparable conventionally fueled vehicle" means a commercially available vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source and provides passenger capacity or payload capacity comparable or similar to an alternative fuel vehicle as determined by the Secretary.".

Amend page 21, line 15, by inserting the following new subsection (b) and redesignating subsequent subsections accordingly:

"(b) PROGRAM CRITERIA.—The Secretary, the Administrator, in consultation with the head of each Federal agency, shall consider the following criteria in the procurement and placement of alternative fuel vehicles:

"(1) the procurement plans of State and local governments and other public and private institutions;

"(2) the current and future availability of refueling and repair facilities;

"(3) the reduction in emissions of the Federal motor vehicle fleet;

"(4) whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act of 1990;

"(5) the needs of Federal, State, and local agencies; and

"(6) the contribution to the reduction in the consumption of oil in the transportation sector.

Amend page 46, line 21, by inserting the following new subsection (g) and redesignating subsequent subsections accordingly:

"(g) ACQUISITION REQUIREMENT.—Federal agencies, to the extent practicable, shall obtain alternative fuel vehicles form original equipment manufacturers.".

Amend page 26, line 17, by deleting "4102, 4103," and inserting in lieu thereof "4103".

Amend page 29, by redesignating sections 4110 and 4111 as sections 4118 and 4119 respectively and inserting on page 29, after line 19, the following new sections 4110, 4111, 4112, 4113, 4114, 4115, 4116, and 4117:

"SEC. 4110. RESALE OF ALTERNATIVE FUEL VEHICLES.

(a) Not less than three years from the date of purchase, the Administrator may resell any alternative fuel passenger automobile purchased pursuant to this subtitle. For purposes of this subsection, a "passenger automobile" means any passenger automobile as defined in section 501(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(2).

"(b) Not less than six years, or 60,000 miles from the date of purchase, the Administrator may resell any alternative fuel light truck purchased pursuant to this subtitle. For purposes of this subsection, a "light truck" means any light truck as defined in section 501(15) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(15).

"(c) The Administrator may resell or dispose of an alternative fuel passenger automobile or light truck at an earlier date if such vehicle is damaged in an accident, or if the Administrator determines selling such alternative fuel passenger automobile or light truck is in the best interests of the Federal alternative fuel vehicle program.

"(d) The Administrator shall take all feasible steps to ensure that all alternative fuel vehicles sold under the provisions in (a) and (b) of this section shall remain alternative vehicles at time of sale.

"SEC. 4111. FEDERAL AGENCY PROMOTION, EDUCATION, AND COORDINATION.

(a) PROMOTION AND EDUCATION.—The Administrator shall institute a program to promote programs and educate officials and employees of Federal agencies on the merits of alternative fuel vehicles. The Administrator shall provide and disseminate information to Federal agencies on the:

"(1) location of refueling and maintenance facilities available to alternative fuel vehicles in the Federal fleet;

"(2) range and performance capabilities of alternative fuel vehicles;

"(3) State and local government and commercial alternative fuel vehicle programs;

"(4) Federal alternative fuel vehicle purchases and placements;

"(5) operation and maintenance of alternative fuel vehicles in accordance with the manufacturer's standards and recommendations; and

"(6) incentive programs established pursuant to sections 4112 and 4113 of this Act.

"(b) ASSISTANCE IN PROCUREMENT AND PLACEMENT.—The Administrator shall provide guidance, coordination and technical assistance to Federal agencies in the procurement and geographic location of alternative fuel vehicles purchased through the Administrator. The procurement and geographic location of such vehicles shall comply with the purchase requirements under section 4102 of this Act.

"(c) INTERGOVERNMENTAL COORDINATION.—The Administrator shall identify other Federal, State, and local effort to promote and use alternative fuel vehicles. To the maximum extent practicable, the Administrator shall coordinate Federal alternative fuel vehicle procurement, placement, refueling and

maintenance programs with those at the State and local level.

"SEC. 4112. AGENCY INCENTIVES PROGRAM.

"(a) REDUCTION IN RATES.—To encourage and promote use of alternative fuel vehicles in Federal agencies, the Administrator may offer a five percent reduction in fees charged to agencies for the lease of alternative fuel vehicles below those fees charged for the lease of comparable conventionally fueled vehicles.

"(b) FEDERAL EMPLOYEE POOLING AND DRIVER PROGRAM.—Notwithstanding the provisions of section 1344(a) of title 31, United States Code, Federal agencies may authorize Federal employees to use alternative fuel vehicles from their residence to their place of employment for purposes of:

"(1) Federal employee carpooling of not less than four Federal employees for each trip; and

"(2) refueling and maintenance, if the Federal agency head, or the designee of the agency head, determines that such services are not convenient to the location of place of employment.

"SEC. 4113. RECOGNITION AND INCENTIVE AWARDS PROGRAM.

"(a) AWARDS PROGRAM.—The Administrator shall establish an annual cash awards program to recognize those employees of the General Services Administration and other Federal agencies who demonstrate the strongest commitment to the use of alternative fuels and fuel conservation in Federal motor vehicles.

"(b) CRITERIA FOR GENERAL SERVICES ADMINISTRATION EMPLOYEES.—The Administrator shall provide annual cash awards of not more than $2,000 each to three General Services Administration employees who best demonstrate a commitment:

"(1) to the success of the Federal alternative fuels vehicle program through—

"(A) exemplary promotion of alternative fuel vehicle use within the General Services Administration and other Federal agencies;

"(B) proper alternative fuel vehicle care and maintenance;

"(C) coordination with Federal, State, and local efforts;

"(D) innovative alternative fuel vehicle procurement, refueling and maintenance arrangements with commercial entities; and

"(2) to fuel efficiency in Federal motor vehicle use through the promotion of such measures as increased use of fuel-efficient vehicles, carpooling, ride-sharing, regular maintenance and other conservation and awareness measures.

"(c) LIMITATIONS ON AWARDS.—The three awards under paragraph (b) shall be awarded to three different employees each year. No employee may win a cash award in more than two consecutive years.

"(d) AWARD TO REGIONAL GENERAL SERVICES ADMINISTRATION EMPLOYEES.—(1) In each standard Federal region where the General Services Administration operates alternative fuel vehicles, the Administrator shall offer two annual cash awards of not more than $1,000 to the regional General Services Administration employees who meet the criteria under paragraph (b).

"(2) Employees who receive an award under section (b) may not receive an award under this section in the same fiscal year. No more than two awards shall be awarded under this subsection in each region in any fiscal year.

"(e) AWARD TO FEDERAL AGENCY EMPLOYEES.—In each region where the General Services Administration operates alternative fuel vehicles, the Administrator shall provide one annual $2,000 cash award to the Federal employee (other than an employee of the General Services Administration) who demonstrates the greatest interest and commitment to alternative fuel vehicles by—

"(1) making regular requests for alternative fuel vehicles for agency use;

"(2) maintaining a high number of alternative fuel vehicles used relative to comparable conventionally fueled vehicles used;

"(3) promoting alternative fuel vehicle use by agency personnel; and

"(4) demonstrating care and attention to alternative fuel vehicles.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $25,000 in fiscal year 1992, $35,000 in fiscal year 1993, and $45,000 in fiscal year 1994 to carry out the purposes of this section.

"SEC. 4114. MEASUREMENT OF ALTERNATIVE FUEL USE.

The Administrator shall use such means as may be necessary to measure the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator.

"SEC. 4115. INFORMATION COLLECTION.

The Secretary, in consultation with the Administrator, shall determine a representative sample of alternative fuel vehicles in the Federal fleet. Such a sample shall be sufficient to address at a minimum—

"(1) the performance of such vehicles, including performance in cold weather and at high altitudes;

"(2) the fuel economy, safety, and emissions of such vehicles; and

"(3) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of other passenger vehicles and light duty trucks.

"SEC. 4116. GENERAL SERVICES ADMINISTRATION REPORT.

Not later than one year after the date of the enactment of this Act, and annually thereafter, the Administrator shall report to the Congress on the General Services Administration's alternative fuel vehicle program under this Act. The report shall contain information on—

"(1) the number and type of alternative fuel vehicles procured;

"(2) the location of alternative fuel vehicles by standard Federal region;

"(3) the total number of alternative fuel vehicles used by each Federal agency;

"(4) arrangements with commercial entities for refueling and maintenance of alternative fuel vehicles;

"(5) future alternative fuel vehicle procurement and placement strategy;

"(6) the difference in cost between the purchase, maintenance and operation of alternative fuel vehicles and the purchase, maintenance, and operation of comparable conventionally fueled vehicles;

"(7) coordination among Federal, State, and local governments for alternative fuel vehicle procurement and placement;

"(8) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Administrator as measured under section 4114;

"(9) a description of the representative sample of alternative fuel vehicles as determined under section 4115; and

"(10) award recipients under this subtitle.

"SEC. 4117. UNITED STATES POSTAL SERVICE REPORT.

Not later than one year after the date of the enactment of this Act, and annually thereafter, the Postmaster General shall submit a report to the Congress on the Postal Service's alternative fuel vehicle program. The report shall contain information on—

"(1) the total number and type of alternative fuel vehicles procured prior to the date of the enactment of this Act (first report only);

"(2) the number and type of alternative fuel vehicles procured in the preceding year;

"(3) the location of alternative fuel vehicles by region;

"(4) arrangements with commercial entities for purposes of refueling and maintenance;

"(5) future alternative fuel procurement and placement strategy;

"(6) the difference in cost between the purchase, maintenance and operation of alternative fuel vehicles and the purchase, maintenance, and operation of comparable conventionally fueled vehicles;

"(7) the percentage of alternative fuel use in flexi-fueled vehicles procured by the Postmaster General;

"(8) promotions and incentives to encourage the use of alternative fuels in flexi-fueled vehicles; and

"(9) an assessment of the program's relative success and policy recommendations for strengthening the program.".

TECHNICAL AND CONFORMING AMENDMENT.—On page 2, delete items 4110 and 4111, and add the following items in lieu thereof:

"Sec. 4110. Resale of Alternative Fuel Vehicles.
"Sec. 4111. Federal Agency Promotion, Education, and Coordination.
"Sec. 4112. Agency Incentives Program.
"Sec. 4113. Recognition and Incentive Awards Program.
"Sec. 4114. Measurement of Alternative Fuel Use.
"Sec. 4115. Information Collection.
"Sec. 4116. General Services Administration Report.
"Sec. 4117. United States Postal Service Report.
"Sec. 4118. Enforcement.
"Sec. 4119. Implementation.".

AMENDMENT NO. 1545

Beginning on page 144, line 19, strike the text of subtitle B of Title VI, and insert the following in lieu thereof.

SEC. 6201. DEFINITIONS.

For purpose of this subtitle—

(1) the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code, any agency of the judicial branch of Government;

(2) the term "facility energy supervisor" means the employee with responsibility for the daily operations of a Federal facility, including the management, installation, operation and maintenance of energy systems in Federal facilities which may include more than one building;

(3) the term "trained energy manager" means a person who has demonstrated proficiency, or who has completed a course of study in the areas of the fundamentals of building energy systems; building energy costs and applicable professionals standards; energy accounting and analysis; life-cycle cost methodology; fuel supply and pricing; and instrumentation for energy surveys and audits; and

(4) the term "Task Force" means the Interagency Energy Management Task Force established under section 547 of the National Energy Conservation Policy Act (42 U.S.C. 8257).

SEC. 6202. FEDERAL ENERGY COST ACCOUNTING AND MANAGEMENT.

(a) GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Office of Management and Budget, in cooperation with the Secretary, the General Services Administration, and the Depart-

ment of Defense, shall establish guidelines to be employed by each Federal agency to assess accurate energy consumption for all buildings or facilities which the agency owns, operates, manages or leases, where the Government pays utilities separate from the lease and the Government operates the leased space. Such guidelines are to be used in reporting quarterly and annual energy consumption and energy cost figures as required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253). Each agency shall implement such guidelines no later than 120 days after their establishment. Each facility energy manager shall maintain energy consumption and energy cost records for review by the Inspector General, Congress and the general public.

(b) CONTENTS OF GUILDELINES.—Such guidelines shall include the establishment of a monitoring system to determine—

(1) which facilities are the most costly to operate when measured on an energy consumption per square foot basis or other relevant analytical basis;

(2) unusual or abnormal changes in energy consumption; and

(3) the accuracy of utility charges for electric and gas consumption.

(c) FEDERALLY LEASED SPACE ENERGY REPORTING REQUIREMENT.—Not later than December 31, 1992, and on each December 31 thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate and the House of Representatives on the estimated energy cost of leased buildings or space in which the Federal Government does not directly pay the utility bills.

(d) POSTAL SERVICE.—The United States Postal Service shall adopt regulations to ensure the reliable and accurate accounting of energy consumption costs for all buildings or facilities which it owns, leases, operates or manages. The regulations shall include establishing a monitoring system to determine which facilities are the most costly to operate; identify unusual or abnormal changes in energy consumption; and check the accuracy of utility charges for electricity and gas consumption.

SEC. 6203. FEDERAL ENERGY COST BUDGETING.

The President shall include in each budget submitted to the Congress under section 1105 of title 31, United States Code, a separate statement of the amount of appropriations requested, on an agency basis, for—

(1) energy costs to be incurred in operating and maintaining agency facilities; and

(2) compliance with the provisions of part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), the Energy Policy and Conservation Act, and applicable Executive orders, including Executive Orders No. 12003 and No. 12579.

SEC. 6204. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.

(a) AUDIT SURVEY.—Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the Inspector General Act of 1978 (5. U.S.C. App.) as amended, and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E.(a)(2) of the Inspector General Act Amendments of 1988 (PL 100-504) shall—

(1) identify agency compliance activities to meet the requirements of such section and any other matters relevant to implementing the goals of the National Energy Conservation Policy Act; and

(2) assess the accuracy and reliability of energy consumption and energy cost figures required under section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(b) PRESIDENT'S COUNCIL ON INTEGRITY AND EFFICIENCY REPORT TO CONGRESS.—Not later than 150 days after the date of the enactment of this Act, the President's Council on Integrity and Efficiency shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives, on the review conducted by each Inspector General of each agency carried out under this section.

(c) INSPECTOR GENERAL REVIEW.—Each Inspector General established under section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is encouraged to conduct periodic reviews of agency compliance with the National Energy Conservation Policy Act, the provisions of this subtitle, and other laws relating to energy consumption. Such reviews shall not be inconsistent with the performance of the required duties of the Inspector General's office.

SEC. 6205. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION.

(a) CONFERENCE WORKSHOPS.—The General Services Administration, in consultation with the Secretary and the Task Force, shall hold regular, biennial conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy. The General Service Administration shall work and consult with other Federal agencies to plan for particular regional conferences. The General Services Administration shall invite State, local, and county public officials who have responsibilities for energy management or may have an interest in such conferences and shall seek the input of, and be responsive to, the views of such State, local and county officials in the planning and organization of such workshops.

(b) FOCUS OF WORKSHOPS.—Such workshops and conferences shall focus on the following, but may include other topics:

(1) developing strategies among Federal, State, and local governments to coordinate energy management policies and to maximize available intergovernmental energy management resources within the region;

(2) the design, construction, maintenance, and retrofitting of Federal facilities to incorporate energy efficient techniques;

(3) procurement and use of energy efficient products;

(4) alternative fuel vehicle procurement, placement, and usage;

(5) coordinated development with the private sector for the servicing, refueling, and maintenance of alternative fuel vehicles;

(6) dissemination of information on innovative programs, technologies, and methods which have proven successful in government; and

(7) technical assistance to design and incorporate effective energy management strategies.

(c) ESTABLISHMENT OF WORKSHOP TIMETABLE.—As a part of the first report to be submitted pursuant to section 6214 of this Act, the Administrator shall set forth the schedule for the Regional Energy Management Workshops. Not less than five workshops shall be held by September 30, 1993, and at least one such workshop shall be held in each of the 10 Federal regions every two years beginning on September 30, 1993.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $300,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purpose of this section.

SEC. 6206. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.

(a) PROCUREMENT.—The General Services Administration, in consultation with the Department of Defense and the Defense Logistics Agency, shall undertake a program to include energy efficient products on the Federal Supply Schedule and the New Item Introductory Schedule.

(b) IDENTIFICATION PROGRAM.—The General Services Administration, in consultation with the Department of Energy and the Defense Logistics Agency, shall implement a program to identify and designate on its respective Supply Schedules those energy efficient products which offer significant potential savings, as calculated using the life cycle cost methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254), unless such life cycle cost information is not readily available.

(C) GUIDELINES.—The Office of Federal Procurement Policy, in consultation with the General Services Administration, the Department of Energy, and the Department of Defense, shall issue guidelines to encourage the acquisition and use by all Federal agencies of products identified pursuant to this section. The Department of Defense and the Defense Logistics Agency shall consider, and place emphasis on, the acquisition of such products as part of the Agency's ongoing review of military specifications.

(d) UNITED STATES POSTAL SERVICE GUIDANCE.—The USPS shall undertake a program to identify and procure energy efficient products for use in its facilities. The USPS shall, to the maximum extent practicable, incorporate energy efficient information available on Federal Supply Schedules maintained by GSA and DLA to carry out the purpose of this section.

(e) REPORT TO CONGRESS.—As a part of the report to be submitted pursuant to Section 6214 of this Act, the Administrator of General Services, in consultation with the Defense Logistics Agency and the Department of Energy, shall report on the progress, status, activities, and results of the programs under subsections (b) and (c) of this section. The report shall include, but not be limited to—

(1) the number, types, and functions of each new product under subsection (a) added to the Federal Supply Schedule and the New Item Introductory Schedule during the previous fiscal year, and the name of the product manufacturer;

(2) the number, types, and functions of each product identified under subsection (b), and efforts undertaken by the General Services Administration and the Defense Logistics Agency to encourage the acquisition and use of such products;

(3) the actions taken by the General Services Administration and the Defense Logistics Agency to identify products under subsection (b), the barriers which inhibit implementation of identification of such products, and recommendations for legislative action, if necessary;

(4) whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C. 1701j-2), have been added to the Federal Supply Schedule or New Item Introductory Schedule;

(5) an estimate of the potential cost savings to agencies and the Federal Govern-

ment, taking into account the quantity of energy efficient products which could be utilized throughout the Government, that would be realized through implementation or installation of products identified in this section; and

(6) the actual quantity of such products acquired and an estimate of the energy savings achieved by the use of such products.

SEC. 6207. GENERAL SERVICES ADMINISTRATION FEDERAL BUILDINGS FUND.

(Section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), is amended—

(1) in paragraph (1), by inserting "(to be known as the Federal Buildings Fund)" after "a fund"; and

(2) by adding at the end thereof the following new paragraphs:

"(7)(A) The Administrator is authorized to receive amounts from rebates or other cash incentives related to energy savings and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (D). Amounts deposited in the Federal Buildings Funds under this subparagraph shall be used to implement energy efficiency programs.

"(B) The Administrator may accept such goods or services, consistent with approved Federal energy management objectives, provided in lieu of any rebates or other cash incentives for energy savings under subparagraph (A).

"(C) In the administration of any real property for which the Administrator leases and pays utility costs, the Administrator may assign all or a portion of energy rebates to the lessor to underwrite the costs incurred in undertaking energy efficiency improvements in such real property.

"(D) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate for energy management improvement programs—

"(i) amounts received and deposited in the Federal Buildings Fund under subparagraph (A);

"(ii) goods and services received under subparagraph (B); and

"(iii) amounts the Administrator determines are not needed for other authorized projects and are otherwise available to implement energy efficiency programs.

"(8)(A) The Administrator is authorized to receive amounts from the sale of recycled materials and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (B).

"(B) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate amounts received and deposited in the Federal Buildings Fund under subparagraph (A) for programs which—

"(i) promote further source reduction and recycling programs; and

"(ii) encourage employees to participate in recycling programs by providing funding for child care, fitness, or other employee benefit programs.".

SEC. 6208. FEDERAL ENERGY MANAGEMENT TRAINING.

(a) ENERGY MANAGEMENT TRAINING.—(1) Each executive department described under section 101 of title 5, United States Code, the Environmental Protection Agency, the National Aeronautics and Space Administration, the General Services Administration, and the United States Postal Service shall establish and maintain a program to ensure that facility energy managers are trained energy managers as defined under section 6201(3). Such programs shall be managed—

(A) by the agency representative on the Task Force; or

(B) if an agency is not represented on the Task Force, by the designee of the head of the agency.

(2) Agencies shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study covering the areas described under section 6201(3) including, but not limited to courses offered by:

(A) a private or public educational institution;

(B) a Federal agency; or

(C) a professional association.

(b) AGENCY REPORT.—(1) Each agency listed in 6208(a) shall, no later than 60 days following the enactment of this Act, report to the Task Force the following information:

(A) those individuals employed by the agency on the date of the passage of this Act who qualify as trained energy managers as defined under section 6201(3);

(B) the General Schedule (GS) or grade level at which each of these individuals are employed; and

(C) the facility or facilities for which these employees are responsible or otherwise stationed.

The Task Force shall provide a summary of these agency reports to the Committee on Governmental Affairs of the U.S. Senate and the Committee on Energy and Natural Resources of the U.S. Senate.

(c) REQUIREMENTS AT FEDERAL FACILITIES.—(1)(A) Not later than September 30, 1992, the departments and agencies described under subsection (a)(1) shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201 (2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in 6201 (3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies described under subsection (a)(1) shall ensure that, no later than September 30, 1992, no fewer than two trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under (c)(1)(B) shall not include those employees listed in the report in 6208(b).

(2)(A) Not later than September 30, 1993, the departments and agencies described under subsection (a)(1) shall further upgrade their energy management capabilities by ensuring that no fewer than five trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under (c)(2)(A) shall not include those employees listed in the report in 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count those new personnel toward the goals established in (c)(1)(B) and (c)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(i) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(d) DEPARTMENT OF DEFENSE REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the Department of Defense shall upgrade its energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in 6201(3); and

(3) increasing the overall number of trained energy managers within the Department.

(B) The Department shall insure that, no later than September 30, 1992, no fewer than twenty trained energy managers are employed by the Department.

(C) Federal employees designated for energy training and counted under (d)(1)(B) shall not include those employees listed in the report in 6208(b).

(2)(A) Not later than September 30, 1993, the Department shall further upgrade its energy management capabilities by ensuring that no fewer than forty trained energy managers are employed by the Department.

(B) Federal employees designated for energy training and counted under (2)(A) shall not include those employees listed in the report in 6208(b).

(3) The Department may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goal established in (d)(1)(B) and (d)(2)(A). Trained energy managers shall focus their efforts on improving energy efficiency in the following facilities:

(i) Department facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the Secretary of Defense as having significant energy savings potential.

(e) SPECIFIED AGENCY REQUIREMENTS.—(1)(A) Not later than September 30, 1992, the General Services Administration, the Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall upgrade their energy management capabilities by:

(1) designating facility energy supervisors as defined in section 6201(2);

(2) encouraging facility energy supervisors to become trained energy managers, as defined in 6201(3); and

(3) increasing the overall number of trained energy managers within the agency.

(B) Agencies identified in (e)(1)(A) shall insure that, no later than September 30, 1992, no fewer than ten trained energy managers are employed by each such department and agency.

(C) Federal employees designated for energy training and counted under (e)(1)(B) shall not include those employees listed in the report 6208(b).

(2)(A) Not later than September 30, 1993, the General Services Administration, Department of Veterans Affairs, the Department of Energy, and the United States Postal Service shall further upgrade their energy management capabilities by ensuring that no fewer than twenty trained energy managers are employed by each such department or agency.

(B) Federal employees designated for energy training and counted under (e)(2)(A) shall not include those employees listed in the report in 6208(b).

(3) Agencies may hire trained energy managers to be facility energy supervisors and count these new personnel toward the goals established in (e)(1)(B) and (e)(2)(A). Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities:

(i) agency facilities identified as most costly to operate or most energy inefficient under section 6202 of this Act; or

(ii) other facilities identified by the agency head as having significant energy savings potential.

(e) REPORTS OF AGENCIES.—Each agency shall report to the Secretary on the status and implementation of the requirements of this section. The Secretary shall include a summary of each agency's report in the annual report to Congress as required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258).

SEC. 6209. FEDERAL FACILITY ENERGY MANAGER RECOGNITION AND INCENTIVES AWARD PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall, in consultation with the Office of Personnel Management and the Task Force, establish a financial award program to reward outstanding facility energy managers in Federal agencies, including the United States Postal Service, and other individuals making outstanding contributions toward the reduction of energy consumption or costs in Federal facilities.

(b) SELECTION CRITERIA.—Not later than June 1, 1992, the Secretary shall issue procedures for implementing and conducting the award program, including the criteria to be used in selecting outstanding energy managers and contributors. Such criteria shall include—

(1) improved energy performance through increased energy efficiency;

(2) implementation of proven energy efficiency and energy conservation techniques, devices, equipment, or procedures;

(3) effective training programs for facility energy managers, operators, and maintenance personnel;

(4) employee awareness programs;

(5) success in generating utility incentives, shared energy savings contracts, and other federally approved performance based energy savings contracts;

(6) successful efforts to fulfill compliance with energy reduction mandates, including the provisions of section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253); and

(7) success in the implementation of the guidelines under section 6202 of this Act.

(c) AWARD LIMIT.—No single award shall be greater than $2,500.

(d) REPORT.—Each year the Secretary shall publish and disseminate to Federal agencies, and to Congress as a part of the report required under Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258) a report of highlight and recognize the achievements of bonus award winners.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $250,000 for each of fiscal years 1993, 1994, and 1995 to carry out the purposes of this section.

SEC. 6210. IDENTIFICATION AND ATTAINMENT OF AGENCY ENERGY REDUCTION AND MANAGEMENT GOALS.

Section 3 of the Federal Energy Management Improvement Act of 1988 (42 U.S.C. 8253 note; Public Law 100-615 is amended—

(1) in subsection (a)—

(A) by striking out "using funds appropriated to carry out this section," and inserting in lieu thereof "in consultation with the Task Force.";

(B) in paragraph (1) by striking out "and" after the semicolon;

(C) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(D) by adding at the end thereof the following new paragraph:

"(3) determining barriers which may prevent an agency's ability to comply with section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) and other energy management goals.";

(2) in subsection (b)—

(A) in paragraph (1) by striking out "Congress, within 180 days after the date on which funds are appropriated to carry out this section," and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, and the House of Representatives, within 180 days after the date of the enactment of the National Energy Security Act of 1992,"; and

(B) by adding at the end thereof the following new paragraph:

"(4) For the purpose of this section, a representative sample shall include, where appropriate, the following types of Federal facility space:

"(A) Housing;

"(B) Storage;

"(C) Office;

"(D) Services;

"(E) Schools;

"(G) Research and Development;

"(F) Industrial;

"(H) Prisons; and

"(I) Hospitals.";

"(3) in subsection (d)—

(A) by striking out "Congress" and inserting in lieu thereof "Senate Committee on Energy and Natural Resources, the Senate Committee on Governmental Affairs, the Committee on Energy and Commerce of the House of Representatives, the Committee on Government Operations of the House of Representatives,"; and

(B) by adding at the end thereof "The report shall include an analysis of the probability of each agency achieving the 20 percent reduction goal by January 1, 2000 established under Executive Order No. 12759.".

SEC. 6211. UNITED STATES POSTAL SERVICE BUILDING ENERGY SURVEY AND REPORT.

(a) IN GENERAL.—The USPS shall conduct an energy survey, as defined in section 549(5) of the National Energy Conservation Policy Act, for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the USPS in different areas of the country;

(2) making recommendations to the Postmaster General for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar USPS buildings; and

(3) determining barriers which may prevent USPS compliance with energy reduction goals, including Executive Orders No. 12003 and 12579.

(b) IMPLEMENTATION.—(1) The Postmaster General shall transmit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Post Office and Civil Service Committee, within 180 days of enactment of this Act, a plan for implementing this section.

(2) The Postmaster General shall designate buildings to be surveyed in the project so as to obtain a sample of Postal facilities of the types and in the climates that consume the major portion of the energy consumed by the Postal Service.

(3) For the purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of the Postal facility or the remaining term of a lease of a building leased by the Postal Service.

(c) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Postmaster General shall transmit a report of the findings and conclusions of the project to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on Post Office and Civil Service.

SEC. 6212. FEDERAL BUILDING ENERGY CONSUMPTION TARGETS.

Not later than two years after the date of the enactment of this Act, the Secretary shall consider, in consultation with the Administrator of General Services and the Task Force, establishing energy consumption targets for January 1, 2000, for each Federal agency to reduce energy consumption per square foot in Federal buildings based upon the information provided in the report under section 6210 of this Act. The United States Postal Service shall independently consider establishing its own energy consumption targets for January 1, 2000 based upon the information provide in the report under section 6211.

SEC. 6213. UTILITY INCENTIVE PROGRAMS.

(a) IN GENERAL.—Federal agencies are authorized and encouraged to participate in programs for energy conservation or the management of electricity demand conducted by gas or electric utilities and generally available to customers of such utilities.

(b) ACCEPTANCE OF FINANCIAL INCENTIVES.—Federal agencies may accept any financial incentive, generally available from any such utility, to adopt energy efficiency technologies and practices that the Secretary determines are cost effective for the Federal Government.

(c) NEGOTIATIONS.—Each Federal agency is encouraged to enter into negotiations with electric and gas utilities to design special demand management and conservation incentive programs to address the unique needs of facilities used by such agency.

(d) USE OF CERTAIN FUNDS.—(1) Fifty percent of funds from utility energy efficiency rebates shall, subject to appropriation, remain available for expenditure by the agency for additional energy efficiency measures which may include related employee incentive programs, particularly at those facilities at which energy savings were achieved.

(2)(A) Agencies shall maintain strict financial accounting and controls for savings realized and all expenditures made under this section.

(B) Records maintained under subparagraph (A) shall be made available for public inspection upon request.

SEC. 6214. REPORT BY GENERAL SERVICES ADMINISTRATION.

Not later than six months after the date of enactment of this Act, and on each December 31, at least six months thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs of the Senate, the Committee on Energy and Natural Resources of the Senate, and the House of Representatives on the activities of the General Services Administration conducted pursuant to this subtitle. Such reports shall include, but not be limited to, the information requested under sections 6205(c) and 6206(d).

SEC. 6215. UNITED STATES POSTAL SERVICE ENERGY MANAGEMENT REPORT.

Not later than one year after the date of the enactment of this Act, and on each Janu-

ary 1 thereafter, the Postmaster General shall submit a report to the Committee on Governmental Affairs of the Senate, the Committee on Post Office and Civil Service of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate on the Postal Service's building management program as it relates to energy efficiency. The report shall include, but not be limited to, the following:

(1) actions taken to reduce energy consumption;

(2) future plans to reduce energy consumption;

(3) an assessment of the success of the energy conservation programs;

(4) energy costs incurred in operating and maintaining all postal facilities; and

(5) the status of the energy efficient procurement program established under section 6206(e).

SEC. 6216. AMENDMENTS TO PART 3, TITLE V OF NECPA.

Part 3 of Title V of the National Energy Conservation Policy Act (NECPA) (Public Law 95-619), 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 1992, 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 VII 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 and promulgated pursuant to Section 304 of the Energy Conservation and Production Act (Public Law 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 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).

(e) Renumber section 549 as section 551 and insert the following two new sections:

"SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.

"(a) DEMONSTRATION PROGRAM.—Not later than January 1, 1993, the Secretary, in cooperation with the Administrator of the General Services Administration, shall establish a demonstration program to install, in Federally owned facilities, energy efficiency technologies which the Secretary has determined are ready for commercial demonstration and which were developed by entities that have received or are receiving Federal financial assistance for energy conservation research and development.

"(b) EVALUATION.—The Secretary and the Administrator shall evaluate the commercial viability of each type of energy efficiency technology so installed, including its technical feasibility, operational feasibility, and economic effectiveness. Installations of each technology shall include a sufficient number of applications to produce statistically reliable evaluation results based on the technologies' application in various climates and building situations.

"(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section no more than $2,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $4,000,000 for fiscal year 1995.".

"SEC. 550. 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 1992, the Secretary shall establish guidelines for the transfer of up to $1,000,000 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 $50,000,000.".

(f) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for the National Energy Conservation Policy Act is amended to read as follows:

"SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.

"SEC. 550. FEDERAL ENERGY EFFICIENCY PROJECTS FUNDING.

"SEC. 551. DEFINITIONS.".

"SEC. 6217. CONGRESSIONAL OFFICE BUILDING ENERGY IMPROVEMENT ASSESSMENT.

The Architect of the Capitol shall undertake a study to determine the feasibility and costs associated with compliance with part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq), and Executive Orders No. 12003 and No. 12579 for all facilities under the Architect's jurisdiction, taking into account particular needs with respect to the security and physical operation of the legislative branch of the Government. The Architect shall report the results of such study to the appropriate committees of Congress.

SEC. 6218. STUDY OF FEDERAL PURCHASING POWER.

(a) STUDY.—The Secretary shall conduct a study to evaluate the potential use of the purchasing power of the Federal Government to promote the development and commercialization of energy efficient products. The study shall identify products for which there is a high potential for Federal purchasing power to substantially promote their development and commercialization, and shall include a plan to develop such potential. The

study shall be conducted in consultation with utilities, manufacturers, and appropriate nonprofit organizations concerned with energy efficiency.

(b) REPORT.—The Secretary shall report to Congress on the results of the study within two years of the date of the enactment of this Act.

(c) AUTHORIZATION.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 6219. ENERGY MANAGEMENT GOALS FOR THE UNITED STATES POSTAL SERVICE.

(a) ENERGY PERFORMANCE GOAL FOR POSTAL FACILITIES.—(1) Not later than January 1, 2000, the United States Postal Service shall, to the maximum extent practicable, install in all facilities under its control, energy conservation measures with payback periods of less than ten years as calculated using methods and procedures developed pursuant to section 544 of the National Energy Conservation Policy Act. Within two years after the date of enactment of the National Energy Security Act of 1992, the USPS shall submit to the Senate Committee on Governmental Affairs, the Senate Committee on Energy and Natural Resources, and the House of Representatives Committee on the Post Office and Civil Services 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) The USPS may exclude from the requirements of paragraph (1) any facility or collection of facilities, and the associated energy consumption and gross square footage, if the Postmaster General 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 facility or collection of facilities, the type and amount of energy consumed, or the technical feasibility of making the desired changes. The USPS shall identify and list in the report made under sec 6215 the facilities designated by it for such exclusion. This section shall not apply to the USPS facilities that generate or transmit electric energy.

(b) IMPLEMENTATION STEPS.—To achieve the goal established in subsection (a), the USPS shall—

(1) prepare or update, within 1 year after the date of the enactment of this Act, a plan describing how the USPS intends to meet such goal. The plan may be submitted as part of the report under section 6215. The plan shall include how the USPS will implement this part, designate personnel primarily responsible for achieving such goal, and identify high priority projects;

(2) perform energy surveys of USPS facilities and update such surveys periodically, but not less than every three years;

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

(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544 of the National Energy Conservation Policy Act; and

(5) ensure that the operation and maintenance procedures applied under this section are continued.

KOHL AMENDMENT NO. 1546

Mr. JOHNSTON (for Mr. KOHL) proposed an amendment to amendment No. 1545 proposed by Mr. GLENN (and others) to the bill S. 2166, supra, as follows:

On page 30, amend Subsection 6216(e) by inserting after the word "transfer", the words "or loan": and

On page 31, strike the amount "$50,000,000" and insert in lieu thereof "$200,000,000".

KASTEN AMENDMENT NO. 1547

Mr. JOHNSTON (for Mr. KASTEN) proposed an amendment to amendment No. 1545 proposed by Mr. GLENN (and others) to the bill S. 2166, supra, as follows:

Amend section 6216 of the Glenn Amendment on Federal Energy Management Programs by inserting the following sentence after "pursuant to section 544" on page 25:

"Federal agencies may participate in the Environmental Protection Agency's "Green Lights" program for purposes of technical assistance in complying with the requirements of this section.".

WIRTH (AND OTHERS) AMENDMENT NO. 1548

Mr. JOHNSTON (for Mr. WIRTH, for himself, Mr. GLENN, Mr. JOHNSTON, and Mr. DURENBERGER) proposed an amendment to amendment No. 1545 proposed by Mr. GLENN (and others) to the bill S. 2166, supra, as follows:

Amend the Glenn amendment in the nature of a substitute to Subtitle VI–B, by inserting at the end the following new section:

"SEC. 6220. ENERGY PERFORMANCE CONTRACTS."

(a) Title VIII of the National Energy Conservation Policy Act (Public Law No. 99–412) is amended by striking "TITLE VIII—SHARED ENERGY SAVINGS" and inserting in lieu thereof "TITLE VIII—ENERGY SAVINGS PERFORMANCE CONTRACTS".

(b) Section 801 of such Act (42 U.S.C. 8287) is amended by striking the word "may" the first place it appears and inserting "shall, to the extent practicable," in lieu thereof; and by redesignating such section as subsection 801(a)(1) and adding the following new text:

"(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any government payments and performance guarantees. Such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

"(B) Aggregate annual payments by the government may not exceed the guaranteed energy savings during each contract year.

"(C) Federal agencies may incur obligations to finance a project provided guaranteed savings exceed the debt service requirements.

"(b) IMPLEMENTATION.—(1)(A) The Secretary, in consultation with the Secretary of Defense, the Administrator of the General Services Administration, and the Administrator of NASA, within 90 days after the date of the enactment of the National Energy Security Act of 1992, shall develop appropriate procedures and methods for use by Federal agencies to select energy savings service contractors that will achieve the intent of this section in a cost-effective manner. The procedures and methods used for the calculation of energy savings shall be based on sound engineering practices, consideration of relevant variables such as applicable utility rate schedules, and fuel and utility billing cycles.

"(B) Notwithstanding any other procurement laws and regulations, such procedures and methods shall apply to the selection by each Federal agency of a contractor to provide energy savings services.

"(C) The process developed pursuant to this section may constitute adequate price competition, no cost justification shall be required.

"(2) In carrying out paragraph (1), the Secretary may:

"(A) request statements of qualifications, including financial and performance information, from firms engaged in providing energy saving services;

"(B) designate from the statements received, with an update at least annually, those firms that are qualified to provide energy savings services;

"(C) select at least three firms from the list of qualified contractors to conduct discussions concerning a particular proposed energy savings 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 energy savings services pursuant to such energy savings contractual arrangement that the Secretary determines is fair and reasonable, taking into account—

"(i) the qualifications, prior experience and capabilities of a contractor to perform the proposed type of energy savings services; and

"(ii) the estimated value of the energy savings services to be rendered and the scope and nature of the project.

"(3) In carrying out paragraph (1), the Secretary also may provide for direct negotiations by Federal agencies for energy savings services with contractors that have been selected competitively and approved by any gas or electric utility serving the agency involved.

"(c) DEFINITION.—For the purpose of this title, the terms 'energy savings contract' or 'energy savings performance contract' means a contract which provides for the performance of services for the design, acquisition, installation, testing, operation and, where appropriate, maintenance and repair, of an identified energy savings measure. Such contracts may provide for appropriate software licensing agreements.

"(d) SUNSET AND REPORTING REQUIREMENTS.—

"(A) The authority to enter into new contracts under this provision shall cease to be effective three years from date of enactment of this Act.

"(B) Beginning six months after the date of enactment of this Act, and every six months thereafter, for a period of three years from enactment of this Act, the General Accounting Office shall report on the implementation of this section to the Senate Committee on Governmental Affairs and the Senate Committee on Energy and Natural Resources. These reports shall include, but not be limited to, an assessment of the following issues:

"(i) the quality of the energy audits conducted for the Agencies.

"(ii) the government's ability to maximize energy savings.

"(iii) the total energy cost savings accrued by the agencies that have entered into such contracts.

"(iv) the total costs associated with entering into such contracts and having them performed.

"(v) a comparison of the total costs incurred by agencies under such contracts and the total costs incurred under similar contracts performed in the private sector.

"(vi) the number of firms selected as qualified firms under this section and their respective shares of awarded contracts.

"(vii) the number of firms engaged in similar activity in the private sector and their respective market shares.

"(viii) the number of applicant firms not selected as qualified firms under this section and the reason for their non-selection.

"(ix) the frequency with which agencies have utilized the services of government labs to perform any of the functions specified in this section.

"(C) Two years from enactment of this Act, the General Accounting Office shall provide a summary report to the Committee on Governmental Affairs and the Senate Committee on Energy and Natural Resources on the efficacy of this section. In addition, the General Accounting Office shall provide recommendations for statutory or regulatory changes that may be necessary. In making such recommendations, the General Accounting Office shall consider whether the contracting procedures utilized under this section by agencies have been effective and whether continued use of those procedures, as opposed to the procedures provided by existing public contract law, is necessary for implementation of successful energy performance contracts.".

GLENN AMENDMENT NO. 1549

Mr. JOHNSTON (for Mr. GLENN) proposed an amendment to the bill S. 2166, supra, as follows:

On page 22, line 2, add after the period "If publicly available fueling facilities are not convenient or accessible to the location of Federal alternative fuel vehicles purchased under this title, the Administrator is authorized to enter into commercial arrangements with commercial fueling operators for the purpose of fueling Federal alternative fuel vehicles.".

WIRTH (AND OTHERS) AMENDMENT NO. 1550 AND 1551

Mr. WIRTH (for himself, Mr. METZENBAUM, and Mr. DODD) proposed two amendments to the bill S. 2166, supra, as follows:

AMENDMENT NO. 1550

(a) On page 126, lines 4, 11 and 13, strike "lamps and";

(b) On page 126, lines 15, and 22, and on page 127, lines 1 and 9, strike "lamps and";

(c) On page 127, line 6, strike "lamps or";

(d) On page 127, line 23, strike paragraph (1) and renumber the following paragraphs accordingly;

(e) On page 128, line 24, strike the word "lamps,";

(f) On page 129, line 18, strike the word "lamps,";

(g) On page 131, line 9, strike the word "lamps,"; and

(h) On page 144, after line 17 insert the following two new sections:

SEC 6112. ENERGY CONSERVATION STANDARDS FOR CERTAIN LAMPS.

(a) DEFINITIONS.—Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended—

(1)(A) by striking the designation subsection "(a)"; and

(B) in the material following subparagraph (B), by striking out "ballasts distributed in commerce for personal or commercial use or consumption" and inserting in lieu thereof the following: "ballasts, general service fluorescent lamps, and incandescent reflector lamps distributed in commerce for personal or commercial use.";

(2) by adding at the end the following new paragraphs:

"(30)(A) Except as provided in subparagraph (E), the term 'fluorescent lamp' means a low pressure mercury electric discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

"(i) Any straight shaped rapid start lamp (commonly referred to as four foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

"(ii) Any U-shaped lamp (commonly referred to as two foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

"(iii) Any rapid start lamp (commonly referred to as eight foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1–1978 and related supplements.

"(iv) Any instant start lamp (commonly referred to as eight foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3–1978 (R1984) and related supplement ANSI C78.3a–1985.

"(B) the term 'general service fluorescent lamp' means fluorescent lamps which can be used to satisfy the majority of fluorescent applications, but excluding any lamp described in subsection (E) and any lamp designed and marketed for non-general lighting applications as follows—

(i) fluorescent lamps designed to promote slant growth;

"(ii) fluorescent lamps specifically designed for cold-temperature installations;

"(iii) colored fluorescent lamps;

"(iv) impact-resistant fluorescent lamps;

"(v) reflectorized or aperture lamps;

"(vi) fluorescent lamps designed for use in reprographic equipment;

"(vii) lamps primarily designed to produce radiation in the ultra-violet region of the spectrum, and

"(viii) lamps with a color rendering index of 82 or greater.

"(C) Except as provided in subparagraph (E), the term 'incandescent lamp' means a lamp in which a light is produced by a filament heated to incandescence by an electric current, including only the following:

"(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.

"(ii) Any lamp (commonly referred to as reflector lamp), which is not colored or designed for rough or vibration service applications, that contains an inner reflective coating on the outer bulb to direct the light, an R, PAR, or similar bulb shapes (excluding "ER" or "BR") with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.75 inches, and is either—

"(I) a low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

"(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts; and

"(III) any general service incandescent lamp (commonly referred to as a high- or higher wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

"(D) the term 'general service incandescent lamp' means incandescent lamps (other than miniature or photographic lamps) which can be used to satisfy the majority of lighting applications, but excluding any lamp described in subparagraph (E) and any lamp specifically designed for—

"(i) traffic signal or street light service;

"(ii) airway, airport, aircraft, or other aviation service;

"(iii) marine or marine signal service;

"(iv) photo, projection, sound reproduction, or film viewer service;

"(v) stage, studio, or television service;

"(vi) mill, saw mill, or other industrial process service;

"(vii) mine service;

"(viii) headlight, locomotive, street railway, or other transportation service;

"(ix) heating service;

"(x) code beacon, marine signal, lighthouse, reprographic, or other communication service;

"(xi) medical or dental service;

"(xii) microscope, map, microfilm, or other specialized equipment service;

"(xiii) swimming pool or other underwater service;

"(xiv) decorative or showcase service;

"(xv) producing colored light;

"(xvi) shatter resistance which has an external protective coating; or

"(xvii) appliance service.

"(E) The term 'lamp' does not include any lamp manufactured or assembled in the United States for export and use outside the United States, or any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or special characteristics not available in reasonably substitutable lamp types.

"(F) The term 'average lamp efficacy' means the lamp efficacy readings taken over a twelve-month period of manufacture with the readings averaged over that period.

"(G) The term 'base' means the portion of the lamp which connects with the socket described in ANSI C81.61–1990.

"(H) The term 'bulb shape' means the shape of the lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1–1980(R1984).

"(I) The term 'color rendering index' or 'CRI' means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

"(J) The term 'correlated color temperature' means the absolute temperature of a black body whose chromaticity most nearly resembles that of the light source.

"(K) The term 'IES' means the Illuminating Engineering Society of North America.

"(L) The term 'lamp efficacy' means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

"(M) The term 'lamp type' means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

"(N) The term 'lamp wattage' means the total electrical power consumed by the lamp

in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode watts.

"(O) The term 'life' and 'lifetime' mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group in accordance with test procedures as described in the IES Lighting Handbook—Reference Volume.

"(P) The term 'lumen output' means total luminous flux (power) of a lamp in lumens, as measured in accordance with applicable IES standards as determined by the Secretary.

"(Q) The term 'tungsten-halogen lamp' means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

"(R) The term 'manufacturer' means anyone who makes, assembles or imports any covered product.

"(S) The term 'medium base compact fluorescent' means an integrally ballasted fluorescent lamp with a medium screw base and a rated input voltage of 115 to 130 volts and which is designed as a direct replacement for general service incandescent lamps.

"(T) The term 'transition period' means the period of time between the enactment of the National Energy Security Act of 1991 and the date on which the standard shall take effect."

(b) COVERAGE.—Section 322(a) of such Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (15); and

(2) by inserting after paragraph (13) the following new paragraph:

"(14) General service fluorescent lamps and incandescent reflector lamps.

(c) TEST PROCEDURES.—Section 323 of such Act (42 U.S.C. 6293) is amended by adding the following new paragraph at the end of subsection (b):

"(6) With respect to fluorescent lamps and incandescent lamps to which standards are applicable under subsection (i) of section 325, the Secretary shall prescribe test procedures, to be implemented by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.

(d) LABELING.—Section 324 of such Act (42 U.S.C. 6294) is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraph:

"(C) The Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Such rules shall provide that the labeling of any general service fluorescent lamps, medium base compact fluorescent lamps and general service incandescent lamp manufactured, assembled or imported after the 18-month period beginning on the date of the publication of such labeling rule will include conspicuously on the packaging of the lamp in a manner prescribed by the Commission under subsection (b), such information as the Commission deems necessary for the consumers to select the most energy efficient lamps to meet their requirements. Labeling information for incandescent lamps will be based upon performance when operated at 120 volts input, regardless of the rated lamp voltage.

(2) in subsection (a)(3), by striking out "(14)" and inserting in lieu thereof "(15)";

(3) in paragraphs (1)(B), (3), and (5) of subsection (b), by striking out "(14)" and inserting in lieu thereof "(15)"; and

(4) in subsection (c)(7), by striking out "paragraph (13) of section 322" and inserting in lieu thereof "paragraphs (13) and (14) of section 322(a).".

(e) STANDARDS.—Section 325 of such Act (42 U.S.C. 6295) is amended—

(1) by redesignating clauses (i) through (q) as clauses (k) through (s); and

(2) by inserting after clause (h) the following:

"(i) GENERAL SERVICE FLUORESCENT AND INCANDESCENT REFLECTOR LAMPS.—(1) Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured, assembled or imported after the transition period for each category of lamps beginning on the date of the enactment of this subsection shall meet or exceed the following lamp efficacy and CRI standards. Beginning twelve months after the expiration of the transition period for each of the listed categories of lamps, no lamp in such category may be sold which does not meet or exceed the following lamp efficacy and color rendition index standards:

"FLUORESCENT LAMPS

"Lamp type	Nominal lamp wattage	Minimum average CRI	Minimum average lamp efficacy (LPW)	Transition period (months)
4 foot Medium bi-pin	>35W	69	75.0	36
	≤35W	45	75.0	36
2 foot "U" shaped	>35W	69	68.0	36
	≤35W	45	64.0	36
8 foot Slimline	65W	69	80.0	18
	≤65W	45	80.0	18
8 foot High Output	>100W	69	80.0	18
	≤100W	45	80.0	18

"INCANDESCENT REFLECTOR LAMPS

"Nominal lamp wattage	Minimum average lamp efficacy (LPW)	Transition period (month)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

"(2) Not less than 36 months after the date of enactment of the National Energy Security Act of 1991, the Secretary shall initiate a rulemaking proceeding and shall publish a final rule no later than 54 months after this section is enacted to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if warranted, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(3) Not less than eight years after the date of enactment of the National Energy Security Act of 1991, the Secretary shall initiate a rulemaking proceeding and shall publish a final rule no later than nine and one-half years after this section is enacted to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if warranted, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published.

"(4) Twenty-four months after any labeling required by subsection (d) shall have taken effect, the Secretary shall initiate a rulemaking to determine if additional fluorescent and incandescent lamps should be subject to standards, and to publish, within 18 months of initiating such a rulemaking, a final rule including such standards, if warranted.

"(5) Any amendment prescribed under paragraph (4) shall apply only to products manufactured, assembled or imported after a date which is 36 months after the date the final rule is published.

"(6) In establishing or modifying any standard under this subsection, the Secretary shall use the criteria contained in section 325(n) of the Energy Policy and Conservation Act, as redesignated by the National Energy Security Act of 1991.

"(7) With regard to any lamp covered by this subsection or section 6113 of the National Energy Security Act of 1991, it shall be the responsibility of the Secretary to inform any Federal entity proposing actions which would adversely impact the energy consumption or energy efficiency of any covered product of the energy conservation consequences of such action. It shall be the responsibility of such Federal entity to carefully consider the Secretary's comments.

Any other provision of Federal law or regulation to the contrary notwithstanding, the Secretary shall not be prohibited from modifying any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any covered product if such action is warranted as the result of other federal action, such as but not limited to restrictions on materials or processes, which would have the effect of either increasing energy use or decreasing energy efficiency.

"(8) Concurrent with the effective date of lamp standards established pursuant to this subsection or section 6113 of the National Energy Security ACT of 1991, a manufacturer shall file with the Secretary the report of the laboratory certifying compliance with the standard for each lamp. Such report shall include the lumen output and wattage consumption as an average of measurements taken over the preceding 12 month period.

SEC. 6113. ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS.

Title III, part C, of the Energy Policy and Conservation Act (42 U.S.C. 6310) is amended by adding the following new section 346, and renumbering section 346 as 347.

"SEC. 346. ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS.—

"(a) IN GENERAL.—(1)(A) The Secretary of Energy shall—

"(i) within 18 months after the date of the enactment of this Act, prescribe testing requirements for those high-intensity discharge lamps for which the Secretary makes a determination that energy conservation standards would result in significant energy savings; and

"(ii) within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to clause (i), prescribe energy conservation standards for those high-intensity discharge lamps for which the Secretary prescribed testing requirements under clause (i).

"(iii) Any standard prescribed under clause (ii) shall apply to products manufactured, assembled or imported 36 months after the date on which the final rule is published.

(B) For purposes of subparagraph (A), the term "energy conservation standard" means—

"(i) a performance standard that prescribed a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(ii) a design requirement for a product.

"(2) In establishing any standard under this section, the Secretary shall use the cri-

teria contained in section 325(n) of the Energy Policy and Conservation Act, as redesignated by the National Energy Security Act of 1991.

"(3) The Federal Trade Commission shall, within six months after the date on which energy conservation standards are prescribed by the Secretary of Energy pursuant to paragraph (1)(A)(ii) for high-intensity discharge lamps, prescribe labeling requirements for such lamps.

"(b) REQUIREMENT OF MANUFACTURERS.—Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (a)(3), each manufacturer or importer of the product shall begin to label newly manufactured products with a label which meets, and is displayed in accordance with, the requirements of such rule.

"(c) ENFORCEMENT.—(1) After the date on which a manufacturer must begin to label newly manufactured products with a label for a product pursuant to subsection (b), each such product shall be considered, for purposes of paragraph (1) and (2) of section 322(a) of the Energy Policy and Conservation Act, a new covered product to which a rule under section 324 of such Act applies.

"(2) Twelve months after the date on which a manufacturer must begin to label newly manufactured products with a label for a product pursuant to subsection (b), it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new high intensity discharge lamps which is not in conformity with the applicable labeling requirement and energy conservation standard prescribed under subsection (a)(1)(A)(ii).

"(3) For purposes of section 333(a) of the Energy Policy and Conservation Act, paragraph (1) of this subsection shall be considered to be a part of section 332 of such Act."

AMENDMENT NO. 1551

On page 144, after line 17, insert the following two new sections:

"SEC. 6114. ENERGY CONSERVATION STANDARDS FOR COMMERCIAL AND INDUSTRIAL ELECTRIC MOTORS.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (2)(A)(iii), by striking out "as defined in section 321(a)(2)" and inserting in lieu thereof "to which standards are applicable under section 325";

(2) in paragraph (3) by striking "the" and inserting "The" in lieu thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(8)(A) Except as provided in subparagraph (B), the term 'electric motor' means any motor which is a general-purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association (NEMA), Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1-1987.

"(B) The term 'electric motor' does not include any motor excluded by the Secretary, by rule, as a result of a determination that standards for such motor would not result in significant energy savings or that efficiency standards for such motor would not be technically feasible or economically justified.

"(C) The term 'definite-purpose motor' means any motor designed in standard ratings with standard operating characteristics or mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

"(D) The term 'special-purpose motor' means any motor with special operating characteristics or special mechanical construction, or both, designed for a particular application and not falling within the definition of general-purpose or definite-purpose motor.

"(E) The term 'open motor' means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the motor.

"(F) The term 'enclosed motor' means a motor so enclosed as to prevent the free exchange of air between the inside and outside of the case but not sufficiently enclosed to be termed air-tight.

"(G) The term 'small electric motor' means a NEMA general-purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1-1987.

"(H) The term 'efficiency' means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

"(I) The term 'nominal efficiency' means the average efficiency of a large population of motors of duplicate design as determined in accordance with National Electric Manufacturers Association Standards Publication MG1-1987.

"(9) The term 'NEMA' means the National Electrical Manufacturers Association."

"(10) The term 'IEEE' means Institute of Electrical and Electronics Engineers."

"(11) The term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product."

(b) TEST PROCEDURES.—Section 343 of such Act (42 U.S.C. 6314) is amended—

(1) by striking paragraph (a)(1) and inserting in lieu thereof the following:

"(a)(1) The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section.";

(2) by adding at the end of subsection (a), the following new paragraph:

"(4) With respect to electric motors that are manufactured after the end of the 24-month period beginning on the date of the enactment of this paragraph and to which standards are applicable under section 342, the Secretary shall prescribe test procedures that take into consideration NEMA Standards Publication MG1-1987 and IEEE Standard 112 Test Method B for motor efficiency."; and

(3) redesignate the first subsection 343(d) as 343(c).

(c) LABELING.—Section 344 of such Act (42 U.S.C. 6315) is amended by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (e), (f), (g), (h), (i) and (j) respectively, and by inserting a new subsection (d) as follows:

"(d) In the case of electric motors, within 12 months after the Secretary establishes test procedures (as required in Section 343 (a)), manufacturers and importers of covered motors shall establish efficiency ratings for each type of motor in accordance with the applicable test procedures, and—

"(1) include the efficiency rating of the equipment on the permanent nameplate attached to each piece of equipment.

"(2) prominently display the efficiency rating of the equipment in equipment catalogs and other materials used to market the equipment.

"(3) such other markings that the Secretary may determine are needed solely to facilitate enforcement of the efficiency standards established in Section 342(a).

"In developing these labeling requirements for electric motors, the Secretary shall take into consideration NEMA Standards Publication MG1-1987.

(d) STANDARDS.—Section 342 of such Act (42 U.S.C. 6313) is amended to read as follows:

"STANDARDS

"SEC. 342. (a) ELECTRIC MOTORS.—(1) Except for definite-purpose motors, special-purpose motors, and those motors exempted by the Secretary under the provisions of paragraph (2) of this section, any general-purpose electric motor manufactured or imported (alone or as part of another piece of equipment) after the 60-month period beginning on the date of enactment of the Energy Efficiency Standards Act of 1991, or 84-month period in the case of general-purpose motors which require listing or certification by a nationally recognized safety testing laboratory, shall have a nominal full-load efficiency of not less than the following:

"NOMINAL FULL-LOAD EFFICIENCY

"Number of poles	Open motors			Enclosed motors		
	6	4	2	6	4	2
Motor h.p.						
1	80.0	82.5	.....	80.0	82.5	75.5
1.5	84.0	84.0	82.5	85.5	84.0	82.5
2	85.5	84.0	84.0	86.5	84.0	84.0
3	86.5	86.5	84.0	87.5	87.5	85.5
5	87.5	87.5	85.5	87.5	87.5	87.5
7.5	88.5	88.5	87.5	89.5	89.5	88.5
10	90.2	89.5	88.5	89.5	89.5	89.5
15	90.2	91.0	89.5	90.2	91.0	90.2
20	91.0	91.0	90.2	90.2	91.0	90.2
25	91.7	91.7	91.0	91.7	92.4	91.0
30	92.4	92.4	91.0	91.7	92.4	91.0
40	93.0	93.0	91.7	93.0	93.0	91.7
50	93.0	93.0	92.4	93.0	93.0	92.4
60	93.6	93.6	93.0	93.6	93.6	93.0
75	93.6	94.1	93.0	93.6	94.1	93.0
100	94.1	94.1	93.0	94.1	94.5	93.6
125	94.1	94.5	93.6	94.1	94.5	94.5
150	94.5	95.0	93.6	95.0	95.0	94.5
200	94.5	95.0	94.5	95.0	95.0	95.0

"(2)(A) The Secretary may, by rulemaking, exempt certain types or classes of motors from the standards specified in paragraph (b) of this section if the following apply—

"(i) efficiency standards for such motors would not result in significant energy savings because such motors either cannot be used in most general-purpose applications or are very unlikely to be used in most general-purpose applications; and

"(ii) efficiency standards for such motors would not be technically feasible or economically justified;

"(B) Within one year of the passage of this Act, motor manufacturers and importers shall petition the Secretary to request exemptions for motors that meet the criteria specified in paragraph (2)(A) of this section. Each request shall provide evidence that the motor meets the criteria for exemption.

"(C) Within two years of the passage of this Act, the Secretary shall rule on each request for exemption. In reaching his decision, the Secretary shall afford an opportunity for public comment.

"(D) for new motors developed after the date of enactment of this Act, manufacturers may petition the Secretary for exemptions from the standards established under this Act based on the criteria specified in paragraph (2)(A) of this section.

"(3)(A) The Secretary shall publish a final rule no later than the end of the 24-month

period beginning on the effective date of the standards established under paragraph

(1) to determine if such standards should be amended. Such rule shall provide that any amendment shall apply to electric motors manufactured on or after a date which is 5 years after the effective date of the standards established under paragraph (1).

"(B) The Secretary shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such product. Any such amendment shall apply to electric motors manufactured after a date which is 5 years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective.

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT AND PREEMPTION.—Section 345 of such Act (42 U.S.C. 6316) is amended by—

(1) striking the designation "(a)";

(2) in the material preceding paragraph (1), by striking "sections 328" and inserting in lieu thereof ", the provisions of subsections (1) through (q) of section 325, and section 327";

(3) in paragraph (1) by—

(i) striking the words "and 324" and inserting in lieu thereof ", 324, and 325";

(ii) striking the words "343 and 344, respectively" and inserting in lieu thereof "343, 344, and 342, respectively";

(4) in paragraph (3), by striking the word "and" at the end thereof;

(5) in paragraph (4), by striking the period and inserting in lieu thereof a semicolon; and

(6) by adding after paragraph (4) the following new paragraphs (5) through (8):

"(5) As of the date of enactment of the National Energy Security Act of 1991, no State or its subdivisions may enact, prescribe, or revise efficiency standards for any equipment for which efficiency standards are established under this Act.

"(6) As of the date of enactment of the National Energy Security Act, no State or its subdivisions may enact, prescribe, or revise labeling requirements for any equipment for which labeling requirements are established under this Act.

"(7) Notwithstanding paragraphs (5) and (6) of this section, States and their subdivisions may adopt efficiency requirements for new construction provided that such requirements are identical to standards established under this Act.

"(8) With respect to electric motors, the Secretary shall establish a technical performance audit program to ensure compliance with the prescribed testing and labeling standards; and

(7) by striking out the title and inserting in lieu thereof "Administration, Penalties, Enforcement, and Preemption".

(f) AUTHORIZATION FOR APPROPRIATIONS.—Section 346 is amended by striking the existing text and inserting in lieu thereof the following: "There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this part."

"SEC. 6115. ENERGY CONSERVATION STANDARDS FOR SMALL ELECTRIC MOTORS.

Title III, part C, of the Energy Policy and Conservation Act (42 U.S.C. 6310) is amended by adding the following new section 346, and renumbering section 346 as 347.

"SEC. 346. ENERGY CONSERVATION STANDARDS FOR SMALL ELECTRIC MOTORS.

"(a) IN GENERAL.—(1)(A) The Secretary shall—

"(i) within 24 months after the date of the enactment of this Act, prescribe testing requirements for those small electric motors for which the Secretary makes a determination that energy conservation standards would be technically feasible and economically justified, and would result in significant energy savings; and

"(ii) within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to clause (i), prescribe energy conservation standards for those small electric motors for which the Secretary prescribed testing requirements under clause (i). Standards shall not apply to any small electric motor which is a component part of a product or equipment subject to the energy efficiency standards under this title.

"(iii) any standard prescribed under (ii) of this Act shall apply to small electric motors manufactured, assembled or imported, 60 months after the date the final rule is published, or 84 months in the case of small electric motors which require listing or certification by a nationally recognized testing laboratory.

"(B) For purposes of subparagraph (A):

"(i) the term "energy conservation standard" means—

"(aa) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(bb) a design requirement for a product; and

"(ii) the term "small electric motor" is as defined under section 340(8) of the Energy Policy and Conservation Act (42 U.S.C. 6311), as amended.

"(2) In establishing any standard under this section, the Secretary shall use the criteria contained in section 325(1) of the Energy Policy and Conservation Act.

"(3) The Federal Trade Commission shall, within six months after the date on which energy conservation standards for small electric motors are prescribed by the Secretary pursuant to paragraph (1)(A)(ii), prescribe labeling requirements for such electric motors.

"(b) REQUIREMENT OF MANUFACTURERS.—Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (a)(3), each manufacturer of the product shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

"(c) ENFORCEMENT.—(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (b)—

"(A) each such product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a) of the Energy Policy and Conservation Act, a new covered product to which a rule under section 324 of such Act applies; and

"(B) it shall be unlawful for any manufacturer, importer or private labeler to distribute in commerce any new small electric motors for which an energy conservation standard is prescribed under subsection (a)(1)(A)(ii) which is not in conformity with the applicable labeling requirement and energy conservation standard.

"(2) For purposes of section 333(a) of the Energy Policy and Conservation Act, paragraph (1) of this subsection shall be considered to be a part of section 332 of such Act.".

JOHNSTON (AND WALLOP) AMENDMENT NOS. 1552 AND 1553

Mr. JOHNSTON (for himself and Mr. WALLOP) proposed an amendment to the bill S. 2166, supra, as follows:

AMENDMENT NO. 1552

On page 285, strike liens 6 through 24 and, on page 286, lines 1 and 2.

AMENDMENT NO. 1553

On page 303, after line 21, insert the following:

"SEC. 11113. FUEL USE ACT AMENDMENT.

Section 403 of the Powerplant and Industrial Fuel Act of 1978 as amended (42 U.S.C. 8373) is amended by striking subsection (c) in its entirety."

WIRTH AMENDMENT NO. 1554

Mr. WIRTH proposed an amendment to the bill S. 2166, supra, as follows:

On page 118, line 16, add the following new subsection 6103(c):

"(c) ELIMINATION OF FEDERAL PREEMPTION.—Notwithstanding the provisions of section 943 of the Cranston-Gonzalez National Affordable Housing Act (P.L. 101-625), if the Department of Housing and Urban Development has not issued, within one year of the date of enactment of this Act, regulations establishing thermal insulation and energy efficiency standards for manufactured housing promulgated (and effective before 1995) pursuant to section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) then States shall have the authorization to set such thermal insulation and energy efficiency standards for manufactured housing at levels at least as stringent as the thermal performance standards under ASHRAE 90-2.

JOHNSTON AMENDMENTS NOS. 1555 AND 1556

Mr. JOHNSTON submitted two amendments to the bill S. 2166, supra; as follows:

AMENDMENT NO. 1555

On page 21, strike lines 1 through 14 and insert the following:

"SEC. 4102. FEDERAL FLEETS.

(a) PURCHASE REQUIREMENTS.—

"(1) The Federal Government shall purchase, lease, or otherwise acquire at least—

(A) 5,000 alternative fuel vehicles in 1993;

(B) 7,500 alternative fuel vehicles in 1994; and

(C) 10,000 alternative fuel vehicles in 1995.

"(2) When any Federal agency purchases, leases, or otherwise acquires vehicles for a Federal fleet, in the years specified in this paragraph, at least the following percentage of the vehicles purchased, leased, or otherwise acquired shall be alternative fuel vehicles in the respective years—

(A) in 1996, 25 percent;

(B) in 1997, 33 percent;

(C) in 1998, 50 percent;

(D) in 1999, 75 percent; and

(E) in 2000 and each year thereafter, 90 percent."

AMENDMENT NO. 1556

On page 32, following line 8, insert the following new subsection:

"(d) STATE INCENTIVES.—Within 18 months after the date of enactment of this title, the Governor of each State in which there is lo-

cated a fleet subject to the alternative fuel vehicle purchase requirements of section 4103 or 4104, shall submit to the Secretary a report concerning the incentives for alternative fuel vehicles considered or approved by the State. Each State subject to the requirements of this section shall consider:

(1) allowing public utilities to include in rates costs associated with the development and installation of alternative fuel facilities to the extent that such inclusion would not create competitive disadvantages for other market participants;

(2) exempting alternative fuel vehicles that operate only on alternative fuel from high occupancy vehicle and other such highway vehicle restrictions;

(3) exempting alternative fuel vehicles from state highway taxes, road tolls, vehicle and fuel sales taxes, and other state taxes or charges otherwise applicable to motor vehicles; and

(4) providing alternative fuel vehicles special parking at public buildings, airports, and transportation facilities."

NICKLES AMENDMENT NO. 1557

Mr. JOHNSTON (for Mr. NICKLES) proposed an amendment to the bill S. 2166, supra; as follows:

(a) On page 32, after line 8, insert the following new section:

SEC. 4112. SCHOOL BUS FLEET FINANCIAL ASSISTANCE PROGRAM.

There is authorized to be appropriated to the Secretary not more than $10,000,000 for each of the fiscal years 1993, 1994, and 1995 to remain available until expended for purposes of providing financial assistance to any State, including any agency, municipality or political subdivision of a State or the District of Columbia, to meet incremental costs attributable to the use by school buses of alternative fuels, as that term is defined in section 4101(1) of this subtitle, including purchase and installation of alternative fuel refueling facilities to be used primarily for school bus refueling and conversion of school buses to make them capable of using only an alternative fuel (except that diesel school buses may be converted to run on a combination of diesel and natural gas), provided that, any conversion using funds authorized by this section must comply with the warranty and safety requirements for alternative fuel conversions contained in section 247 of the Clean Air Act Amendments of 1990.

(b) In the table of contents, on page 2, under title VI, subtitle A, list "SEC. 4112. School Bus Fleet Financial Assistance Program."

SYMMS AMENDMENT NO. 1558

Mr. JOHNSTON (for Mr. SYMMS) proposed an amendment to the bill S. 2166, supra, as follows:

SEC. 1. In title IV of the bill, section 4101, page 18, delete "and" on line 6, and at the end of line 6 add the following: "and any other fuel that is substantially nonpetroleum, including fuels other than alcohol that are derived from biological materials;".

SEC. 2. In title IV of the bill, section 4304, page 58, delete "and" on line 24, and at the end of line 25 add the following: "and any other fuel that is substantially nonpetroleum, including fuels other than alcohol that are derived from biological materials;".

SEC. 3. In title IV of the bill, section 4304, page 59, following "gasoline" on line 2, delete the comma and insert: "or diesel,".

WALLOP AMENDMENT NO. 1559

Mr. WALLOP proposed an amendment to the bill S. 2166, supra, as follows:

In section 4302(4) on page 57, line 6, before "capable" insert "and off-road vehicles".

WIRTH (AND LIEBERMAN) AMENDMENT NO. 1560

Mr. WIRTH (for himself and Mr. LIEBERMAN) submitted an amendment to the bill S. 2166, supra, as follows:

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

CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT

SEC. . FINDINGS.

The Congress finds that—

(1) there is growing mutual economic interdependence among the countries of North America and the Western Hemisphere;

(2) energy and environmental issues are intrinsically linked and must be considered together when formulating policy on the broader issue of sustainable economic development for each of these countries and for the Western Hemisphere as a whole;

(3) when developing their respective energy infrastructures, countries in the Western Hemisphere must account for existing and emerging environmental constraints, and do so in a way that results in sustainable long-term economic growth;

(4) the coordination of respective national energy and environmental policies of the governments of Canada, Mexico, Venezuela, the United States and, as appropriate, other countries in the Western Hemisphere could be substantially improved through regular consultation among these countries;

(5) the development, production and consumption of energy can affect environmental quality, and the environmental consequences of energy-related activities are not confined within national boundaries, but are regional and global in scope;

(6) although the Western Hemisphere is richly endowed with indigenous energy resources, an insufficient energy supply would severely constrain future opportunities for sustainable economic development and growth in each of these countries;

(7) the energy sectors of the economies of Canada, Mexico, Venezuela, the United States and other energy producing countries of the Western Hemisphere are interdependent;

(8) the energy markets of the United States are linked with those in other countries of the Western Hemisphere and the world.

SEC. . CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT.

(a) DEFINITIONS.—For purposes of this subtitle—

(1) "Commission" means the Consultative Commission on Western Hemisphere Energy and Environment; and

(2) "participating governments" refers to the governments of Canada, Mexico, Venezuela, the United States of America, and, as deemed appropriate by the President, other Western Hemisphere countries.

(b) NEGOTIATIONS.—The President is authorized and directed to initiate negotiations with the participating governments for the establishment of a multinational Consultative Commission on Western Hemisphere Energy and Environment.

(c) OBJECTIVES OF NEGOTIATIONS.—In the course of the negotiations, the President is encouraged to meet the following purposes—

(1) the objectives of the Commission shall be—

(A) to evaluate from the viewpoint of North America and the Western Hemisphere as a whole, the energy and environmental situations, trends and policies of the countries of the participating governments necessary to support sustainable economic development;

(B) to recommend to the participating governments actions, policies and institutional arrangements that will enhance cooperation and policy coordination among their respective countries in the future development and use of indigenous energy resources and technologies, and in the future development and implementation of measures to protect the environment of the Western Hemisphere; and

(C) to recommend to the participating governments actions and policies that will enhance energy and environmental cooperation and coordination among the countries of the Western Hemisphere and the world;

(2) the Commission shall include representatives of—

(A) the respective energy and environmental ministries or departments of the participating governments;

(B) the parliamentary or legislative bodies with legislative responsibilities for energy and environmental matters;

(C) other governmental and nongovernmental observers appointed by the heads of each participating government on the basis of their experience and expertise; and

(D) a small secretariat chosen by the participating governments for their expertise in the areas of energy and the environment; and

(3) the Commission's authority—

(A) shall terminate five years from the date of the agreement under which it was created; and

(B) may be extended for a 5-year term at the expiration of the previous term by agreement of the participating governments.

(d) REPORT.—The President shall, within one year of the enactment of this legislation, report to the Congress on the progress toward the establishment of the Commission and achievement of the purposes of this section."

WIRTH AMENDMENT NO. 1561

Mr. WIRTH proposed an amendment to the bill S. 2166, supra, as follows:

On page 27, line 17, strike the words "Nothing in this subtitle shall' and lines 18-21, and insert the following: "However, if alternative fuel vehicles are now available from original equipment manufacturers, nothing in this section shall be construed to require any Federal agency, state or covered person subject to the fleet vehicle acquisition requirements under this title to convert existing or new gasoline or diesel-powered vehicles to alternative fuels vehicles or to purchase converted vehicles.".

SEYMOUR AMENDMENT NO. 1562

Mr. WALLOP (for Mr. SEYMOUR) proposed an amendment to the bill S. 2166, supra, as follows:

On page 19, section 4101(5)(H), insert after "(H)" the following: "Except for vehicles covered by section 4102 and section 4103,".

MCCONNELL AMENDMENT NO. 1563

Mr. JOHNSTON (for Mr. MCCONNELL) proposed an amendment to the bill S. 2166, supra, as follows:

At the end of subtitle A of title XIV, add the following new section:

SEC. . ASSISTANCE TO SMALL COAL OPERATORS.

(a) Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended to read as follows:

"(c)(1) If the regulatory authority finds that the probable total annual production at all locations of a coal surface mining operator will not exceed 300,000 tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory designated by the regulatory authority, shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application:

"(A) The determination of probable hydrologic consequences required by subsection (b)(11), including the engineering analyses and designs necessary for the determination.

"(B) The development of cross-section maps and plans required by subsection (b)(14).

"(C) the geologic drilling and statement of results of test borings and core samplings required by subsection (b)(15).

"(D) The collection of archeological information required by subsection (b)(13) and any other archeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby.

"(E) Pre-blast surveys required by section 515(b)(15)(E).

"(F) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this Act.

"(2) The Secretary shall provide or assume the cost of training coal operators that meet the qualifications stated in paragraph (1) concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection.".

(b) REIMBURSEMENT OF COSTS.—Section 507 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257) is amended by adding at the end thereof the following new subsection:

"(h) A coal operator that has received assistance pursuant to subsection (c) (1) or (2) shall reimburse the regulatory authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.".

FORD AMENDMENT NO. 1564

Mr. JOHNSTON (for Mr. FORD) proposed an amendment to the bill S. 2166, supra, as follows:

On page 249, after line 24, add the following new subsection:

"(g) AVLIS LICENSING.—The last sentence of section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(v)) is amended to read as follows: "'Except with respect to the export of a uranium enrichment production facility or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology, such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.'."

JOHNSTON AMENDMENTS NOS. 1565 AND 1566

Mr. JOHNSTON proposed two amendments to the bill S. 2166, supra, as follows:

AMENDMENT NO. 1565

On page 344, after line 18, add the following new section:

"SEC. . Section 401 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425) is amended by inserting "and" after "States,", inserting a period after "District of Columbia", and striking the remainder of the sentence.

AMENDMENT NO. 1566

On page 344, after line 18, add the following new section:

"SEC. . Section 410 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425) is amended by striking "5 years" and inserting "6 years".

DOMENICI AMENDMENT NO. 1567

Mr. JOHNSTON (for Mr. DOMENICI) proposed an amendment to the bill. S. 2166, supra, as follows:

On page 100, at the end of line 4, insert the following new sentence:

"No development of hydroelectric power at Cochiti Dam in New Mexico may be authorized by any Federal or State official or agency unless specific authorization for such development has been enacted by the Congress and the express consent of the Pueblo de Cochiti has been obtained."

DECONCINI AMENDMENT NO. 1568

Mr. JOHNSTON (for Mr. DECONCINI) proposed an amendment to the bill. S. 2166, supra, as follows:

On page 94, line 18, after the word "Interior", insert "after consultation with and consideration of the recommendations from the affected Indian tribe" on page 94, line 20, after the word "reservation", insert "consistent with the federal government's trust responsibility for the Indian interests;".

WALLOP AMENDMENT NO. 1569

Mr. WALLOP proposed an amendment to the bill S. 2166, supra, as follows:

On page 266, amend from line 13, through page 268, line 9, to read as follows:

"SEC. 10243. UNITED STATES INTERNATIONAL TRADE COMMISSION INVESTIGATION.

"(a) REPORT.—(1) Within 120 days of his receipt from the United States International Trade Commission of its report under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) assessing the impact on the domestic uranium enrichment industry of imports into the United States of enriched and nonenriched uranium and uranium enrichment services from the Union of Soviet Socialist Republics, the People's Republic of China, and, as appropriate, other nonmarket economy countries, the President, or his designee, shall transmit to the Congress a report that includes—

"(A) the views of the executive branch on the Commission's report; and

"(B) what action, if any, the President plans to take in response to the Commission's report concerning the impact of transactions in enriched and nonenriched uranium and the provision of uranium enrichment services by the Union of Soviet Socialist Republics, the People's Republic of China, and, as appropriate, other nonmarket economy countries, on the domestic uranium enrichment industry, including but not limited to the status of any negotiations with such countries in regard to such transactions and provision of services.

"(2) Should the President determine that no action by the executive branch is necessary in response to the Commission's report, his report to the Congress shall include a detailed statement of the reasons for such determination, including an explanation of why the absence of action by the executive branch will not adversely affect the economic well-being of the domestic uranium enrichment industry.

"(b) COOPERATION.—The Secretary, the Administrator, and the Secretary of Commerce shall cooperate fully with the United States International Trade Commission in its investigation under section 332(g).".

GORE (AND OTHERS) AMENDMENT NO. 1570

Mr. GORE (for himself, Mr. CHAFEE, and Mr. WIRTH) proposed an amendment to the bill S. 2166, supra, as follows:

On page 401 after line 4, add the following new title:

TITLE XVII—STRATOSPHERIC OZONE DEPLETION

SEC. 17101. FINDINGS.

The Senate finds that:

(1) The Stratospheric ozone layer, which protects all living things from harmful ultraviolet radiation from the sun, has been severely depleted in many areas of the globe.

(2) Recent scientific data show that the ozone layer over densely populated areas of the United States and other countries in the northern midlatitudes has thinned twice as fast as had previously been measured and as had been projected by theoretical models and the depletion is persisting into the warmer months of the year, and has reached significant levels even in summer.

(3) Ozone depletion in the Southern Hemisphere is proceeding even more rapidly than in the Northern Hemisphere.

(4) The incidence of skin cancer and cataracts is expected to rise significantly and the human immune system may be suppressed due to increased exposure to ultraviolet radiation.

(5) Increased exposure to ultraviolet radiation threatens food crops and some wild plants, and interferes with the ability of phytoplankton, the microscopic organisms that are at the base of the oceanic food chain, to photosynthesize and to reproduce.

(6) The scientific evidence shows that chlorofluorocarbons, hydrochlorofluorocarbons, and other halogenated chemicals undergo reactions in the stratosphere that lead to the rapid destruction of the ozone layer.

(7) The Administrator of the Environmental Protection Agency is required under the Clean Air Act Amendments of 1990 to accelerate the scheduled phaseout of ozone-destroying substances if it is determined in the light of scientific evidence that a more stringent schedule is necessary to protect human health and the environment.

(8) The recent scientific findings make necessary a reappraisal of both domestic and

international policy on the control of ozone-destroying chemicals.

SEC. 17102. SENSE OF THE SENATE.

It is the Sense of the Senate that:

(1) The Administrator of the Environmental Protection Agency should accelerate the interim phaseout schedules and the final phaseout date of chlorofluorocarbons, carbon tetrachloride, methyl chloroform, and halons as required pursuant to Section 606 of the Clean Air Act Amendments of 1990, and shall provide for complete phaseout as early as possible, taking into account Section 604 of the Act.

(2) The Administrator of the Environmental Protection Agency should accelerate the interim phaseout schedule and the final phaseout date of those hydrochlorofluorocarbons that have relatively long atmospheric lifetimes or high ozone depletion potentials.

(3) The Administrator of the Environmental Protection Agency should prioritize efforts to issue regulations, as required pursuant to Title VI of the Clean Air Act Amendments of 1990, providing for the recapture and recycling of ozone-destroying substances as used in appliances and motor vehicle air conditioners, and for the elimination of such substances as used in non-essential consumer products.

(4) The President of the United States should urge the Contracting Parties to the Montreal Protocol to accelerate the interim phaseout schedules and the final phaseout date of ozone-destroying chemicals currently covered by the Protocol.

(5) The President should urge the Contracting Parties to include hydrochlorofluorocarbons within the terms of the Montreal Protocol, and to provide for the most rapid phaseout of those hydrochlorofluorocarbons with relatively long atmospheric lifetimes, or high ozone depletion potentials.

(6) The President should urge the Contracting Parties to amend the Protocol to include recapture and recycling provisions and to prohibit the venting or releasing of ozone-destroying chemicals from refrigeration and air conditioning units into the atmosphere by date certain.

(7) The President should urge the Contracting Parties to accelerate the compliance of developing countries with the terms of the Montreal Protocol.

TECHNICAL CORRECTIONS TO H.R. 3866

STEVENS AMENDMENT NO. 1571

Mr. SIMPSON (for Mr. STEVENS) proposed an amendment to the concurrent resolution (H. Con. Res. 268) to correct technical errors in the enrollment of the bill H.R. 3866, as follows:

Strike all on page 3, lines 6 through 24.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a 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 Wednesday, February 19, 1992, 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 following bills pending before the subcommittee.

S. 780, S. 1105, and H.R. 1592, to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, and the Canyonlands unit;

S. 801 and H.R. 479, to amend the National Trails System Act to designate the Pony Express National Historic Trail and California National Historic Trail as components of the National Trails System;

S. 1064, to establish the Dayton Aviation Heritage National Historical Park in Dayton, OH, and for other purposes;

S. 1360 and H.R. 1642, to establish in the State of Texas the Palo Alto Battlefield National Historic Site, and for other purposes;

S. 1811, to authorize the additional use of land in the city of Pittsburg, CA;

S. 1919 and H.R. 1216, to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes;

H.R. 2896, to authorize the Secretary of the Interior to revise the boundaries of the Minute Man National Historical Park in the State of Massachusetts, and for other purposes; and

S.J. Res. 219, to approve the location of a memorial to George Mason.

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, Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 224-9863.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Foreign Relations Committee be authorized to meet during the session of the Senate on Wednesday, February 5, at 3 p.m. to hold a hearing on United States policy toward Burma.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the Session of the Senate on Wednesday, February 5, at 10 a.m. to hold a hearing on foreign policy overview with Secretary of State Baker.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 5, at 2 p.m. to hold an ambassadorial nomination hearing on Parker Borg to Burma.

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

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, February 5, at 3:15 p.m. to hold a hearing on the emergency situation in Zaire and Somalia.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, February 5, 1992, at 2 p.m. to hold a closed hearing on intelligence matters.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Wednesday, February 5, 1992, at 10 a.m., for a hearing on the subject: getting the most out of every tax dollar: Government management and budget 1992.

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on February 5, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building, to adopt the committee rules and agenda and to meet on the implementation of the Indian Gaming Regulatory Act.

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

COMMITTEE ON ARMED SERVICES

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, February 5, 1992, at 1:30 p.m., in open session to receive testimony on United States efforts to assist the former Soviet republics in dismantling their nuclear and chemical weapons and preventing their proliferation.

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

ADDITIONAL STATEMENTS

A BITTER LEGACY OF 1980'S DEAL-MANIA

• Mr. SIMON. Mr. President, I have long been concerned about the excessive use of our capital simply for one corporation to gobble up another corporation rather than using it to increase investment that will add to the productivity of America.

Recently, I saw in the Chicago Tribune an article by Prof. Walter Adams of Michigan State University and Prof. James Brock of Miami University of Ohio discussing this.

What they say makes so much sense that I ask to insert it into the RECORD here and ask my colleagues to read it.

The article follows:

[From the Chicago Tribune, Dec. 31, 1991]

A BITTER LEGACY OF '80S DEAL-MANIA

(By Walter Adams and James W. Brock)

Purveyors of the conventional wisdom tell us that the mad-dog days of the razzle-dazzle, corporate deal-mania of the 1980s are over. Yes, they admit, speculative dealmaking ran riot. Yes, they concede, many corporate marriages were ill-advised escapades consummated in the heat of the moment.

But now, the spin doctors assure us, all this is behind us. Sanity has returned. Corporate mergers in the 1990s will be "strategic" in nature, soberly calculated to enhance American competitiveness and boost the nation's economic performance.

What wishful thinking.

First, the fallout of the merger-takeover-buyout binge is clearly aggravating the current recessionary malaise: It underlies the gnawing distress of consumers, who are too worried about layoffs—many as a result of failed corporate deals—to embark on a buying spree. Banks, traumatized by the slew of collapsing corporate deals in which they invested, are now paranoid about their lending.

And corporate America is saddled with a staggering debt load that virtually precludes the new spending projects needed to pull the economy out of recession. Triggered by takeovers, mergers and buyouts, the explosion of corporate debt during the 1980s has decimated the creditworthiness of United States firms, rendering them too leveraged to borrow for productive new investments in plant, equipment or new product development.

At the same time, the ballooning payments required to service these debt loads are siphoning off internal cash flows and retained earnings that otherwise would be available to these firms for funding new investment projects. And as record-high bankruptcy rates attest, these debt burdens are simply unsustainable. Such evidence is scarcely indicative of an economy primed for recovery or girded for global competitive combat.

Second, the speculative splurge of the 1980s was not a free ride. It imposed an inescapable, monumental "opportunity cost" on the American economy: The trillion dollars expended by corporate America shuffling paper ownership shares during the 1980s represents a trillion dollars that was not directly invested in new plants, research and development, new products, new state-of-the-art manufacturing techniques, or new jobs.

Cuts in capital gains taxes intended to spur productive investment were instead dissipated in unproductive paper entrepreneurship.

While corporate America played the mergers and acquisitions game, its foreign competitors concentrated on enhancing their already daunting industrial lead: Over the period 1985–1988, for example, Japanese firms increased their expenditures for factories, equipment and research and development by 150 percent, compared to a 23 percent increase by American firms.

In 1988, investment by Japanese firms exceeded that of their American counterparts by $250 billion (despite the fact that the American economy is some 40 percent larger than that of Japan). On a per-capita basis, Japanese firms are out-investing corporate America by an impressive two-to-one margin.

Obviously, the challenge of closing this industrial and technological gap will be even more difficult, will take even longer, and will require even more effort—another legacy of the corporate feeding frenzy of the '80s.

Third, assurances about the "strategic" mergers to come are delusionary, a replay of the cornucopia of economic gains that the corporate deal-mania of the 1980s was supposed to unleash.

In banking, for example, it is claimed that the current spate of mega-mergers (Bank of America and Security Pacific; Manufacturers Hanover and Chemical Bank; NCNB and C&S/Sovran) will rejuvenate American banking and strengthen it. The evidence is otherwise: The very largest American banks are significantly less profitable than smaller, medium-size banks.

Once banks attain a modest size, there is no evidence of any further gains from economies of scale. In fact, the nation's largest banks have suffered failure rates over the past two decades double those of smaller banks, evidence scarcely suggestive that gigantism will produce a robust American banking sector.

Citicorp, the nation's very largest bank, lost $885 million in the third quarter of 1991 alone.

In steel, the "strategic" 1984 mega-merger between Republic Steel and LTV Steel, the nation's 3rd and 4th largest steel firms, was trumpeted by management as "a landmark in the annals of America's basic industries as they strive to compete in the modern world marketplace." Two years later, the Republic-LTV combination collapsed into bankruptcy.

The multibillion-dollar Time-Warner consolidation—glorified by its management as a "strategic" merger designed to vouchsafe America's place in global media markets—is foundering. How will it survive? By obtaining a billion-dollar ownership stake and cash infusion—from foreign firms it was supposed to conquer.

Perhaps the 19th Century historian Michelet best articulated the legacy of a decade of corporate deals.

Assessing the behavior of the pre-Revolutionary French nobility, he concluded: "Those who made it their profession to live in grand style and do nothing, undertook to do all; and everything remained undone."•

COMMENDING THE 2D BATTALION, 222D FIELD ARTILLERY, UTAH NATIONAL GUARD

• Mr. HATCH. Mr. President, I am pleased to recognize the 2d Battalion, 222d Field Artillery, Utah National Guard, which was named the most outstanding National Guard unit in the Nation for readiness by the Association of the U.S. Army, the National Guard Association of the United States, and the Reserve Officers Association.

In acknowledgment of this great honor, Lt. Col. Mark G. Fuellenbach, battalion commander, from Richfield, UT, and Cmdr. Sgt. Maj. Kent Bishop, from Cedar City, UT, were presented the Walter T. Kerwin, Jr., Readiness Award during a ceremony in Washington, DC. This award recognizes the 2d Battalion, which is made up of units in Richfield, Beaver, Cedar City, and two in St. George, and includes 540 service men and women. The battalion is currently at 115 percent of authorized strength and previously received this same award in 1984.

As stated in the Richfield Reaper on October 23, 1991:

> This award is the highest given for a National Guard battalion's overall performance, and includes such areas as training, personnel strength, numbers of persons who have proven qualified military skills, and the highest percentage of attendance at regular drills and annual training.

This award is highly significant because all aspects of military training and performance are involved, including the ability to maintain and perform the assigned mission.

Before winning this award, the battalion won a number of performance tests against some of the finest National Guard units in the Nation. After winning the State competition, the battalion was nominated to compete in the 6th Army competition in the Western United States. They then won the Milton R. Reckord trophy, given to five guard units in the Nation, and became eligible to compete for the Kerwin Award, the highest award in the Nation. Each unit in the battalion also won the 6th Army Excellence in Training and the Superior Unit Award for the year.•

RECOGNITION OF THE HOLOCAUST MUSEUM IN GERMANY

• Mr. DODD. Mr. President, I rise today to recognize the establishment of a museum at the Wannsee Villa in Berlin. Much of the effort to make this museum possible can be attributed to two individuals, Sigmund Strochlitz and Elie Wiesel.

The significance of this opening is thoughtfully documented in an article written by a dear friend of mine, Sigmund Strochlitz. Ziggy, a survivor of the Holocaust, remembers the day he first visited the Wannsee Villa with Elie Wiesel. As this article will state, it was in this villa, 50 years ago, that the members of the Gestapo, the Nazi Party, and the German Foreign, Interior, and Justice Ministries met to decide the fate of the Jews.

Sigmund Strochlitz has dedicated much of his life to the pursuit of human rights and to educate this gen-

eration of the atrocities of the Holocaust. I hope my colleagues will join me by reading this article from the New London Day.

The article follows:

A MONUMENT TO MEMORY: GERMANY OPENS A MUSEUM TO THE HOLOCAUST

(By Sigmund Strochlitz)

In January of 1987, Elie Wiesel and I were invited to Berlin to participate in a conference to plan converting the Wannsee Villa into a museum of remembrance and education.

The Wannsee Villa is in a suburb of Berlin. On Jan. 20, 1942, representatives of the Nazi Party, the Gestapo, and the German foreign, interior and justice ministries met there and decreed that Jews had no right to exist. Under the code term, "Final Solution," Jews from all over Europe were to be brought to concentration camps. Most would be killed immediately in specially-built gas chambers. The remaining Jews would be put to work to die slowly of hunger and disease.

I don't remember Jan. 20, 1942. It must have been a day like any other during occupation for the 30,000 Jews who lived in Bendzin, the city of my birth. Some of us listened in basements to hidden radios tuned to BBC reports from London. Others discussed unconfirmed rumors. Young children played in the streets, and older children studied with their parents at home.

Most Jews worked under harsh conditions, and all hoped for a swift Allied victory. And no one was aware on that day that we had been condemned to die for no reason other than being born into the Jewish faith.

One year later, more than half of the Jewish population of my town had been deported to Auschwitz to be killed. By Jan. 20, 1944, no Jew was alive in that once-flourishing city. Only a few hundred of us survived the war.

These were my recollections when I came to Berlin in 1987 to attend the conference.

The symbolism was powerful. The conference itself took place in the renovated building of the Reichstag, the old German parliament, one of the center stages of the Nazis' quest for power. Convened by the city government of Berlin, the meeting included leading scholars and public officials, mostly from Germany, Israel and the United States.

In my opening remarks at the conference, I stated, "Little did I dream in those days of anguish and despair, when my people were being decimated and communities that had existed for hundreds of years were being annihilated, that one day I would be standing in the Reichstag, which the Nazis turned into a symbol of lawlessness, fear, and fanaticism, and introduce Elie Wiesel to the German people. Yes, history has its own imagination."

On the last day of the conference, the participants were invited by the mayor of Berlin to visit the villa in Wannsee.

I walked into the villa with trepidation, afraid to face the enormity of evil. Here German barbarism was initiated and sanctioned at the highest levels of government, and in the following years the horror reached heights unprecedented in the annals of human history. Here my own death, as well as the deaths of my family, my teachers, and my entire people, was decreed.

All of a sudden I felt my depressing thoughts being overtaken by the peacefulness of the place and overwhelmed by the beauty of the surroundings. The villa, which once belonged to a Jewish family, overlooks a scenic lake and wooded park.

Through large windows I could see young people strolling and enjoying the warm winter day. I asked myself "Do those young people know what happened here 45 years ago? Are they burdened by the crimes committed by their parents and grandparents?"

I grew up rejecting the notion of collective guilt. In a civilized world, however, it would be fateful to subscribe blindly to a concept of collective innocence.

We must, therefore, hold the younger German generations responsible for the ways in which they remember their past history. In particular, we must ask what they do with the memory of the German past. This represents a great challenge to German honesty. Recent indications, as expressed in public opinion polls, do not encourage the hope that young Germans are meeting that challenge well.

When I walked around the elegant Wannsee Villa in 1987, a strange thought seized hold of me and would not let go. Fifteen German government representatives met in the large living room. What if the walls of that room could talk?

Did at least one person express an objection to the immense evil being planned? Or were they all in agreement, cool and dispassionate, in planning the destruction of the ancient people who transmitted to humanity the commandment: "Thou shalt not kill"?

My thoughts that day were finally interrupted by Wiesel's eloquent plea to convert the villa into a museum. As an educational center, the villa would challenge revisionists and others who try to minimize or deny the murder of 6 million Jews and millions of others.

Last week the museum at the Wannsee Villa became a reality. It contains the documents and protocols of the Wannsee Conference, as well as photographs and other materials relating to the background and consequences of that meeting in January 1942.

The establishment of the museum gives me hope that the enormous crimes committed under German government authority will not be forgotten, and the memory of these despicable crimes will forever provoke cries of despair, as well as warnings for humanity.

The Jewish people have been part of history for thousands of years. Exposed to madness, hate and fanaticism, we have never lost faith that one day crimes committed against innocent people, regardless of race color or national origin, will be universally condemned as crimes against all humanity.●

RECIPIENTS OF AWARDS OF THE CORPORATION FOR PUBLIC BROADCASTING

● Mr. D'AMATO. Mr. President, it is with great pride that I rise today to recognize some outstanding individuals who are recipients of the Corporation for Public Broadcasting [CPB] Television Program Fund Multicultural Programming Grant, Round Two for fiscal year 1991.

Mr. Phil Lucas with the Institute of American Indian Arts, Santa Fe, NM, and Mr. Hanay Geiogamah with the American Indian Dance Theatre, and WNET/Great Performances, New York, NY, will receive a grant for "American Indian Dance: Creativity and Continuity," a 90-minute performance special depicting the genesis and cultural meaning of American Indian dance and music.

Ms. J.T. Takagi and Ms. Hye Jung Park with Third World Newsreel, New York, NY, will receive a grant for "G.I. Brides," a documentary examining South Korean culture, the relationship of United States servicemen to the culture, and the effect that decades of interracial marriages have had on Korean women.

Ms. Mary Brown and Mr. Sam Pollard with Mary Brown Productions, New York, NY, will receive a grant for "Family Stories," a four-part cinema-verite exploration of an extended African-American family over the course of a year that will focus on racial and economic justice issues.

Ms. Michelle Parkerson and Ada Gay Griffin with Third World Newsreel, New York, NY, will receive a grant for "The Life & Work of Audre Lorde," a 60-minute documentary on this noted African-American poet. The film will cover Ms. Lorde's influence on an entire generation of students and writers as well as her personal trials and victories.

Ms. Helena Solberg with International Cinema Inc., New York, NY, is a recipient of a grant for "Carmen Miranda: Bananas Is My Business," a 60-minute documentary on cultural identity and the creation of a Latin American icon in Hollywood.

Mr. President, these outstanding individuals, and CPB which will celebrate its 25th anniversary this year, epitomize what Congress envisioned in 1967—a commitment to high-quality educational, informational, and cultural programming and to public service. It is with great pride that I congratulate them on being awarded these grants.●

S. 1755—CONCESSIONS POLICY REFORM ACT

● Mr. BUMPERS. Mr. President, last September I introduced S. 1755, the Concessions Policy Reform Act of 1991. Passage of this legislation is very important to me, and I look forward to holding hearings on the bill in the near future.

The January–February issue of National Parks magazine contains a very informative article which provides background on the National Park Service's concessions program, as well as a summary and analysis of the major issues in S. 1755.

Mr. President, I ask that the article be printed in full in the RECORD.

The article follows:

PRESERVATION OR PROFIT?

(By Elizabeth Hedstrom)

In 1977 the New York Times obtained an internal National Park Service memo on conditions at Yellowstone National Park. Lodging and food service facilities at the oldest national park were, in the Park Service's words, "decrepit, unpleasant, and potentially unhealthy," and the service was poor.

The facilities were run by the General Host Corporation. General Host had not carried

out maintenance and repairs specified in its Park Service contract, yet its position at Yellowstone seemed secure. Any move by NPS to terminate the contract would require the federal government to buy out the interest the company had accrued in park buildings.

But the Times story created such an uproar that Congress eventually came forward with the necessary payment to General Host—$20 million.

In Alaska, Congress is playing a different role The Alaska congressional delegation is pushing the Park Service to devise plans for new and, conservationists charge, unneeded tourism projects within Denali National Park, including a hotel reconstruction estimated at more than $30 million. NPS would be required to fund the construction and award a contract for the hotel's operation.

Stories like these are common because the laws under which private businesses provide lodging, food, and other services at national parks are outdated and full of loopholes. Present laws allow concessioners to set up "sweetheart deals" at the expense of the federal government and the parks themselves. The system gives concessioners the upper hand over NPS. And in some cases it has distorted the operation of parks toward tourism and concessioner profits and away from preservation of wild and historic sites.

NPCA is fighting for the passage of new concessions legislation. Senate bill 1755, the National Park Concessions Policy Reform Act, sponsored by Sen. Dale Bumpers (D-Ark.), would bring about badly needed reform.

S. 1755 would raise the artificially low fees that concessioners pay to do business in national parks and would direct those funds back to the parks. It would restructure "possessory interest," the costly buyout formula that can result in windfall profits for concessioners, as occurred at Yellowstone. It would improve competition for contracts, to keep parks and the public from being stuck with a bad concessioner. Finally, it would help uphold NPS standards meant to prevent overcommercialization of the parks.

In the early 1990s, concessioners were important to the development of the park system. By attracting visitors, they helped build public support. But the potential for problems was evident early on. "Aggressive commercialism" was one of the things Stephen Mather, first director of the Park Service, charged NPCA to combat when he founded the association in 1919.

Aggressive commercialism has had powerful allies since. When James Watt came to the Interior Department in 1981, he ordered NPS to evaluate park managers on the basis of the money their parks generated. He told concessioners, "If a personality is giving you a problem, we're going to get rid of the problem or the personality, whichever is faster." (Watt soon transferred NPS chief of concessions management L.E. Surles, who was advocating health and safety reforms.)

Since Mather's day, concessions have become big business. Small concessioners still operate in the parks, leading rafting trips, selling firewood, and running lodges. But increasingly concessions are part of large corporations.

TW Recreational Services, for example, runs concessions at Yellowstone, Everglades, Zion, and Bryce Canyon national parks, at Death Valley National Monument, and on the North Rim of the Grand Canyon. It is part of the same giant corporate family as Denny's.

The Greyhound Dial Corporation makes Dial soap, runs cruise lines, builds tour buses, and holds an 80 percent share in the Glacier National Park concessioner.

Yosemite Park and Curry Company, the largest single concession within the park system, was bought in 1973 by the Music Company of America, owner of Universal Studios, Motown Records, and several major book publishers. Matsushita, the mammoth Japanese electronics firm (home to Panasonic, Quasar, and Technics), bought MCA in 1990 for $6.6 billion. The sale brought concern about the concessions system to a head.

When MCA bought the Curry Company, the Park Service was developing a plan to reduce the density of facilities in tightly packed Yosemite Valley. Congress heard testimony from NPS officials in 1974 that MCA had heavily influenced the planning process.

Howard Chapman, long-time NPS Western regional director, stated in 1990 that "in the early seventies . . . we found ourselves outgunned by the financial, political, and downright economic aggressiveness of their [MCA] executives who measured success by the bottom line of each day's profit and loss statement."

"When concessioners have political connections and economic might, it can appear that they, and not NPS, run the parks," said William Chandler, NPCA director of conservation programs.

Zion National Park in Utah had plans like Yosemite's, to remove nearly worn out concessions buildings (abandoned by the previous concessioners) from the park's overcrowded main canyon. NPS announced the plans in 1970, five years in advance, issuing a contract to TWA (now TW) Services to run the concession in the interim.

But historian William Everhart documents that "opposition [to the phase-out] began to develop. . . . To suspicious observers there were elements of a well-orchestrated campaign involving TWA Services, Inc., the Utah congressional delegation, and the governor of Utah."

According to Everhart, the politicians called the NPS director to a meeting. The result was a press release stating that the concessioner's contract would be extended for seven more years; there was no mention of the plans to phase out the concessions buildings.

In 1988, the NPS Washington office recommended that its Rocky Mountain regional office raise the franchise fee paid by the Mount Rushmore National Memorial concessioner from four to ten percent, based on the concessioner's profitability. But according to an investigation by Interior's Inspector General, members of Congress contacted NPS demanding an explanation for the increase. Congressional staffers met with NPS staff. The fees stayed at four percent.

Clearly NPS cannot bring about change by itself. Powerful concessioners can limit its ability to carry out good decisions or to insist on higher return of revenue to the government. For reform to come about, the laws must be rewritten.

The Concessions Policy Reform Act eliminates the "sweetheart deals" that enhance concessioners' positions at the expense of public revenues and Park Service authority. Central to these deals are the low franchise fees concessioners pay as a percentage of gross receipts.

The gross receipts brought in by concessioners nearly doubled from the 1981 total of $309 million to the 1990 estimated total of $564 million. The share returned to the government grew much less, from $12.5 million in 1981 (1.8 percent of gross), to $14 million in 1990 (2.5 percent of gross).

Concessioners at state parks already pay much higher fees. An NPCA survey of California parks found franchise fees from there to 45 percent, with an average of ten percent. If national parks concessioners paid a ten percent average, the government share for 1990 would have been $56.4 million, four times higher.

S. 1755 would require Interior to set a minimum fee for each concessions contract, depending on its potential for profit. This requirement would boost the overall return to the government, but fairly. It would not treat a small outfitter the same as a chain of gift shops and restaurants with high-volume sales.

Under the bill, money generated in the parks would be returned to the parks. At present, franchise fees go to the general treasury. Meanwhile the parks are drastically underfunded and have a $2-billion backlog of maintenance and repairs. They receive less research money than any other federal land management agency. And the ratio of rangers to visitors is dwindling. The bill would put the government share of concessions profits into a special fund for park programs.

Low fees are the most visible failing of the current system. But the financial interest concessioners accrue in park facilities also proves costly.

When concessioners build new structures or make improvements to existing ones, they gain a "possessory interest" in them. Under current law, the formula for determining the value of possessory interest is rigged in favor of the concessioner. To terminate a contract, the Park Service must pay the concessioner on the basis of present-day replacement cost of the buildings, not on the original cost of construction. In practice this formula results in concessioners having a financial interest in park buildings that escalates with the general cost of construction.

At Yellowstone, General Host bought the previous concessioner's possessory interest for $4 million. It did not complete the $10 million in improvements its contract specified. But the buyout cost 13 years later came to $20 million.

As possessory interest builds up, so does the cost of ending the contract, and the concessioner becomes nearly invulnerable in dealings with NPS. As at Yellowstone, the Park Service loses ability to influence the concessioner's behavior.

S. 1755 redefines this interest to reflect real estate practices in the private sector. The concessioner's cost to erect a building would be written off over the life of the contract, so that the Park Service would eventually own the building.

Possessory interest and low franchise fees combined allow a "double dip" into the treasury. Because franchise fees do not go to the Park Service, parks sometimes forgo raising them, and in return have concessioners pay for capital improvements NPS cannot afford. This results in the government losing franchise fees and becoming liable to pay more for possessory interests.

Competition for contracts is also limited by current law, which gives concessioners a "right of preference in renewal." That is, if they can meet the best offer for their contracts, they are assured of keeping them, a practice that discourages other bidders. There is also little active recruitment of competing bids. And, until recently, contracts ran for as long as 30 years.

An NPS task force found that preference in renewal, with long-term contracts, "tends to restrict the Service's ability to require

change." The lack of competition increases concessioner leverage over the Park Service.

S. 1755 ends the right of preference, ensures that concessions opportunities are more widely advertised, and limits contracts to ten years in most cases. Contracts would be awarded through competitive bidding. Interior is directed to select the bidder most responsive to the goals of protecting the park's resources and offering a high quality of visitors service for a reasonable price.

Last, the bill tackles overcommercialization of the parks. It would codify current NPS policy meant to keep parks as natural as possible. That policy states that concessions development in parks should be limited to what is "necessary and appropriate" and that facilities, wherever possible, should be located in neighboring towns, aiding local economies while keeping parkland uncluttered.

But Zion and Yosemite show that NPS cannot always put its policies into action. There is more evidence from other parks.

The NPS development plans at Denali include a hotel and three new visitor centers, one to be linked to a hotel project in adjoining Denali State Park. There are already more than 700 hotel and cabin rooms available near the park entrance.

The Grand Canyon's unspoiled North Rim may become the site of a 100-unit concessioner-built hotel, restaurant, and parking lot complex.

Sen. Bumpers' reform bill would improve oversight of development in the parks. Any new, additional, or replacement concessioner-built structure involving costs of $100,000 or more could be approved only after notice to Congress and a public review process.

The goal of the Concessions Policy Reform Act is a financially responsible concessions system. Instead of windfall profits for concessioners at public expense, the system would be geared toward a fair return to the government, a fair opportunity profit for concessioners, and an equal chance for would-be concessioners to compete for contracts. These reforms would aid parks deteriorating from a lack of funds. And they would put the brakes on overcommercialization, so that parks are not pushed into becoming tourist traps at the expense of natural and historic preservation.

Because of the power of the concessions industry, passage of S. 1775 is not guaranteed. There are 16 cosponsors of both parties signed onto the bill at this writing. But the industry and its lobbyists have a strong financial incentive to maintain the status quo and are already pressuring the Senate. A strong public show of support will be needed for reform to prevail.●

TRIBUTE TO DICK HOWARD, SECRETARY OF SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION

● Mr. PRESSLER. Mr. President, Federal highway legislation is always a struggle. It is difficult to determine how best to apportion highway funds to the various States. We are indeed fortunate that smaller States were led in the recent congressional highway debate by Dick Howard, the secretary of South Dakota's Transportation Department. Dick Howard's leadership helped the Senate and House of Representatives fashion a highway bill that is balanced, far reaching, and most of all, fair.

Dick Howard played a pivotal role in organizing and preparing small and rural States for the 1991 highway bill debate. Secretary Howard personally devoted hundreds of hours to informing other States of efforts by donor States to end the donor/donee apportionment relationship. In the 1991 battle, donor States argued that the relationship was unfair to them—that their States were being shortchanged by the system. Secretary Howard organized donee States to demonstrate effectively to Congress that this assertion lacked a practical foundation.

Mr. President, the long stretches of highway in South Dakota benefit all Americans. Our national economy depends on the connecting highways in South Dakota and other Midwestern States. Those roads transport the products of east coast and west coast businesses, and facilitate tourism travel throughout the United States. The key point Secretary Howard and his coalition of small States demonstrated is that our highways in South Dakota are used as connectors of the Nation. They do not exist simply for the benefit of South Dakotans, for example.

Mr. Howard's work with other States and Congress ensured that South Dakota received the funds required to meet its unique transportation needs, while giving all States the flexibility to use Federal funds in the most efficient way possible. Dick Howard deserves the appreciation and congratulations of all smaller States for a job well done.●

THE INSTALLATION OF DANIEL A. CRONIN AS ARCHBISHOP OF HARTFORD, NEW HAVEN, AND LITCHFIELD COUNTIES

● Mr. DODD. Mr. President, I rise today to welcome Archbishop Daniel A. Cronin to the Catholic Archdiocese of Hartford. Archbishop Cronin was installed at the Cathedral of St. Joseph on Wednesday, January 29, as the new prelate of 223 parishes and over 800,000 Roman Catholics within the Hartford, Litchfield, and New Haven Counties. Archbishop Cronin filled the vacancy created last year by the death of the much-admired Archbishop John F. Whealon.

Archbishop Cronin's career with the Roman Catholic Church has been remarkable for its modesty, commitment, and devotion to God. After attending Catholic schools and graduating from the seminary in 1952, Cronin achieved his doctorate in moral theology while in Rome. His priesthood in a quiet community in Massachusetts was interrupted when his ordinary bishop, then—Archbishop Cushing of Boston, offered Cronin a post at a church embassy in Addis Ababa, Ethiopia. Cronin accepted Cushing's challenge of exploring his vocation in such a remote province. Cardinal Cushing later called Cronin, by then a seasoned papal diplomat, to Rome as his auxiliary bishop.

Daniel Cronin rose humbly to his current post in Hartford; his friends claim he was never a climber, just a man who loved God above all else. The oldest of four boys in an Irish-American family, Daniel remembers his childhood with the fondness of a loving son and brother. While his father worked as a building contractor in Cambridge, MA, his mother stayed close to hearth and home, embuing his family life with a security and continuity whose moral resonance affects Archbishop Cronin today. Observing a direct relationship between the integrity and holiness of family life and the integrity and holiness of society, Archbishop Cronin's vision of his spiritual agenda in Hartford derives in large part from the lessons of love and family unity of his childhood.

Though he has yet to articulate a specific approach to his role as archbishop of Hartford, having spent 21 years as bishop of Fall River, MA, Archbishop Cronin is quick to recognize the spiritual dearth afflicting society. His mission in Hartford will be inspired by the 500-year anniversary of the introduction of evangelical Christianity to the New World—a symbolic opportunity for Catholics to reclaim their faith and rediscover their spirituality.

Hartford and all of Connecticut is fortunate to embrace a new spiritual leader with the experience, charm, and frank goodness of Daniel A. Cronin. In these hard times, individuals like Archbishop Cronin, who generate a spirit of fortitude, generosity, and optimism and whose messages carry promises of renewal and redemption, inspire us to confront the challenges of tomorrow with grace and dignity and remind us all of the grander purpose of our humanity.●

SUPPORTING THE SUSPENSION OF THE FORCIBLE RETURN OF HAITIAN NATIONALS

● Mr. D'AMATO. Mr. President, I rise to cosponsor S. 2185. Haitians have long lived in fear of their lives. To send them back to Haiti, under the present conditions, is wrong. For that reason, I am cosponsoring this bill to suspend the forcible repatriation of Haitian nationals.

To return these helpless refugees is an unconscionable and deplorable act. The continuing climate of obscene violence in Haiti makes their return equal to a sentence of death. What more evidence do we need of the conditions facing all Haitians than the recent assassination attempt against Rene Theodore, the man many expected to become the next Prime Minister.

We must support those fleeing oppression for the shores of democracy.

We must stand with democracy and against totalitarianism. The forced return of the Haitian refugees is wrong and a suspension is the only way to avoid a tragedy.

The Haitian people need and deserve our support. We cannot now force Haitian nationals wishing to remain in the United States to return to Haiti. Let us do what is both right and just and allow Haitian nationals to remain here. I urge my colleagues to join me in cosponsoring this bill.●

SUSPEND DEPORTATION OF HAITIAN REFUGEES

● Mr. WELLSTONE. Mr. President, I rise to urge my colleagues to support S. 2185, emergency legislation introduced last night to suspend the forced repatriation of Haitian refugees from the facility at Guantanamo Bay. The bill would also require a Presidential certification that any future repatriations are safe and meet a number of important conditions relating to the safety and security of Haitian refugees.

I believe this brief reprieve is the absolute minimum amount of time required to gain better information on the situation on the ground in Haiti. Frankly, I believe the term of this suspension should be longer than simply 2 weeks, to give us time to develop a process to handle this crisis. But at least this will halt immediately the forced repatriations; we can extend the suspension period later if necessary.

For 5 years we here in the United States have supported the Haitian people as they have struggled to build a democratic society free from the violence, abuse, and desperate poverty that has plagued that nation for decades under the Duvalier regime and in the post-Duvalier era.

Like a gecko climbing along walls topped with shards of glass which protect the wealthy elite of Port-au-Prince, the Haitian people have picked their way down the democratic path, determined to avoid a return to the sharp shards of a new dictatorship. In late September, that goal was thwarted by ruthless military thugs who overthrew the duly elected government of President Aristide and installed their own ruling junta.

Yesterday, the Bush administration announced that it was preparing to ease the economic sanctions imposed in November in cooperation with the Organization of American States. President Bush signaled his intention to allow the politically powerful assembly industry operators there—many owned by Americans—to export and import goods to and from the United States. Today's Washington Post notes that this decision appears to have been made over the vigorous objection of the Secretary General of the OAS.

For over 3 months, the Organization of American States has attempted unsuccessfully to negotiate the restoration of Aristide's democratically elected government. During that time, thousands of Haitian refugees have taken to the seas in rickety and unsafe vessels—sometimes even in old tires—fleeing a climate of fear, intimidation, and sometimes brutal repression by agents of the Haitian security forces and the remnants of the Ton Ton Macoutes, the former militia of the Duvalier regime.

Prompted by an emergency request from President Bush, the U.S. Supreme Court several days ago took action which gave the Bush administration temporary authority to forcibly repatriate Haitians pending a decision by the Federal courts on the merits of refugee advocates' claims about the interview process. In my view, the legal presumption here should be in favor of the safety and security of these refugees, not in preventing asylum claims.

As negotiations with OAS representatives have dragged on over the past 3 months, the administration should have been delivering the same consistent message to elements within the Haitian Armed Forces responsible for the coup that President Bush has used elsewhere: This will not stand. I do not believe this message has yet been conveyed strongly enough by high-level U.S. officials.

Reports of continuing violence and repression in Haiti require us to temporarily protect Haitians unwilling to return out of fear for their lives and those of their families. Forcibly repatriating these refugees without taking seriously their asylum claims makes a mockery of U.S. refugee policy and of our values. As Haiti's principal trading partner, and as a supporter of the economic embargo which is making life very difficult for ordinary Haitians, the United States has a special obligation to provide temporary safe haven to these refugees.

I commend Immigration and Refugee Affairs Subcommittee Chairman KENNEDY on this effort, and I urge my colleagues to join me in supporting this emergency temporary reprieve for Haitian refugees.●

CORRECTING TECHNICAL ERRORS IN H.R. 3866

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 268, making corrections in H.R. 3866.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 268) to correct technical errors in the enrollment of the bill H.R. 3866.

AMENDMENT NO. 1571

Mr. SIMPSON. I send an amendment to the desk on behalf of Senator STEVENS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. STEVENS, proposes an amendment numbered 1571.

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

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

The amendment is as follows:

Strike all on page 3, lines 6 through 24.

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

The amendment (No. 1571) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (H. Con. Res. 268), as amended, was agreed to.

MEASURE READ THE FIRST TIME—S. 2199

Mr. BYRD. Mr. President, by request, I ask unanimous consent that S. 2199, just introduced by Mr. SIMPSON, be read for the first time.

The PRESIDING OFFICER. Without objection, the clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2199) to provide for the protection of Haitian nationals with a well-founded fear of persecution, to provide for the orderly return of those Haitian nationals without such a fear, and to discourage the departure by boat of those Haitians who are unlikely to qualify for refugee status.

Mr. BYRD. Mr. President, I ask unanimous consent that the bill be read the second time.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I object to any further proceedings at this time.

The PRESIDING OFFICER. The bill will lay over 1 legislative day pursuant to rule XIV.

The Senator from California.

OZONE DEPLETION OVER NORTH AMERICA

Mr. CRANSTON. Mr. President, our U.S. global environmental policy has been a just-say-no policy in this administration. Although the President has talked about being a leader in global environmental policy, in reality he has been a laggard. While other nations have moved forward, this administration has held back. When bold action is demanded, this administration sits and waits and says it wants to study the issue some more.

This week, NASA scientists released alarming new data about the potential for a new hole in the ozone layer. This one stretching over densely populated areas of the Northern Hemisphere, including parts of New England, is a serious threat. The scientists found the data so alarming, the highest level of ozone-destroying chemicals ever detected anywhere around the world, that they released the data well before they fully completed their study.

Significant ozone depletion like that described by the NASA scientists means increased exposure of the population—many, many people, millions of people—to higher levels of harmful radiation. This, in turn, leads to increased incidences of skin cancer, cataracts, and suppression of the human immune system, leading to all sorts of potential afflictions.

For years we have known of the existence of a hole in the ozone layer over the South Pole. This new discovery confirms that ozone depletion is not limited to the polar regions but it is also thinning over the rest of the globe.

Scientists have been warning us of the potential catastrophes that this can bring for years; yet this administration has failed to heed those warnings. Despite the accumulating evidence, this administration still advocates a wait-and-see policy in spite of the fact that failure to take strong action now will most likely result in irreversible damage later.

Even before this week's startling announcement, the Environmental Protection Agency estimated that as a result of the damaging radiation that could filter through a weakened ozone layer, we may see as many as 12 million additional skin cancer cases and perhaps 200,000 more deaths. Those numbers must now be revised upward to reflect the growing severity of the problem.

The environmental news is grim, and each time new data is released the news gets grimmer. The American people are concerned, but the President is nowhere to be seen.

To address this emergency, we need a President that gives the environment more attention than just lipservice. We simply do not have the luxury of time to just study the issue. By the time we reach scientific consensus on each and every point it will be too late to stop the devastating consequences that ozone depletion will cause. Even if today, we stopped all use of CFC's our upper atmosphere would not return to its previous health for 80 years.

Despite all of this new evidence, the man that calls himself the environmental President has remained silent. By failing to take appropriate action based on well-substantiated, well-documented scientific evidence, the President is allowing an environmental threat to become an environmental catastrophe.

Section 606 of the Clean Air Act requires the President to accelerate the scheduled phaseout CFC's and similar chemicals when new evidence suggests that such action is necessary to protect human health or the environment. That new evidence is abundantly clear.

The amendment being offered by my colleague, Senator GORE, which I have cosponsored is straightforward. All it does is to call on the President to enforce the existing law. The time has come for us to act.

Its not too late to take out an insurance policy against ozone depletion. Accelerating the phaseout of CFC's is a small premium to pay for insurance against a global catastrophe that could take hundreds of thousands of lives.

Now that the cold war is over, Mr. Bush needs to focus his attention on an equally threatening catastrophe that could befall us. One potentially as disastrous as the nuclear threat we faced in the past. We must act now—nothing less than this fragile globe and life as we know it hangs in the balance.

ORDERS FOR TOMORROW

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:45 a.m., Thursday, February 6; that following the Prayer, the Journal of the proceedings be deemed approved to date; and that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein, with the listed Senators recognized to speak: Senator NUNN for up to 30 minutes; Senators BENTSEN and LUGAR for up to 15 minutes each; Senator GRAHAM from Florida up to 10 minutes; and Senator SIMPSON for up to 5 minutes; and that at 10 a.m. the Senate resume consideration of S. 2166, the energy bill, with the Gore amendment pending.

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

RECESS UNTIL TOMORROW AT 8:45 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess.

Thereupon, the Senate at 7:28 p.m., recessed until tomorrow, Thursday, February 6, 1992, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate, February 5, 1992:

IN THE COAST GUARD

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

GREGORY A. PENINGTON WILLIAM C. DONNELL
PAUL E. VERSAW

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

GEORGE J. POPE, OF VIRGINIA
BRYANT H. WADSWORTH, OF NEVADA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER-COUNSELOR:

CHRISTOPHER E. GOLDTHWAIT, OF NEW YORK

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF AGRICULTURE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT, AS CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE, AS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR, AND CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ROBERT H. STRONG, OF FLORIDA

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE OF MAJOR GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

BRIG. GEN. JAY D. FLUME, JR. [redacted] REGULAR AIR FORCE
BRIG. GEN. ROY D. BRIDGES, JR [redacted] REGULAR AIR FORCE
BRIG. GEN. PATRICK P. CARUANA [redacted] REGULAR AIR FORCE
BRIG. GEN. STEPHEN P. CONDON [redacted] REGULAR AIR FORCE
BRIG. GEN. GARY L. CURTIN [redacted] REGULAR AIR FORCE
BRIG. GEN. KENNETH E. EICKMANN [redacted] REGULAR AIR FORCE
BRIG. GEN. PHILLIP J. FORE [redacted] REGULAR AIR FORCE
BRIG. GEN. CARL E. FRANKLIN [redacted] REGULAR AIR FORCE
BRIG. GEN. JOHN C. GRIFFITH [redacted] REGULAR AIR FORCE
BRIG. GEN. OTTO K. HABEDANK [redacted] REGULAR AIR FORCE
BRIG. GEN. DONALD J. HARLIN [redacted] REGULAR AIR FORCE
BRIG. GEN. JAMES L. HOBSON, JR. [redacted] REGULAR AIR FORCE
BRIG. GEN. C. JEROME JONES [redacted] REGULAR AIR FORCE
BRIG. GEN. NICHOLAS B. KEHOE III [redacted] REGULAR AIR FORCE
BRIG. GEN. ROBERT E. LINHARD [redacted] REGULAR AIR FORCE
BRIG. GEN. MICHAEL D. MCGINTY [redacted] REGULAR AIR FORCE
BRIG. GEN. RICHARD B. MYERS [redacted] REGULAR AIR FORCE
BRIG. GEN. PHILIP W. NUBER [redacted] REGULAR AIR FORCE
BRIG. GEN. EVERETT H. PRATT, JR. [redacted] REGULAR AIR FORCE
BRIG. GEN. GLENN A. PROFITT II [redacted] REGULAR AIR FORCE
BRIG. GEN. RONALD N. RUNNING [redacted] REGULAR AIR FORCE
BRIG. GEN. GARRY A. SCHNELZER [redacted] REGULAR AIR FORCE
BRIG. GEN. PAUL E. STEIN [redacted] REGULAR AIR FORCE
BRIG. GEN. RALPH G. TOURINO [redacted] REGULAR AIR FORCE

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10, OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE.

To be lieutenant colonel

LINE OF THE AIR FORCE

MAJ. GARNETT T. ALEXANDER JR. [redacted], 6 OCT 91
MAJ. FREDERICK L. ASHLEY [redacted], 22 OCT 91
MAJ. JAMES D. BLAZEY [redacted], 6 OCT 91
MAJ. DAVID B. CASEY [redacted], 29 SEP 91
MAJ. DOUGLAS K. DAMON [redacted], 7 OCT 91
MAJ. RICHARD H. HARVEY [redacted], 29 SEP 91
MAJ. RICHARD W. HAWKINS [redacted], 28 OCT 91
MAJ. KENNETH A. IRLAND [redacted], 5 OCT 91
MAJ. KENNETH J. JAEGER [redacted], 16 AUG 91
MAJ. LARRY L. KEMP [redacted], 4 OCT 91
MAJ. CHRISTOPHER J. KINSLER [redacted], 27 SEP 91
MAJ. JAMES D. MARLOWE [redacted], 9 OCT 91
MAJ. VERNON C. MCCANN [redacted], 8 OCT 91
MAJ. WILLIAM M. SIZEMORE [redacted], 5 OCT 91
MAJ. FRANK L. STAHL [redacted], 20 SEP 91
MAJ. ROBERT M. STONESTREET [redacted], 6 OCT 91

MAJ. DAVID A. VONKAENEL xxx-xx-x..., 21 SEP 91
MAJ. WILLIAM H. WASHBURN xxx-xx-x..., 9 OCT 91
MAJ. RICHARD E. WIEGAND xxx-xx-x..., 6 OCT 91

CHAPLAIN CORPS

MAJ. ROBERT M. HICKS xxx-xx-x..., 22 SEP 91
MAJ. EUGENE D. HONAN xxx-xx-x..., 30 SEP 91

MEDICAL CORPS

MAJ. MICHAEL N. BROTHERS xxx-xx-x..., 5 OCT 91
MAJ. DANIEL G. MORRIS xxx-xx-x..., 18 OCT 91
MAJ. DAVID R. RUDY xxx-xx-x..., 22 JUN 91

NURSE CORPS

MAJ. CAROL ANN FAUSONE xxx-xx-x..., 28 JUL 91

DENTAL CORPS

MAJ. JOHN F. MONTICELLO xxx-xx-x..., 24 AUG 91
MAJ. ANDREW A. STANYA xxx-xx-x..., 21 SEP 91
MAJ. FRANCIS H. ZECK JR. xxx-xx-xx..., 5 OCT 91

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 593(A); AND 3385:

ARMY PROMOTION LIST

To be colonel

BRUNDAGE, LUCIEN A. xxx-xx-x...
CATALANOTTE, JOHN P. xxx-xx-x...
HUBER, DONALD M. xxx-xx-x...
SEXTON, HUGH D. JR. xxx-xx-x...

MEDICAL CORPS

To be colonel

ZELUFF, GARY R. xxx-xx-x...

ARMY PROMOTION LIST

To be lieutenant colonel

BLAKEMORE, TERRY G. xxx-xx-x...
BUCHANAN, MORRIS R. xxx-xx-x...
CAIRER, JOHN L. JR. xxx-xx-xx...
CHISMAN, JAMES H. II. xxx-xx-x...
CHRISTENSEN, CRAIG N. xxx-xx-x...
DIVELBIESS, JAMES R. xxx-xx-xx...
GAINES, JOE R. JR. xxx-xx-xx...
HILLMAN, LARRY R. xxx-xx-x...
JOHNSON, THOMAS E. xxx-xx-x...
KELLY, KENNETH M. xxx-xx-x...
MATLOCK, STANLEY H. xxx-xx-x...
RICHARDSON, ANDREW L. xxx-xx-x...
RIVERA, ANGEL M. xxx-xx-x...
SPARINGA, WAYNE A. xxx-xx-x...
TYER, GARY S. xxx-xx-x...
WAITE, PAUL R. xxx-xx-x...
WILLINGHAM, JOE D. xxx-xx-x...

CHAPLAIN CORPS

To be lieutenant colonel

BRENNAN, EUGENE P. xxx-xx-x...
MILBURY, MARVIN T. xxx-xx-x...
MURRAY, TERRY L. xxx-xx-x...
OERTLY, JAY C. xxx-xx-x...
TAYLOR, ROBERT H. xxx-xx-x...

DENTAL CORPS

To be lieutenant colonel

ORSINI, JAMES A. xxx-xx-xx...

MEDICAL CORPS

To be lieutenant colonel

GREENE, JAMES S. xxx-xx-xx...
JACK, DAVID B. xxx-xx-x...
RORES, CHRISTOPHER T. xxx-xx-xx...