HOUSE OF REPRESENTATIVES—*Wednesday, May 27, 1992*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Inspire us, gracious God, to be open to the needs that are all about us so that we can be messengers of good will and ambassadors of peace. May Your Spirit inspire us to bring healing to the afflicted whether of body or spirit and to encourage others from any disappointment. May our lives be an illustration of good deeds and a witness of reconciliation to those who are at enmity from each other. May our vision be lifted from all that must be done to see that which should be done to Your glory and for the help of people everywhere. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from New York [Mr. WALSH] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. WALSH led the Pledge of Allegiance as follows:

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

ADMINISTRATION FUMBLES ON NUCLEAR TESTING

(Mr. AUCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AUCOIN. Mr. Speaker, the administration is hopelessly behind the times on halting nuclear explosive tests.

Russia has stopped nuclear testing, and so has France, but not George Bush's America. The Bush administration continues to mumble nonsense about some imaginary need for continued American nuclear testing.

My friends, national security does not depend on tiny tidbits of trivial test data. It depends on taking tactical nuclear weapons out of the reach of terrorists, and we have no hope of stopping the spread of nuclear weapons unless we are willing to set the example by restraining ourselves.

The Nation cannot wait for George Bush and his administration to wake up. By that time, every Tom, Dick, and Mu'ammar may have his own nuke in a ship sailing into an American port.

If the White House will not do this, then it is time for the Congress, in the name of the American people, to pass a nuclear test moratorium on the floor of this House and send it to the White House.

RUNNING THE GAMUT IN THE ENERGY BILL FROM THE GOOD TO THE BAD AND THE UGLY

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, in H.R. 776, the energy bill, we have the good, the bad, and the ugly.

The good in the energy bill is the $1 billion in alternative minimum tax relief for the independent producer. This provision will start putting back to work thousands of oil field workers who lost their jobs after the 1986 tax reform act dried up oil capital.

The bad in this bill is the mandatory set-aside provisions to fill the strategic petroleum reserve. Such requirements amount to no less than a tax on the consumer—a tax expected to total some $15 billion.

And the ugly is the Markey amendment that prohibits States from establishing production limits for natural gas—a right that Texas has exercised for over 60 years, and a necessity if America wants to further the use of natural gas.

Mr. Speaker, Congress must adopt the Rostenkowski amendment to repeal the strategic petroleum reserve provisions and drop the Markey amendment in conference.

Only then can we turn this energy tragedy into an energy strategy for America's future.

YANKEE GO HOME

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the French do not want Uncle Sam meddling in their business any longer. French President Mitterand said that if Europe is to become a superpower, they must break ties with Uncle Sam on economic matters and defense. In fact, they said they are trying to persuade all of Europe to follow suit. They said Germany already agrees but does not have the courage to tell Uncle Sam face to face.

Now, think about it, folks, after World War II, when we saved their assets and rebuilt all of Europe and protected them from the greatest tyrant in all of world history, Adolf Hitler, things have changed, have they not? Now that the Soviet threat is off, "Yankee go home."

How about a little more foreign aid, Congress? Do we not have more money around here for Europe?

I think it is a good example of how we are wasting American taxpayers' dollars. Let us stop sending them overseas, to let the French and everybody know how we stand, and invest our money in America.

THE LUXURY TAX

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, as Congress struggles to find initiatives to create quality jobs for Americans, we have a golden opportunity to put thousands of people back to work, and save the U.S. Treasury millions of dollars in the process.

Sadly, despite strong bipartisan support in Congress and the administration, repeal of the luxury tax remains a political bargaining chip in the election year war over tax policy. Even in its relatively short life, this dubious sock it to the rich tax has packed a big punch, costing thousands of jobs, and actually draining money from the Treasury.

Mr. Speaker, in this body we disagree about many things, but we do agree that we need to get people back to work. In an effort to get the ball rolling, 42 of our colleagues have joined me in signing a letter to the chairman and ranking member of the Ways and Means Committee urging them to bring the luxury tax repeal forward as a stand-alone bill. There is no good reason to hold this up any longer.

STOP THE HAITIAN REPATRIATION

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, I would like to quote from the leading editorial of today's New York Times entitled "Backward Priorities on Haiti":

The President's cruel decision to have the U.S. Coast Guard turn back Haitian refugees on the high seas marks the low point of a failing American policy. The American-supported trade embargo has failed to dislodge Haiti's repressive coup leaders and only harmed the Haitian poor. And now the order to rebuff refugees at sea without a hearing trashes American commitments to humanitarian treatment of political refugees.

The question must be asked, how long, how long will this administration continue to say there is no room in the inn; no room in the American house for the poor and desperate people of Haiti? Where is our humanity; where is our compassion? Is it impossible for the most powerful nation on this planet to extend a helping hand to these thousands of Haitians who are fleeing political repression?

Mr. Speaker, we must do what we can to stop the forced return of the Haitian refugees. The hour is late, but it is not too late for the Congress and the American people to act.

SEND THE MILITARY INTO HAITI

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, so far as this most recent problem with Haiti and the refugees is concerned, let me offer this—being honest with ourselves, we all know that we cannot let those poor folks come here. Immediately the word got out that they could come, tens of thousands would pour in, all poor, hungry, and jobless. When we cannot take care of our own, how can we take care of them? Let us go on and send some of our military into Haiti, disarm those devils oppressing their people, hold new free elections under U.N. supervision, see the winners installed properly, and then come on home. If we really mean what we say about being against tyranny and for freedom, then let us prove it in Haiti, unilaterally, and right now. Come on, President Bush, issue the order.

ADDRESS THE REAL PROBLEM IN HAITI

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, I just sat here and listened to two gentlemen in the well, both of whom wanted to send a helping hand, but neither of whom have touched on the real issue. The real issue is not addressing the problem of the refugees, but addressing the problem of the Government of Haiti.

The Government of Haiti is now a military dictatorship. We ought to be doing whatever it takes to get them out and to reinstall Mr. Aristide. That is how you stop the Haitians from coming to the United States.

During the period when he was President for that 8 months out of 200 years that the Haitians had a properly elected democratic government that they wanted, no Haitians came here.

□ 1210

That means that they want to be in Haiti with the leader that they chose. Let us put him back in power.

Five members of the OAS have already said they would be willing on a multilateral basis to talk about reinstalling democratic leaders in this hemisphere. We can do it with them.

Let us attack the root cause of the problem. Let us put democracy back where it belongs in power in Haiti. Then there will not be any boat people. There will not be any people trying to come to the United States. They will be trying to rebuild their country. We owe that to the Haitians. Two hundred years of being dealt from the bottom of the deck, it is time that they turned up a winner from that deck and the United States can make that happen.

GOOD NEWS FROM AFGHANISTAN

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, it has not been fashionable to talk about foreign policy issues, but the last three 1-minute speeches have focused on the problem of Haiti. I would like to take a moment to talk about a success.

It has been 13 years in coming, but this week we have gotten the extraordinarily good news that the two political factions which have been struggling in Afghanistan since we have seen the ouster of the Soviet troops have begun to come together. Ahmed Shah Nasoud and Gulbeddin Hekmatyar, who have been battling for a long period of time, it seems have come to the conclusion that we will be able to hold free and fair elections in Afghanistan.

Now, over the past 13 years we have, with the bipartisan support of this Congress, supported the policy and courage by President Reagan and President Bush to help the people of Afghanistan bring about a degree of self-determination, and I would like to encourage free and fair elections which these two leaders in Afghanistan have said they would bring about, and say that everything the United States can possibly do to encourage that process would be very important so that we can finally see the people of Afghanistan choosing their leaders as other nations throughout the world are doing.

WOMEN'S HEALTH CONCERNS TIED TO NIH REAUTHORIZATION

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, nearly 200,000 women will contract breast and ovarian cancer this year. Yet the Director of the National Institute of Health said that she objects to the NIH bill now before Congress because the section on women's health is, quote "unnecessary."

I invite Ms. Healy to explain her objections to the women who make up half this country's population but find their health concerns largely ignored. Women are suffering and dying because not enough research has been done to find cures or treatments for their conditions.

Mr. Speaker, I am one of the lucky few who survived ovarian cancer, and I have a unique appreciation of the need for research for a disease that will kill 13,000 women this year alone—and has a 5-year survival rate of only 39 percent.

This country has systematically denied women the full benefit of its medical expertise, and the policies of the NIH have failed to ensure that women's health research is as aggressive as it must be.

The administration threatened to veto this bill in part because of the provisions on women's health. Yet denying these funds represents a threat to the health and well-being of millions of women.

There is no excuse for playing politics with women's lives—pass the NIH reauthorization and, if necessary, override the President's veto.

CONGRATULATING MARY DUMAIS OF SMALL BUSINESS ADMINISTRATION'S CONCORD, NH, DISTRICT OFFICE

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, today I honor and congratulate an outstanding lady, Mary Dumais of the Small Business Administration's Concord, NH, district office. She is the bronze medal winner in their National Employee of the Year competition.

Mary was first chosen as Employee of the Year in the Concord office, and then for the New England region. In her 25 years with the agency, she has helped thousands of small businesses with their credit needs.

The SBA provides a lifeline for America's small businesses. They make it possible for businesses to keep their doors open and to keep people working. Congratulations to Mary on her well-deserved honor, and thanks to her on behalf of all the small businesses in

New Hampshire that she has helped so much for many years. She is a credit to her profession and an outstanding example of New Hampshire people who are truly making a difference.

CONGRESS MUST LISTEN TO THE VOICES OF THE PEOPLE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, yesterday we had elections in Kentucky, and I am sorry to report that only 25 percent of the registered voters took the time to vote. Only 17 percent of the eligible voters voted, continuing the trend begun last November in the general elections when, after millions of dollars were spent, a total of 30 percent of eligible voters voted. What to do?

Well, Mr. Speaker, first we ought to pass very quickly the so-called motor-voter bill which has been supported and sponsored by the senior Senator from Kentucky. This would allow people, when they apply for a driver's license or renew them, to register to vote.

We should also, Mr. Speaker, immediately pass campaign finance reform which would limit or even eliminate political action committees and give the process of politics back to the people.

A chagrining statistic, Mr. Speaker: 8 of 10 Americans do not believe their voices will be heard in the political realm over the voices of the deep-pocketed special interests.

Mr. Speaker, let us open the political process to the people. Let us open our ears to the voices of the people.

ADMINISTRATION, NIH DIRECTOR SEE RESEARCH ON WOMEN'S HEALTH AS UNNECESSARY

(Ms. SNOWE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SNOWE. Mr. Speaker, this week I received a copy of a letter from Dr. Bernadine Healy, Director of the National Institutes of Health, to Secretary Louis Sullivan, regarding the administration's opposition to certain provisions in the NIH reauthorization conference report. The letter bluntly stated, "the section on women's health is unnecessary."

Mr. Speaker, I regret that Dr. Healy felt compelled to send such a letter, since she has been doing an outstanding job as Director, and in particular in women's health research.

I do not think that the 40,000 women who will die from breast cancer this year and their families feel that research on women's health is unnecessary. And you will not hear it from the 13,000 women who will die from ovarian cancer, or the 20 million women who have osteoporosis and know very little about the disease or its treatment.

NIH has had an infamous history of apathy and neglect with respect to women's health which should tell us unequivocally that a section in the NIH reauthorization on women's health is not only justified, but absolutely necessary. We must make women's health a permanent component of the NIH agenda. We can no longer rely on the discretion of an appointed Director of NIH in future years to prioritize research on women's health issues.

The NIH conference report that will be voted on by the House tomorrow provides us with the opportunity to make a long-term commitment to improving women's health. This legislation permanently authorizes the Office of Research on Women's Health, and requires the inclusion of women and minorities in clinical research trials, where appropriate. In addition, the bill increases funding levels for research on devastating diseases like breast cancer, ovarian cancer, and osteoporosis.

Mr. Speaker, I urge my colleagues to vote in favor of the conference report tomorrow and make a statement that women's health is not unnecessary, but rather an integral part of our national health research system.

WOMEN'S HEALTH—THE TIME IS NOW

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I rise today in support of H.R. 2507, the National Institutes of Health revitalization conference report.

The Bush administration will attempt to tell you that this bill busts the budget. The Bush administration will try to tell you that this bill is micromanaging and sets bad medical research protocols.

What President Bush won't tell you is that he requested $9.4 billion for the National Institutes of Health for fiscal year 1993. Moreover, President Bush will not tell you that if women and minorities are excluded from clinical trials, no matter how much money is spent on medical research, the money will again be wasted except for applications to men.

H.R. 2507 is not a spending bill. It merely authorizes women's health research at NIH and codifies a policy NIH has often ignored: including women and minorities in clinical trials. In short, this bill will save us money in the long run because it tells NIH to do things right the first time. It says that Congress is tired of expensive mistakes and will no longer fund them.

Women with breast, cervical, and ovarian cancer are watching this vote. Women with osteoporosis are watching this vote. Women with sexually transmitted diseases are watching this vote. Do not let these women down. Do not let H.R. 2507 be defeated.

□ 1220

U.S. FARM INTERESTS HEARTENED BY EC'S DECISION TO REFORM TRADE POLICIES

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, for my export 1 minute today, I would like to discuss the European Community's recent, long overdue decision to reform its agricultural policy.

Mr. Speaker, the Uruguay round of the world trade talks moved a step closer to a successful conclusion last week. By announcing their intentions to radically reform the Common Agriculture Policy, the European Community's Agriculture Ministers provided the impetus for a conclusion to these stalled negotiations. This Member applauds the EC for putting these GATT talks back on track.

However, Mr. Speaker, the EC's announcement to reduce internal price supports for grains by 29 percent over 3 years and to take a substantial amount of land out of production is significant but far from a completely detailed proposal.

Left unanswered are extremely important issues covered in the Dunkel proposal but not included in the CAP reform. For instance, could the EC meet their proposal on a crop-by-crop basis as they should or sectorally by greatly reducing production of less valuable commodities while maintaining production levels of their big cash crops? Will the EC ask for a cap on American cereal exports or for smaller reductions in export subsidies? Such proposals would be clearly unacceptable and a weakening of the Dunkel proposal.

Mr. Speaker, because these and other important questions remain, this Member urges his colleagues to closely monitor and carefully comment upon the negotiations taking place this week between Secretary of State James Baker and the EC's top negotiator, Mr. Frans Andriessen. The stakes of these negotiations are monumental.

Mr. Speaker, past EC agricultural policy has hurt American farmers and farmers throughout the world in both developed and developing countries. Therefore, this announcement is certainly welcome news to all those who have been adversely affected. No doubt difficult negotiations lie ahead, but the EC's announcement provides an opportunity—a possible breakthrough—for these world trade talks which have the potential to bring an end to world recession by pumping an additional $4 trillion into world trade.

MEMBERS URGED TO GIVE OVERWHELMING SUPPORT TO NIH BILL, OVERRIDE THREATENED VETO

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I add my voice of outrage to the others heard here today. On behalf of more than 100 million American women—each one of us vulnerable to deadly diseases scientists do not yet understand—I am insulted that the administration will veto the NIH revitalization amendments on the grounds that women's health provisions are unnecessary. Let me tell you what I think is unnecessary.

It is unnecessary that right now, some 12,000 American women with ovarian cancer are dying a slow and painful death because we have no way of detecting the cancer early enough to treat it.

It is unnecessary that, in the same country that eradicated polio, 186 women will die of breast cancer before the President sits down to dinner this evening.

It is unnecessary that osteoporosis cripples millions of Americans in the prime of their lives and costs billions of dollars each year in treatment costs when the modest earmark of $40 million for bone research contained in the NIH bill could yield a cure for this disease.

Finally, it is unnecessary that the administration cares more about the personal life of Murphy Brown—a fictional TV character—than it does about the health and survival of living, breathing, voting, taxpaying American women.

On the Budget Committee, I worked for a $500 million package of increases in women's health research funding. This package was included in the budget resolution and adopted by the House. The women's health provisions of the NIH bill simply embody the funding priorities established in the budget.

Mr. Speaker, I ask my colleagues to pass the NIH bill. Pass it with an overwhelming vote that rejects the administration's threatened veto and affirms the value of the lives of American women.

THE NEED FOR A BALANCED BUDGET AMENDMENT

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, yesterday, the House Budget Committee issued a report indicating how difficult it will be to implement a constitutional amendment to balance the budget. According to that report, over $600 billion in budget cuts, tax increases, and interest savings will be necessary to achieve that goal.

But, if balancing the budget is all that difficult, it is all the more reason why a constitutional amendment is necessary. Otherwise, Congress is likely to keep on saying it wants to balance the budget but never actually doing it.

With deficits of almost $400 billion a year, a debt approaching $4 trillion and debt payments that are soaking up more than 40 percent of the individual income taxes we pay each year, what is needed is fiscal discipline, not more of the same old rhetoric.

A properly crafted balanced budget amendment will give us that discipline. Business as usual will not.

So let us get on with the task of developing such an amendment.

NIH REAUTHORIZATION PROVISIONS CRITICAL TO HEALTH OF AMERICA'S WOMEN

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, I was appalled at reading the letter that Dr. Bernadine Healy, Director of the National Institutes of Health, wrote to Secretary Louis Sullivan, concurring with his recommendation that the NIH reauthorization conference report be vetoed.

Dr. Healy's objections to the bill were not on the grounds of the appropriateness of fetal tissue transplantation, because Dr. Healy knows the value of research involving fetal tissue. She knows the potential clinical, even curative results of fetal tissue use for Parkinson's disease, diabetes, Alzheimer's, birth defects, and a host of other devastating conditions. She knows that research is ongoing now in the private sector, without the ethical guidelines proposed in the NIH bill. Fetal tissue research need not, should not, and must not be an issue.

Instead, Dr. Healy chose to object to the bill on the grounds that the women's health provisions are not necessary. I find this argument both disheartening and ill-advised. Contrary to Dr. Healy's comments, there is absolutely no question in my mind that this legislation is good for women's health and the provisions relating specifically to women are vitally important. It calls for such ground-breaking measures as helping to include women as research subjects in clinical trials, and increasing research on breast cancer, ovarian cancer, and osteoporosis.

These are conditions that take women's lives. It is as simple as that. We need these provisions and we need this bill. I urge my colleagues to vote for the conference report.

DR. HEALY'S CONCURRENCE WITH RECOMMENDATION TO VETO NIH BILL

(Mrs. MINK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MINK. Mr. Speaker, I too join my colleagues and rise this afternoon in shocked dismay that Dr. Bernardine Healy, Director of the National Institutes of Health, has chosen to write a letter to the Secretary of Health and Human Services. The letter, dated May 20, 1992, in which she says she concurs with the recommendation to the President that the pending NIH bill which authorizes new funding and new programs for women's health programs be vetoed.

Mr. Speaker, I am really very, very much disturbed by this turn of events because I joined with women all across this country in celebrating the appointment of Dr. Healy as the first woman Director of NIH in its 104 years of history.

Mr. Speaker, I expected that, with her appointment, she would join hands with the women of the Congress who for 15 years have been trying to overcome the neglect of that bureaucratic network that persists to ignore the needs of women in this country in terms of research, in terms of clinical trials, in terms of opportunities for women in the field to become part of the resources of this country.

Mr. Speaker, I hope that this bill, when it is vetoed by the President, that veto be overwhelmingly rejected by the House.

OIL EMBARGO AGAINST HAITI

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, I want to share with you a conversation I had with the President this morning on the question of his support of an oil embargo against Haiti. I shared with the President that this was belated, long overdue, but that if he did have an effective oil embargo, that it would be certainly only the poor people who would be most pained by it unless the President of the United States personally involved himself in a diplomatic solution to this problem.

□ 1230

Mr. Speaker, we all know that months ago the OAS had an embargo against Haiti, and it was the United States that exempted itself, allowed its friends to bring in the oil. Ships are leaving Miami. Business people are exempt from it. So, it seems to me that, if we have any compassionate concern at all about the refugees, that we have to make a commitment that democracy has to be restored to Haiti, that

President Aristide has to be returned to Haiti and that we will not negotiate with a criminal de facto government.

Mr. Speaker, we cannot have anything short of the President's personal involvement in getting a solution to this problem, and, as my colleagues would note, the President's voice on this important situation has been absent. The Secretary of State is in Yugoslavia, and the direction in which our country is going in providing for leadership in a new world order cannot be found.

OUR HYPOCRITICAL REACTION TO HAITI

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, as you have heard from my colleague, the gentleman from New York [Mr. RANGEL] who has spoken before me, we are all very concerned, we are very disheartened at what is happening in Haiti. We realize that America has taken a position historically of trying to assist nations as they have tried to emerge from various states of governments where they have been controlled, various dictatorships, such as has happened in Haiti, and in every instance we have stated to them, "You ought to embrace democracy."

Mr. Speaker, Haiti embraced democracy, and now we have turned our backs on them. We have not allowed them the same privileges for entry into America that we have allowed other people from other nations who have come to this country seeking political asylum. Rather we have described their condition and predicament as being a need to escape economic oppression.

The reality is that we, as a nation, if we are to be true to our calling as a nation, a nation that calls on others to practice democracy, we must also practice democracy. We cannot afford to be hypocritical to a nation just because its people do not look the same way as people from other nations who have come to these shores expecting to be received and to be embraced, but we have received not these persons from Haiti simply because they are different. I think it is time for the President of the United States to act and to act in a more positive way so that we can express democracy to Haiti like we have done to other parts of the world.

THE "CAN-DO" SPIRIT OF 1942

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, day after day this month I have been meaning to speak about the darkest year in American history since the Civil War and the tragedy and turmoil in Los Angeles, the sad turn of events in Haiti and the unbelievable slaughter in the Balkan States, particularly now that Bosnia has kind of pushed this off, but it is the end of the month, and I just have to mention 1942. This is the 50th anniversary. With the rush of events here, there was no one, except for a beautiful "Dear Colleague" from our colleague, the gentleman from Mississippi [Mr. MONTGOMERY] that mentioned the fall of Corregidor 50 years ago this month, the end of the Bataan Death March, the Coral Sea Battle at the beginning of this month. It was the 50th anniversary, and now today was the 50th anniversary of the beginning of the Japanese move to actually occupy, to invade to take Midway Island with 5,000 troops. We had broken the imperial purple code. We knew they were coming, and in 1942, in spite of all the problems we seem to have now, it was a dark period in American history, and a few Navy torpedo bomber pilots, and particularly the dauntless dive bomber pilots in the first battle in history that was turned by naval air power with career professionals that had all been trained long before Pearl Harbor, we turned World War II in the Pacific.

Mr. Speaker, I hope that our colleagues will think back to that period and get that can-do spirit back around here that there is not anything we cannot accomplish as Americans.

AMERICAN CHILDREN BELONG IN COLLEGE, NOT IN JAIL

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, I heard a most troubling fact: more African-American youth are in the penal system than are in college.

Just let that sink in. More African-American youth are wasting away in jail than are enrolled in colleges or universities. "A mind is a terrible thing to waste," Mr. Speaker, yet we are allowing a flowering generation—one which is vital to solving America's problems—we are allowing them to die.

We need to remember, when we debate our domestic program, that it costs $17,900 each year to keep someone in a Federal penitentiary. A year in a private college costs $2,000 less.

I am talking priorities, Mr. Speaker. Somewhere between the House bank problems and other internal matters, we have lost sight of why we are Members of Congress. We are intelligent people, yet we have let a small minority decide that this Congress will spend more time on internal matters and things which do not help the people of this country, than deciding the important issues of the day: such as creating jobs, providing educational opportunities, and eliminating poverty.

There are some Members who are masters of 30-second sound bits. I do not hold that against them. But when their only agenda is personal or internal problems of the House, I do hold that against them.

I guess that their next big issue will be the committee funding resolution. Do they really think the people in Los Angeles care about the House administration funding resolution? Do they think small businesses, which are dying in this recession, are helped by such narrow focus?

Let us return to the important issues of the day. America is waiting. Send our children to college, not to jail.

THE NIH CONFERENCE REPORT—A KEY VOTE FOR WOMEN'S HEALTH

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise in strong support of H.R. 2507, the conference report for the NIH reauthorization bill. This vote is critical to women's health; it includes a number of provisions which will go a long way toward filling the enormous gaps in research on women's health.

Many provisions of the Women's Health Equity Act are part of the bill, including the requirement that women and minorities be represented in clinical trials. Funding for breast and ovarian cancer, osteoporosis, and other women's diseases is increased, and the office of research on women's health is permanently authorized. Legislation to establish a national cancer registry is also part of the conference report.

Women's health concerns have lagged behind for generations, and it is vitally important that the needs of millions of women across the country are addressed now—the health of these women cannot wait. I urge my colleagues to demonstrate their commitment to women's health and vote "yes" on H.R. 2507.

THE WHITE HOUSE FANTASY

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, yesterday House Budget Committee chairman, LEON PANETTA, released the details of several plans designed to eliminate the deficit by 1997, the year a proposed constitutional amendment to require a balanced budget is expected to take effect. The options presented make it clear that deep spending cuts in defense, domestic, and entitlement programs must be part of any serious effort to cut the deficit.

Yet President Bush's Press Secretary accused Chairman PANETTA of "crying wolf." It should be no surprise that the

White House used that reference from the story "The Boy Who Cried Wolf," alternately known as "Crying Wolf Too Often" because on budget issues this administration lives in a fairy tale world.

In the White House fantasy, no painful spending cuts and no tax increases are needed to eliminate $400 billion of red ink. This White House bedtime story is designed to put us to sleep.

But the truth about this Nation's mountain of debt should keep us all awake at night. This is no fantasy tale, Mr. President. The wolf is at the door.

NUCLEAR SAFETY IN EASTERN EUROPE AND THE FORMER SOVIET UNION

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, the collapse of the Warsaw pact and the Soviet Union is the single most positive world development of the past 45 years for the cause of world peace and freedom. But this collapse has lifted the shroud from conditions that pose a grave danger to the world. The concern over proliferation from the nuclear weapons and technical expertise in these States is well founded. The publicity surrounding this threat has produced constructive steps to deal with this issue, although we are far from being out of the woods.

But this is not the only nuclear challenge revealed to the world by the second Russian revolution. The recent leak of a graphite nuclear reactor near St. Petersburg, Russia, along with incidents in Bulgaria and other emerging nations, has highlighted the terrifying potential of what Maurice Strong, Secretary General of the U.N. Conference on Environment and Development, characterized as "40 Chernobyls waiting to happen." Alexi Yablokov, President Yeltsin's environmental adviser has stated, "in reality they are no less dangerous than nuclear weapons."

That is why I am pleased to join Congressmen STARK and MCCURDY in introducing legislation to focus attention on the critical problem of nuclear safety in Eastern Europe and the former Soviet Union. The bill puts the Congress on record in support of bilateral and multilateral initiatives to address this enormous challenge, and it requires the administration to provide an immediate and systematic assessment of the situation with a description of initiatives and actions contemplated. We also plan to offer the legislation as an amendment to H.R. 5006, the fiscal year 1993 Defense authorization bill, with the support of the chairman of the Armed Services Committee.

I was among the first Americans to visit Chernobyl after the 1986 accident. I saw firsthand the devastation it caused: Up to $352 billion in monetary damages, leaving more than 4 million people living on land contaminated with radiation. There are 16 Chernobyl-type RBMK reactors still in operation in the former Soviet republics with the same design flaws, poor construction, and outdated operating procedures that were evident at Chernobyl. In Eastern Europe, there are many similar reactors, with an added danger: Many of the Soviet operators have gone home, leaving personnel who are even more poorly trained and wholly lacking in experience.

This is not an issue that can be dismissed as their problem. The environmental and economic catastrophe that could result if we ignore these problems would be felt directly by the Western nations.

On March 31 of this year, I wrote to the President urging him to take immediate and aggressive steps, in conjunction with other developed nations, to address this clear and present danger. The administration's initial reaction has not, unfortunately, been characterized by the utmost sense of urgency that I believe is appropriate in this instance. But I am encouraged by recent reports that at the upcoming G–7 economic summit in July the United States is expected to lead the group in announcing a serious long-term plan for meeting the energy requirements of these nations in a way that is safe—for them, and for us. We need to assure that this promise produces real results. And I hope the Congress will recognize the need for the United States to play an appropriate leadership role—though not a unilateral one—in the international response.

The long-term challenge is even greater, and responding to the continuing needs will not be an inexpensive proposition. Some reactors are of such poor design, in such bad condition, and with such unqualified operators that they must now be shut down as soon as possible. Alternative means of providing affordable energy will be required before host nations will agree to such steps. Other reactors can be upgraded to acceptable standards through the application of available technology.

But there are steps we can take now to avoid a nuclear nightmare. The International Atomic Energy Agency can be provided with the monetary and technological resources it needs to complete a comprehensive assessment of the status of these reactors and their operation, so that priorities can be assigned for corrective action. An appropriate increase in our voluntary contribution to this agency should be a part of the answer.

An aspect of the problem at least as serious, and probably more so, than the design deficiencies of these reactors is the lack of anything resembling a safety culture in the operation of reactors in these republics. It is said that competent operation can compensate for poor design of a nuclear reactor and, in fact, it is essential. But in many of the communist bloc nations of Eastern Europe today, poor design and incompetent operations are prevalent. We can, at least, address the human factors in the near-term, and at far less cost than the longterm program that will be required for reactor hardware.

I have been briefed on a proposal to utilize the talents nuclear scientists and engineers formerly employed in Soviet weapons programs, to provide a new capability for improved nuclear reactor safety based on training and collaboration with U.S. Industrial experts. It includes modest seed money for a contract program in which U.S. Industrial organizations and CIS scientific institutes collaborate in training former weapons scientists in state-of-the-art reactor safety practices, and perform pilot projects to improve the overall safety standards in the operation of nuclear powerplants in the CIS. This could serve the twin objectives of giving a jump-start to a safe operations culture while also providing constructive work for scientists who might otherwise be lured by lucrative offers to sell their expertise to rogue nations seeking to acquire nuclear weapons capability.

The first step, however, must be a higher awareness of the problem, and a commitment to do whatever is necessary to assure that the dream of emerging democracy does not become a nightmare of ecological disaster. This bill and amendment are vehicles to take that first step and I urge my colleagues to support them.

□ 1240

SUSTAINED PROGRESS SOUGHT IN NIH ON WOMEN'S HEALTH ISSUES

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, for years we have been trying to prod the National Institutes of Health to act on key women's health concerns.

We now have a new director at NIH, Dr. Bernadine Healy, who is making some progress in this area. These efforts are to be commended, but they are just a beginning.

The NIH reauthorization helps ensure that this progress continues. It creates an office of women's health research at NIH. It requires that women be included in clinical trials, and it expands research efforts on breast and ovarian cancer, contraceptive technology, and gynecological health.

Now Dr. Healy criticizes these changes as micromanaging. For years, NIH operated as if more than half the Nation did not exist.

Now, when Congress asserts that NIH should address the needs of the female population, they say, "don't worry. Let us handle it."

Mr. Speaker, we are pleased with Dr. Healy's innovations, but without legislation to institutionalize her changes, we do not know what the future brings.

Women's lives are hanging in the balance. With Dr. Healy at the helm, and the NIH reauthorization bill in law, we may succeed.

ENVIRONMENTAL CONCERNS ADDRESSED IN OCS MORATORIA

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, I rise to voice my support for the moratoria on Outer Continental Shelf [OCS] leasing and preleasing activities included in title XX of H.R. 776, which the House will be considering again today. The policy reflected in these provisions represents, I believe, a balanced and reasonable approach to the important issue of responsible development of mineral resources in the OCS.

By establishing this 10-year moratoria and creating environmental sciences review panels for the OCS planning areas, this measure provides the necessary time, information, and procedural consistency to give proper weight and consideration to important environmental and socio-economic factors. This measure is particularly well-suited to the needs of States, such as Georgia, in areas that do not currently face the environmental and commercial pressure of OCS development, but would be subject to future leasing under the administration's energy development plan. There are important environmental, recreational, and commercial assets in coastal Georgia that are deserving of the protection that would be provided by the thorough evaluation called for in this measure.

In the moratoria period, the review panels will have ample time to collect and assess the information necessary to make intelligent and prudent decisions regarding the costs and benefits of OCS activities. In addition to appointees from the EPA, the U.S. Fish and Wildlife Service and other agencies, the environmental sciences review panels will include a representative from each State within the review area which will help assure that the panel's evaluation fully addresses State and local interests.

Mr. Speaker, the OCS provisions included in H.R. 776 will serve the long-term interests of our Nation and are deserving our support.

ADMINISTRATION RESPONSE TO HOUSE BUDGET PLAN

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, yesterday I put forward three alternative deficit reduction packages to try to point the way to what needs to be done if we are going to achieve a balanced budget. It is not enough just to talk about a constitutional amendment. Ultimately we have got to talk about how we get to a balanced budget.

I regret that the administration's response was typical fingerpointing and excuses and saying that this was somehow just "crying wolf," that it really is easy to balance the budget, that all we have to do is use growth and a few selected spending cuts, and that nobody will even notice the difference.

I hope we can set the record straight, because not only do we have to do that but we have to work together. The reality is that we cannot eliminate the deficit with some kind of a magic formula that will increase growth. We have got to make those tough choices on entitlements, on defense, on nondefense, and on taxes, and there are no excuses that get us around those tough choices. There is plenty of blame to go around.

It is unfortunate that the response of the White House to a serious proposal to balance the budget is to blame the messenger for "crying wolf." If the President wants a balanced budget, he should propose one. If he does, the Congress will have to pass one. If we work together, we can take the political grief that will come from making those tough choices. If we do not, make no mistake about it, the deficit will swallow first the rest of the budget and then the American economy.

JOINT REREFERRAL OF H.R. 5176, TERMINATING UNITED STATES ASSISTANCE TO INDONESIA, TO SUNDRY COMMITTEES

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the bill (H.R. 5176) to terminate United States assistance to Indonesia be rereferred jointly to the Committee on Agriculture, the Committee on Banking, Finance and Urban Affairs, the Committee on Foreign Affairs, and the Committee on Ways and Means.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMPREHENSIVE NATIONAL ENERGY POLICY ACT

The SPEAKER pro tempore. Pursuant to House Resolution 459 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 776.

□ 1246

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 776) to provide for improved energy efficiency, with Mr. SKAGGS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, May 21, 1992, the amendment offered by the gentleman from California [Mr. BROWN] had been disposed of.

It is now in order to consider amendment No. 4 printed in House Report 102-533.

AMENDMENT OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Chairman, I offer an amendment which is provided for under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROSTENKOWSKI: Strike section 1401 beginning with line 3 on page 462 and ending with the material following line 14 on page 472 (and amend the table of contents accordingly).

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. SHARP. Mr. Chairman, I oppose the amendment, and I wish to control the time.

The CHAIRMAN. The gentleman from Indiana [Mr. SHARP] will control the time in opposition to the amendment.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I ask unanimous consent that at the conclusion of my remarks the time remaining will be equally divided and controlled by the gentleman from Texas [Mr. ANDREWS] and the gentleman from Texas [Mr. ARCHER].

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The time will be divided and controlled as requested.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the Ways and Means Committee amendment to H.R. 776 to strike the provisions requiring importers and refiners of crude oil to fill the strategic petroleum reserve. The provision would also require persons lending the oil to the reserve to pay for the Government's storage.

The Ways and Means Committee received sequential referral of this provision because it is a revenue measure. As reported by the Energy and Commerce Committee, this provision is equivalent to a tax. The Ways and

Means Committee agreed to delete this provision because of concerns about its basic fairness, especially in light of the current economic recession and the depressed economic state of the domestic oil and gas industry.

Everyone seems to agree that the new in-kind tax will cause an increase in prices for petroleum products. This price inflation will slow down our economic recovery. Moreover, this tax will be regressive, and will be felt most strongly by those least able to afford it.

The new in-kind tax will further strap the severely depressed independent refining industry, which will not be able to absorb the tax as well as the more diversified major oil companies can.

Moreover, the statutory language of the new in-kind tax raises a host of technical problems and unanswered questions. Many of the important details are simply delegated to the Department of Energy, which opposes the provision and says it will double the management costs of SPRO. Likewise, the Treasury Department opposes the provision and warns that it would result in many new regulations and compliance burdens on taxpayers.

The Justice Department and others have raised serious concerns that the provision might even be unconstitutional.

The bottom line is this: filling the SPRO is a good idea, but this new in-kind tax is a very bad idea.

Voting for the Ways and Means amendment will not affect the current statutory mandate that the SPRO be filled. The Ways and Means Committee has expressed its support for the goal of filling the strategic petroleum reserve, and has urged that amounts appropriated for the reserve be expended as currently mandated. A broad, bipartisan majority of the Ways and Means Committee, however, does not believe that this set-aside provision is an appropriate funding mechanism.

I want to emphasize that in the committee markup, I voted against the amendment to strike the SPRO set-aside provision. Further reflection has convinced me, however, that this provision is a tax whose time has not yet come—and never should.

□ 1250

Mr. SHARP. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, there are many important provisions in the legislation before us that will help us over time slow the growth of our dependence on foreign oil. But our dependence is going to grow, no matter what, and everybody knows it and everybody agrees to that, unless you are willing to pay the great price that it would cost to truly stem our dependence on foreign oil.

Mr. Chairman, the one and only policy that we have in this country to protect consumers, to protect farmers, to protect workers, to protect jobs, to protect our economy when prices shoot up in an oil crisis is the strategic petroleum reserve where we store crude oil in salt domes in Louisiana and Texas which can be sold onto the market to help bring down those rising prices, prices that generally rise because of speculation in this very uncertain world.

Mr. Chairman, the only provision in the legislation before us that can significantly help protect our economy in an emergency is the one the Committee on Energy and Commerce passed, the so-called set-aside for the strategic petroleum reserve, because our reserve is not big enough. It must grow.

Mr. Chairman, our dependency is going to grow. Everybody seems to agree to that. But we seem to have run out of money to pay the freight. So what we have done is created a set-aside whereby we are calling upon the oil companies, the importers, and the refiners to place in the reserve up to 1 percent of their oil per year until we get this reserve filled.

Now, that is what they do in Europe. The governments tell the oil companies they have got to set aside oil as part of their national security. We, of course, require many kinds of reserves in this country. Our banks have them, our commodity traders have them. We do this function in order to provide financial security and stability. This is fundamental economic security. This is the only route left for us to take.

Mr. Chairman, this amendment would seek to strike this out and leave us where we are with very limited protection. Basically what we do in this legislation is put this on a pay-as-you-go basis. In addition, it would reduce the burden on our taxpayers of approximately $1.5 billion over the next 5 years.

Mr. Chairman, let me suggest why this is important and why we need to take action.

If you look at our chart, what it shows is the last three recessions in this country, when people were put out of work, as they are right now, followed major oil price increases.

We have people out of work today because of the oil price increases that happened in the fall of 1990 when the United States, the European governments, and the Japanese embargoed the export of oil from Kuwait and from Iraq after the Iraqi invasion.

That was the right policy, but the administration failed, despite recommendations by Republicans and Democrats in this Congress, despite recommendations by oil experts, the administration failed to use SPRO as a way to temper those highly speculative prices that now have people on the street out of work in this country.

Mr. Chairman, it is very clear each of the recessions followed oil price shocks. That is why we had for a decade strong bipartisan support to get this reserve underway.

Well, Mr. Chairman, the administration still says SPRO is important. They said so in the national energy strategy that they put on the table a year ago. "This is critical. Fill it to one billion barrels." But they have not been willing to appropriate the money.

Mr. Chairman, many of us can understand that. We have a high deficit. So what we have said in this legislation is if you do not come up with the appropriations, if you do not come up with the leasing of oil, like the administration says they would like to do, if those things do not happen, then, and only then, do you kick in the set-aside on the oil companies and you begin to take in the money.

Mr. Chairman, the oil industry says this has a horrendous cost. We believe they overestimated. But let us not even debate that. We will not argue whether they overestimated. Let us take their $15 billion strategy.

Now, they are talking about $15 billion over 10 years. In that period of time they are going to engage in over 1.5 trillion dollars' worth of business.

Mr. Chairman, do you know what happened to this country just in a 5- or 6-month period during the last oil crisis in 1990? Thirty billion dollars, twice the 10-year cost of this, flowed out of this country for oil, and another $30 billion flowed from consumers to the American oil industry.

Tell me this is outrageous and too much. Mr. Chairman, that is the price we pay, and that was the least of our oil shocks that we have had in recent times.

Just yesterday one government worldwide in this competitive market decided they were going to cut back production. Saudi Arabia. When they did, they raised the world price of oil by 5 percent, five times what would happen in 1 year under what we are talking about with this strategic petroleum reserve. They did that in 1 day.

The reality is that if the full costs were passed through to the consumer, and we will accept that as an assumption, even though I am not sure it will totally happen, but if we accept that as an assumption, our consumers face more than a one-half cent gallon fluctuation in the price every day. That half a cent can save them hundreds of dollars, in some cases thousands of dollars, when we get to a situation of an oil price increase.

Mr. Chairman, our proposal has been endorsed by the Consumer Federation of America, which speaks for consumers. It has been endorsed by the environmental groups. It has been endorsed by a variety of religious groups, Methodists, Presbyterians, Quakers, Jews, and others. It has been endorsed by Congressmen who know it is their farmers who will be protected by the

strategic petroleum reserve, who know that workers will be protected, who know that our economy will be protected.

Mr. Chairman, we must reject this motion to strike out the possibility of going forward to get this insurance policy for our country. It is a cheap one, and it will not bankrupt anybody in this country to do so.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Thirteen and one-half minutes each are under the control of the gentleman from Texas [Mr. ANDREWS] and the gentleman from Texas [Mr. ARCHER].

The Chair recognizes the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, our domestic energy industry is in a crisis. OPEC is once again threatening to raise prices, yet we continue to import more than half of our oil.

The U.S. rig count of 649 is now at the lowest point in history, down from 4,000 in 1982. The number of seismic crews, 98, is also at the lowest point in history. There have been 440,000 jobs lost in the energy industry in the past decade, more than any other industry.

The bill before the House today would tax this beleaguered industry $15 billion. Who would be hardest hit? Small- and medium-sized domestic refiners who create the toughest competition for major international oil companies. It would cost Phibro Energy, an independent, domestic refiner, 345 percent of net income.

This tax, which was previously defeated in the Ways and Means Committee by a bipartisan vote of 23 to 12, would also hurt lower income people who must pay a larger portion of their income for energy costs. Gasoline is not a luxury but a necessity in modern society, and this tax would force up the price of gasoline.

People living in rural areas and in certain regions of the country where energy consumption is high would pay a higher share of the tax.

Just 10 States would shoulder 53 percent of the cost; 20 States would pay 75 percent.

Higher oil taxes would slow the economy generally, and industries with high energy inputs—such as automobiles, petrochemicals, and agriculture—would suffer competitively in international markets.

The strategic petroleum reserve is a strategic asset that serves a general public interest. The Nation has stockpiles of other strategic materials—such as platinum, chromium, and cadmium—and in no other case are producers and importers of these materials required to provide the Government, free of charge, a reserve that the Government can use at its discretion.

All Americans benefit because the Nation has a strategic stockpile of oil to protect the economy in case of oil supply disruption. The fairest way of funding such a strategic national resource is the way all other strategic stockpiles are funded—general revenues.

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of the amendment. In the Committee on Ways and Means, I was pleased to join my colleague, the gentleman from Texas [Mr. ANDREWS] in offering this amendment to strike. There has been some disinformation on this issue, so I would like to make it clear for my colleagues.

The amendment will not harm the strategic petroleum reserve. It will not affect in any way amounts currently in the strategic petroleum reserve, and the Government can continue to build up the strategic petroleum reserve through other means. The amendment will not affect future strategic petroleum reserve storage locations.

Previously, we have built up the strategic petroleum reserve by purchasing oil on the open market. This time, rather than paying for the oil, the Energy and Commerce Committee established a forced contribution scheme.

The importer or refiner would technically retain title to the petroleum product and would be charged 10 years worth of storage fees up front. Almost all companies will find it infeasible or impossible actually to deposit oil into the strategic petroleum reserve. The bill would allow them to pay the cash equivalent of the oil.

Supporters of this forced contribution scheme can call it a user fee or a funding offset or whatever they wish. That will not disguise it. It is a tax. The oil storage scheme is a charade. In reality, importers and refiners are going to pay a tax in cash equal to 1 percent of their stocks. Those funds will be used to purchase oil for the strategic petroleum reserve. Then they get hit with what amounts to another tax to pay for storage costs.

A massive tax increase is the last thing our fragile economic recovery needs right now. Importantly, it would kill the bill. The Secretary of the Treasury has sent a letter stating that, should this tax remain in the bill, he will recommend that the President veto it.

Not only is section 1401 a tax, but it is a particularly bad one. It is regressive. It falls disproportionately on those individuals who use gasoline, home heating oil, or other petroleum products and it singles out for tax the energy industry which has been hard hit for several years now.

Mr. Chairman, I strongly urge the House to adopt the Ways and Means amendment deleting the strategic petroleum reserve tax. The integrity of the strategic petroleum reserve is not affected by this amendment. If the Congress believes that additional amounts should be stored in the strategic petroleum reserve, it should continue the practice of paying for it as we do for all other strategic materials.

Mr. Chairman, I reserve the balance of my time.

Mr. SHARP. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, first of all, this proposal that we have before us, not the amendment but the proposal in law has been endorsed by low-income groups because they know that in reality their pocketbooks will be far better protected by paying in a very tiny way now as opposed to paying very greatly later, as they have had to in the past.

Second, Mr. Chairman, it simply is not true that this is going to doom the independent sector or the drilling sector of this country. Not one whit. If that is the case, then what we would expect to have happened after Saudi Arabia's effort yesterday is for there to be a big decline in production in this country tomorrow or the next year. That is not going to happen.

The world price of oil is what sets what these people get. This will in no way affect the world price of oil by requiring the refineries and the importers to set aside up to 1 percent a year. They are taking 10 years worth of costs, cramming them into a small timeframe and trying to make it sound like this is going to imperil the economy. That is pure baloney.

I know the oil companies are lobbying madly against this. With good reason. They do not come in and lobby for taxpayers to pay for SPRO. They lobby against that as well. They do not want SPRO because they do not want us to protect this economy. They do not want us to protect our pocketbooks.

Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in opposition to the amendment to strike the Committee on Energy and Commerce provisions here related to the strategic petroleum reserve. I do not know how many times we have to learn our lessons. How many times do we have to learn our lessons about our dependence on oil from the Middle East and our failure to not only develop a comprehensive energy policy but to develop the kind of strategic petroleum reserve that we need when we face the problems of an embargo, when we face the problems of a dramatic price increase?

We lost $100 billion out of our economy as a result of the war in Iraq. Are my colleagues telling me that providing this insurance is to much to protect against losing $100 billion out of our economy?

The fact was that if we had this kind of reserve during the time of the Iraq

war, it could have been used, not only to soften but to certainly shorten the recession that our country is still in. And, therefore, substantially reduce the Federal budget deficit that is now expected.

The reserve was 590 million barrels in August of 1990. It now holds about 570 million. The administration's budget does not anticipate replacing these 20 million barrels until 2 years from now. The reserve should be filled to the 750 million barrel capacity it now has and it should be built further to the 1 billion barrel level endorsed by the Bush national energy strategy.

This means if we do this that we are providing insurance on a policy that will protect oil refiners, their consumers and the American economy.

This insurance will come at a bargain price. As I said, the 1990 crisis has been estimated to have reduced our GNP in excess of $100 billion. This insurance will cost less than 1 percent of that annually over the next decade.

The bottom line is that H.R. 776 will allow us to fill the Reserve to 1 billion barrels within a decade and at no cost to the American taxpayer or to the budget deficit. It is for all those reasons, for all of those reasons that it is important to reject this amendment and go with the provisions in the bill.

Learn the lessons that we should have learned 10 years ago when we confronted the embargo. Learn them today by adopting the legislation in the bill.

Mr. ANDREWS of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas, Mr. JACK BROOKS, dean of the Texas delegation.

Mr. BROOKS. Mr. Chairman, we tried to teach that lesson 10 or 15 years ago about the dependence of the United States on foreign oil, foreign energy. That situation is the same or worse than it has been.

I rise before the House in support of the amendment of the gentleman from Illinois [Mr. ROSTENKOWSKI].

Title XIV of H.R. 776 imposes a new $16 billion tax on the oil industry by requiring oil companies to contribute a certain percentage of their oil to the strategic petroleum reserve, sufficient to achieve a fill rate of 150,000 barrels a day, which is 1 percent of the domestic consumption. All fine.

□ 1310

We like that. This hidden tax will result in higher energy costs to consumers, which costs the average United States family $156, according to the Congressional Budget Office. I did not dream up that number. U.S. families living in high energy consumption areas would face a higher share of this tax.

This measure would also create a reduction in U.S. oil competitiveness in global markets. Oil-related industries such as petrochemical companies, airlines, steel manufacturers, other related industries, would also be affected. This tax will be an unfair burden to the oil industry that they have singled out, and it will not be shared by other industries that have stockpiles of strategic materials.

The United States has slowly started to recover from the recession that has devastated many businesses and citizens in this country. This new tax on the oil industry would further damage an already fragile economy. The domestic oil and gas industry is currently in its worst financial position since World War II. If the goal of the proposed legislation is to provide insurance against foreign oil dependency, it is difficult to justify enactment, as the program would be severely detrimental to our country's best protection, a vibrant domestic energy industry.

I hope the Members will vote for this amendment and protect American industry and American consumers.

Mr. ARCHER. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. THOMAS], a member of the Committee on Ways and Means.

Mr. ANDREWS of Texas. Mr. Chairman, I yield 1 additional minute to the gentleman from California [Mr. THOMAS].

The CHAIRMAN. The gentleman from California [Mr. THOMAS] is recognized for 3½ minutes.

Mr. THOMAS of California. Mr. Chairman, I rise in support of the amendment. First of all, it is ill-conceived. It is the Committee on Energy and Commerce trying to write tax law, trying to do what they do not have the power to do, the jurisdiction to do, as a committee.

There is no question that this is cleverly devised by a staff that had time on its hands. If the Members will examine what is actually required, it is that oil is loaned in-kind or its equivalent cash. It is not owned by the strategic petroleum reserve. Title is held by the original owner however, the person who loans it, the refinery or importer, does not get the benefit of the oil, cannot count it on the books and cannot get a tax deduction for it. If it is used on a first in-last out basis, then they are paid for oil used—but at what price?

When you examine the bookkeeping nightmare this measure creates, and the cost of its administration, it is ill-conceived. This proposal is far more expensive than the current method filling the SPRO.

It is also ill-advised. What we currently have is a strategic petroleum reserve to be used in times of national emergency. Title XIV changes that to a price maintenence reserve. That is, any time Government decides it wants to affect the price of oil, it will draw down the petroleum reserve, now the price maintenance reserve, and attempt to affect the price of oil. Then it is going to be refilled. But by who? By the people under title XIV, the refiners.

Has there been a study to determine what happens to the salt domes as they are washed in terms of a fill-up and a draw-down? The salt domes originally were to be used as a strategic reserve to be seldom drawn down. Now, in this measure, the salt dome is going to be a local gas station; draw it down and fill it up, draw it down and fill it up. The dome simply cannot be sustained geologically.

Finally, it is unnecessary. The legislation says we need 1 billion barrels of oil, a fixed number, or 90 days net imports. A number influenced by both total consumption and domestic production. Currently in the strategic petroleum reserve we have 568.5 million barrels. What does that equal? It equals 93 days of net imports at 1992, 90 day import usage. We have already met and exceeded the bottom line. How much would 1 billion barrels be? A 164 days. How much do we need? That is open to argument.

Under the Desert Storm problem, in terms of a limitation of petroleum from the Middle East, 20 million barrels were used, 3 million to test the withdrawal capability and 17 million to effect the downturn in the price.

As most of us know, the strategic petroleum reserve's real value is not that it is used, but that it is there. If it is there and there is no will to use it, then it loses its impact on keeping prices down. But it is clear, based upon the Desert Storm usage, that the United States has the capacity and it is willing to use it. We got an immediate turn-around in the price of oil. People now know we have it and we will use it. The fact that it is there and we have used it is the price deterrent we are looking for.

This legislation is ill-conceived. It is not necessary. The strategic petroleum reserve is working, it is there, and it is being filled. Elk Hills, owned by the Government, just next month will begin sending 20,000 barrels a day directly to the strategic petroleum reserve at no net increase to the taxpayers. This is ill-conceived, it is ill-advised, and it is unnecessary. I urge the Members to support the amendment to strike.

Mr. SHARP. Mr. Chairman, I yield myself 1 minute to respond to the gentleman's argument.

Mr. Chairman, first of all our strategic petroleum reserve is now at 85 days of imports, not 93.

Second of all, everybody agrees that this number is going to decline because our oil imports are going to go up, so our protection, if we do nothing by the year 2000, could fall as low as 55 days. We are going to be in a situation of increasing imports. That has been our situation.

Second, the gentlemen from California [Mr. THOMAS] is absolutely correct. The SPR had a powerful impact on oil price when it was used at the beginning

of the war. Regrettably, when many of us were advocating it should have been used, in August 1990, it was not used, and we paid a price in unemployment and we paid a price of $65 billion additional spent for our oil. This is four times what the 10-year potential cost of this is, within just a few months' period of time.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield briefly, just to correct a figure?

Mr. SHARP. I yield to the gentleman.

Mr. THOMAS of California. Mr. Chairman, I would say to the gentleman that his numbers are not the most recent available.

Mr. SHARP. We will get it from the administration. The correct figure from the Energy Information Administration is 85 days.

Mr. SHARP. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, I rise in opposition to the amendment to strike the strategic petroleum reserve provisions of H.R. 776.

Mr. Chairman, I want to commend my friend and colleague, Mr. SHARP, the chairman of the subcommittee, for development and inclusion of this section of the bill, including a new mechanism to ensure that we finally will have a way to reach our goal of a 1-billion-barrel SPR.

I must say that I was not initially supportive of the proposal to impose a small fee on all refiners and importers in order to provide a fall-back funding mechanism for the SPR, particularly because of concerns that it might have some adverse impact on domestic independent producers.

I have studied it carefully and am absolutely convinced those concerns are misplaced.

As a result, and after working closely with Chairman SHARP and his staff on a few changes in the proposal to provide greater administrative ease, I am here today in strong support of the measure.

I want to make just a few points about this new proposal and why I am supporting it.

First, I would emphasize that this fee will kick in only if the administration is not able to consummate appropriate leasing arrangements with oil producing countries.

Many of us have been strong supporters of such arrangements and, I for one, will continue to press the administration to try and negotiate those very sensible agreements.

But make no mistake, they have not been successful in doing so to date, and I'm becoming increasingly pessimistic that they will be successfully concluded.

Second, the new fee program kicks in only if Congress does not appropriate sufficient funding from general revenues to meet the fill rate necessary to achieve our goal of a 1-billion-barrel reserve.

Much as we have tried to find the money for this program, the sad fact is that the funding level has been on a roller-coaster for years, and in the future the money simply may not be there.

Moreover, just as the administration says it supports a 1-billion-barrel reserve, they will not request sufficient funds to meet that goal, nor will they even agree to spend money currently available to them to resume SPR purchases.

So, let's not kid ourselves. If we want a 1-billion-barrel reserve—a goal that Congress has staunchly supported; if we truly believe that this economic safety net is a critical element of the Nation's energy program—and I do—then we have to be willing to pay for it.

It's as simple as that. We can't keep saying we want a 1-billion-barrel reserve and then continue to ignore the funding requirements necessary to meet that goal.

This new fee, which will be imposed only as a last resort, and then only on refiners and importers—not producers—is the right answer.

For those of you who are concerned, as I initially was, about the potential impact on independent producers, I want to repeat: this new funding program has no impact on domestic producers.

They do not have to allocate either barrels or funds for the program.

Only refiners and importers are required to set aside this very small allocation to support our critically needed petroleum reserve.

I have every expectation that this small fee—imposed uniformly on importers and refiners—will be passed through to the pump, not netted back to producers.

It is not large enough to have any meaningful effect on consumer demand or world oil prices.

In fact, it is so small I am confident it will be lost in the noise of daily world price fluctuations of crude and product.

In a perfect world with unlimited general revenues, this new funding mechanism would not be my preference for funding a 1-billion-barrel reserve.

I would prefer to have the funds available from general revenues to meet this goal or see the administration successfully negotiate some good leasing arrangements.

But those just aren't realistic expectations; therefore, we're forced to establish an alternative funding mechanism.

This is it. It's the right thing to do for consumers; it's the right thing to do for America's energy security.

I strongly urge your support for this important program.

□ 1320

Mr. ANDREWS of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, while I have the utmost respect for my colleague, the gentleman from Indiana [Mr. SHARP], I rise in support of the Rostenkowski amendment. I have serious concerns about H.R. 776's program to fund the filling of the strategic petroleum reserve.

I find laughable the concept of requiring refiners and importers to lend a percentage of their petroleum to the Federal Government. It is more than laughable; it is very troubling, for both practical and theoretical reasons. Also, if importers or refiners choose to send money instead of petroleum, I fear that this new funding mechanism could result in, as Chairman ROSTENKOWSKI noted, additional taxpayer costs because of increased tax losses resulting from discount trading in title certificates.

Mr. Chairman, I, too, am supportive of filling the SPR as required by 1990 law. I am also concerned that the administration is dragging its feet in its purported efforts to fill the SPR. However, the funding mechanism in this bill appears to be unworkable.

If we want to fill the SPR, appropriate the money to fill the SPR and let it go at that.

I urge my colleagues to vote in favor of the Rostenkowski amendment.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I rise in strong support of the amendment offered by Mr. ROSTENKOWSKI to strike the set-aside mechanism in strategic petroleum reserve title. While the SPR is an important part of our national energy strategy, I cannot support the set-aside provision for filling it contained in title 14 of H.R. 776. Specifically, title 14 would fill the SPR by requiring oil importers and domestic oil refiners to contribute a percentage of their oil imports or purchases or the cash equivalent. The set-aside provisions mandate the involuntary storage of oil or its cash equivalent for a period of time before it is returned to the contributor without interest. This is a tax. Moreover, the contributor is required to pay a fee for the cost of storing the oil while it is kept in the SPR. This is also a tax.

A result of this tax would be an increase in the cost of oil to the consumers of oil products. The impact of the increased cost of oil products would affect the entire U.S. economy and could result in the loss of 45,000 jobs. The cost of this tax to the U.S. economy is estimated to be $1 billion per year.

Similarly, the provision of title 14 which allows importers and domestic refiners to make their contributions in-kind is both expensive and difficult

to administer. Since not all oil is uniform in terms of quality, not all types of oil will be accepted by the SPR. The result will be a logistical and administrative nightmare which will require a new bureaucracy to administer. Thus, I urge my colleagues to support the amendment to strike the SPR set-aside fee in H.R. 776.

Mr. SHARP. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is a saying in the rural parts of our Nation that if a dog bites you once, it is the dog's fault; if the dog bites you twice, it is your fault. Apparently the authors of this amendment have grown fond of dog bites. They are willing to accept them frequently and at any price.

If our Nation has learned anything in the past two decades, not to mention the past 2 years, it is that we are more vulnerable to oil embargoes than at any time in our Nation's history.

Nearly 20 years ago the first major oil crisis threw our economy into a tailspin. Since then, we have witnessed additional oil crises, each sending our Nation's economy into serious recession.

Moreover, we are still paying for the disruption and aftershocks of the most recent oil scare. It is estimated that the Iraqi oil shock cost tens of billions of dollars in GNP. Moreover, we have already forgotten how much Americans were paying for gas just 2 years ago.

U.S. oil imports from the Persian Gulf are up over 500 percent since 1985 and are climbing. In other words, our country depends on the unstable Middle East for nearly 50 percent of our oil.

It is evident that the country needs a larger strategic petroleum reserve now more than ever.

Mr. SHARP. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I rise in opposition to this amendment.

Members' offices are being flooded as we speak by letters from oil companies and others opposing the SPRO provisions of this bill and supporting the amendment to strike them, and much of what they are telling you is simply not the case.

I have one here from an association representing a major industry, and it says in part, "A vote to strike the SPRO tax will not affect the strategic petroleum reserve. The Federal Government will continue to fill the reserve with funds from general revenues."

That is hallucinatory. It is also wrong.

Other speakers have mentioned these facts, but let me repeat a couple of them. We have less oil in the SPRO now than we did in 1990. That is quite simply because we have not replaced what we drew down during the Persian Gulf war.

Why have we not replaced it? We have not replaced it because we have not appropriated any money to do so since 1990. To make matters worse, the Department of Energy has refused to spend funds that we have appropriated in the past.

What about the fiscal year 1993 budget for that Department for SPRO? It not only eliminates new funding for oil purchases but it also transfers $126 million of prior-year funds.

So if someone tells you that we do not need the set-aside funding because we are going to pay for it out of general revenues, be very careful about what else they tell you. You can hardly wait to pass a constitutional amendment to require a balanced budget.

Those who support this amendment need to ask: What are we going to do instead? Take our chances, keep our fingers crossed, hope and pray that history will not repeat itself? That we will not have another disruption in the Middle Eastern supplies? We will not have price spikes that will drive our economy once again into recession, a recession from which we are still trying to emerge?

I do not think that hoping and praying and wishing and dreaming are sufficient grounds for public policy.

When the gentleman from Indiana first introduced this set-aside proposal, I opposed it, because it applied only to imported oil. That would have disproportionately affected certain regions of this country. The set-aside now applies to all oil, and it fairly spreads the burden. It is, contrary to what you have heard a moment ago, a very small burden, one-half cent a gallon. It would cost a low-income household that heats with oil less than $2 a year. That is less than 1 penny a day. That is a price, to be sure, but it is a very small price to pay for a very large benefit. It is one of the cheapest insurance policies I have ever heard of.

I urge my colleagues in the strongest terms to reject what is a very shortsighted amendment.

Mr. ANDREWS of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of the amendment to strike the SPRO tax.

Mr. Chairman, I rise in support of the distinguished chairman of the Committee on Ways and Means. This $15 billion tax on consumers is unnecessary and unproductive.

As you would expect, the major oil companies and refiners oppose this tax. But they are not alone in their opposition. The American Farm Bureau, the Highway Users Federation, the National Cattleman's Association, the Independent Petroleum Association of America, the National Milk Producers Federation, the Seniors Coalition, and the New England Council join 50 other business, consumer action, and public interest groups in opposing this tax.

Based on the Congressional Budget Office's estimate, this is a $15 billion tax on American consumers which will disproportionately impact lower income people. Time and time again, energy taxes have proven regressive.

For those of us living in rural areas, this tax will dramatically increase the cost of going to work and traveling for pleasure. In most rural districts, there is no mass transit providing a viable alternative to personal automobiles. Of course, those who rely on their vehicles to make a living will see their profits squeezed and their economic viability threatened. This is particularly true in rural areas with our greater distances between wholesalers and retailers.

A grave concern is the effect of this tax on the independent refiners. The small refiners, with higher costs of capital and without multiple lines of business, would contribute disproportionately to fill the SPR. Both the consumers and the refiner are at a disadvantage: The consumer pays more for the products they purchase, and the independent refiner must compete with the major integrated oil corporations who derive their income from more than one source.

Not only is this tax counterproductive, it is unnecessary. There is no similar tax on other strategic materials, such as cadmium, chrome, and platinum, which are stockpiled by the Government for national security.

Currently there are nearly 600 million barrels of oil in the strategic petroleum reserve. The maximum drawdown rate is only 3.9 million barrels per day for the first 60 days and less than that thereafter. Although that 600 million barrels is not a 150-day supply, at 4 million barrels per day, it would take us 150 days to draw down the reserve. In light of the current stockpile and the limited capacity for bringing the reserve to market, there is no justification for imposing this flawed tax.

The Congress has authorized and appropriated nearly $800 million for oil purchases that the administration has not spent. It is important that we maintain a strategic petroleum reserve. But it should be paid for from our general revenues. A regressive, targeted tax is unjustified.

This body has considered many targeted energy taxes. Most often those taxes are targeted at the oil-producing States. I consider that unfair. However, this tax does not target the oil producing States. Fifty percent of this $15 billion tax would be paid for by the top 10 oil consuming States. Although I represent a State that is a net exporter of oil, I take no pleasure in targeting a few States to pay for a program that benefits the whole Nation. It is unfair to target oil-producing States just as it is unfair to target oil-consuming States.

I urge my colleagues to join me in supporting the motion to strike.

□ 1330

Mr. ANDREWS of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the amendment.

The gentleman from Ohio [Mr. PEASE] has made the case, and I certainly endorse the gentleman's remarks.

I serve on the committee that appropriates the funding for SPRO. I would point out there presently remains $660 million from appropriated funds in the account that has not yet been spent.

There is no question we need SPRO. It is a question of how to do it. This would be an administrative jungle. Not all oil is the same. You cannot bring in hundreds of different set-asides and dump them into the same pool.

In my judgment, the DOE would have to triple its staff to handle this kind of an arrangement, and that adds greatly to the cost.

Last, adding to the cost of gasoline at the pump and the feed stock of many industries, and we forget that hundreds of industries depend on feed stocks for plastics that come out of a barrel of oil.

To do this at this point in time would have a chilling effect on the economic recovery, and I think would result in a substantial reduction of jobs, and that is the last thing we need at this point in time.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] to strike the strategic petroleum reserve set-aside provisions contained in H.R. 776.

This legislation would change the status quo and require the oil and gas industry to pay for stocking the strategic petroleum reserve through in kind or cash payments.

If Congress wants the reserve filled, Congress should appropriate the funds necessary.

I think it is important to ask the question, what is the state of the oil and gas industry? During the 1980's, 23 major U.S. energy companies were forced to lay off more than 600,000 employees. A far greater number of lost jobs has occurred in the U.S. auto industry.

From 1987 to 1991, U.S. dependence on foreign oil to meet our total oil needs increased from 27 to 46 percent. But it is not just the majors that have been adversely affected by exploration and development restrictions enacted in this country in recent years, or by the lack of money. The impact is felt among the independent energy companies as well. From 1981 to 1985, independents spent $21 billion a year for exploration and development, and that fell to $7 billion a year thereafter.

The Congressional Budget Office has estimated that the set-aside provisions will impose a $15 billion tax on consumers of petroleum products. That is a serious burden on an economy that is already struggling. It is an even more serious burden on an industry that is already struggling.

Mr. SHARP. Mr. Chairman, I yield myself 30 seconds.

This issue of administrative costs is really a red herring. We leave it to the Department of Energy either to take oil or to translate this into money.

Now, everybody knows as a practical matter they will translate it into money. Indeed, the Department of Energy testifying before the Ways and Means Committee finally admitted that if this becomes the law, that is precisely what they will do. They would dramatically simplify the administrative costs and would translate it into dollars, which is the smart and the simple way to do this.

This is just another case where "If you don't like it, this argument helps make it sound reasonable to not like it."

Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. DINGELL], the distinguished chairman of the full committee.

Mr. DINGELL. Mr. Chairman, my colleagues seem to have a very short memory in this body. It is just a little over a year ago that the United States sent half a million young Americans to the Persian Gulf to protect American interests in that area. And what was the paramount American interest to which we sent those men to defend? It was oil.

Now, what happened? At the time of that invasion by Iraq of Kuwait, the United States saw oil prices in the world about double. We saw it cost every American family $1,000. We saw it be coincidental in time with the start of one of the most persistent, difficult, and hard recessions that this country has faced since 1929.

It may be that some of my colleagues have forgotten some other facts. Three times we had a major recession induced by events in the Persian Gulf. Those caused enormous hardship in every part of this country.

The first oil shutoff caused a 10-percent increase in unemployment, a 10-percent drop in auto production, a 10-percent drop in housing starts, and it moved the U.S. economy to double-digit inflation.

The purpose of the strategic petroleum reserve is not just to provide oil for tanks, planes, and guns. It will do that and it will be used for that purpose, but its real purpose is to provide a measure to stabilize the oil and energy markets in this country. That is perhaps the most important thing.

Look at what oil shutoffs have done to this country and what panics in the oil markets have done in this country and you will understand why we need a strategic petroleum reserve.

Now, we have not put any oil in the strategic petroleum reserve since 1990. That is better than 2 years.

The President says the budget crisis will not permit us to buy oil for that. But look at what the cost of a major oil shutoff or a major perturbation in supply in the Middle East will be to this country and you will understand why this amendment should be voted down.

This is a bad amendment. It strikes at a very sound public policy and it strikes at a very necessary mechanism to meet a major national problem and a very serious economic threat to the well-being of this country.

I want my colleagues to understand, it does not make a whole heck of a lot of difference how you get the oil or how you pay for it. The President says we cannot afford it because there is not enough money in the budget.

My colleague who offers this amendment says we cannot do it because it is essentially a tax invasion.

People who come from the refining and oil-producing areas say, "My, it will create a hardship upon the refiners."

Well, it will create a hardship on the refiners, but that hardship will not last very long, because they will pass it off to the consumer.

And what is the real cost of this to the consumer? It is about half a cent a gallon at the gasoline pump, and for that the American consumer is buying security in a time of severe threat.

Now, if you think that the peril in the Middle East is at an end, you are entirely foolish and you are entirely unaware of the real facts. The harsh fact is that is still one of the most dangerous, unbalanced political, military, and economic areas in this world, and that is where we get our oil. The United States imports about 50 percent of our oil. Our production is dropping and our imports are going up.

The strategic petroleum reserve will cover less of the needs of this country in those situations.

Now, I hope my colleagues will listen. I have outlined the peril. I have outlined the problem. I have outlined the danger. I have outlined the mechanism.

I would hope my colleagues would vote against this amendment, would support the idea that this country should pay the cost of buying economic and energy security for this country. That is what it is all about.

We have had President after President say that one of the major purposes of our energy policy is to see to it that we have a strategic petroleum reserve to protect this country against the economic hardship and the economic downside that affects every American in these events.

A half a cent a gallon is not too much.

My colleagues in the consuming areas say, well, it might mean that we will have an oil import fee. It does not mean an oil import fee. It means that

we are going to buy security for this country against oil price spikes which destroy the economy of the country and against economic shutdown and hardship that follows those kinds of events.

□ 1340

I urge my colleagues to reject this amendment, to support a strategic petroleum reserve. Every President pays lip service to it as long as they do not have to buy it.

Well, my advice to this Congress is, "Let's spend the money that it needs."

The strategic petroleum reserve needs more than lip service. It is security, it is opportunity and the well-being of this country on which you are voting here.

Mr. ANDREWS of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding, and I rise in opposition to this energy tax and in support of the amendment to strike it.

There are those who would say this will answer our concerns about going to war again over oil and gas.

Let me assure you that memory is fresh in many of our minds, but the solution of taxing the refineries of America will hardly protect America. It is refined products coming into this country from imported sources, from refineries outside this country, that most threaten the security of America, that make it most likely we are going to put our young men and women in battle again to defend oil and gas supply somewhere else in the world.

Oh, yes, we have a good memory, but if you really have a good memory and you really want good strategic petroleum reserve for America, might I suggest where you can find one? A strategic petroleum reserve is nothing but taking somebody's oil and putting it into the ground. I have got a secret for you: We have got a lot of oil in the ground in America. You can just tap into it right now. All you have got to do is open up ANWR, all you have got to do is resist these moratoria and drill offshore. The SPR's are here; if your memory is fresh, if you want energy security for America, do not tax energy to death. Start producing it for our country.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I support the motion to strike the SPRO tax from this legislation. You can call it a fee, if you want, but when your constituents begin to pay higher prices at the pump, they are going to know it is a tax. The SPRO provision in this legislation is a $15 billion tax on the oil industry which the American consumer will pay. It will adversely affect all parts of the domestic oil industry and the Nation which depends on it. Those who do not understand this do not understand either economics or the oil and gas industry.

The confusion over the SPRO tax demonstrates again the absolutely weird energy policy which Congress has followed for too long. It is a policy of giving with one hand and taking with the other. We did this in 1986, when we created the alternative minimum tax which provided tax incentives in the regular tax but did include them in the AMT. We did it again in 1990 and again with the AMT when we granted relief in the area of intangible drilling costs and percentage depletion allowance but we subjected that relief to restrictions which undercut the reform and increased the complexity.

The result of this absurd energy policy has been a depleted energy industry. Since 1986 U.S. drilling has decreased 25 percent, 300,000 energy jobs have disappeared and 2 million barrels per day of oil production have dried up. In my State alone in the last year we lost 3,100 of those 300,000 lost jobs.

As evidenced by this so-called energy bill, those hundreds of thousands of lost jobs and billions of dollars in imported oil have taught Congress nothing. We are again preparing to give with one hand and take with the other. The AMT reform, which was necessary and which we have included in this bill, will be offset by the damage that we will inflict on the domestic oil industry through a $15 billion SPRO tax and damage we will inflict on the natural gas industry through this bill's prorationing provision.

This was to be an energy bill, not a tax bill. With this SPRO tax, the President will probably veto this bill and we will have no energy legislation at all. Let us get the oil and gas industry of America back into the business of producing this Nation's energy. We can begin to do that by striking the SPRO tax.

The CHAIRMAN. The gentleman from Indiana [Mr. SHARP] has 6½ minutes remaining, the gentleman from Texas [Mr. ANDREWS] has 2 minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 2 minutes remaining.

Mr. SHARP. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, let me just respond to a couple of points. First of all, my colleague from Louisiana [Mr. TAUZIN] is correct, there is a lot of oil in the ground to be drilled in this country. He is also correct that by virtue of law and decisions in Congress and elsewhere, some of it is offbounds and will not be drilled. But that is not the issue about the reserve, because the reserve is something you can get out rapidly, right now, if you have it in place. You cannot get that oil out of ANWR quickly; it takes 10 to 15 years of extensive drilling to do that.

That is why we have a reserve, for an emergency. That is what we are talking about here because it is an emergency when we get hit hard.

Let me make another point that confuses some folks about this debate. All oil in the country, in this country, is treated equally; that is, import, domestic, wherever it is from, will be subject to this.

So we are not putting one person at a disadvantage to another.

The same is true with the independent refiners versus other refiners. All oil is going to be priced in the marketplace competitively at its price.

This set-aside is not about controlling prices.

So the independent refinery is not going to be disadvantaged versus Exxon. But let me tell you who it is that comes to Congress every time there is a price hike and says to us, "Please regulate the oil industry, please engage in allocation systems, please do something to help us." It is the independent oil refineries who have as big a stake as the average consumer in this country in the use of the strategic petroleum reserve, because they do not have their own oil wells in this country supplying their own oil or they do not have their automatic foreign links that an integrated international company has.

So these people, I understand their complaints about this provision, but the independent refiner is not disadvantaged competitively. In fact, it would be far better off in an oil crisis, having a stronger reserve. Unquestionably, the average consumer would be better off, too.

The CHAIRMAN. The Chair will advise that the gentleman from Indiana [Mr. SHARP] will have the right to close on this amendment.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes of the balance of my time to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. I thank the gentleman for the time.

Everyone believes in the strategic petroleum reserve, everyone wants to fill the strategic petroleum reserve. As I said earlier, next month, at no net cost to the taxpayers, 20,000 barrels a day will flow from Elk Hills in California through pipelines to fill the strategic petroleum reserve.

There have been a lot of numbers bandied about today, and I want to make sure that my colleagues and the American people understand the truth in the numbers.

The 1 billion barrels capacity is a fixed figure, it is an amount of oil, in barrels. The 90-day use figure is the net import use figure. It is controlled by domestic production and by consumption.

In 1990 the net import figure was 42 percent of our consumption, in 1991 it was 40 percent, so far in 1992 it is 36 percent. There actually has been a slight reduction in the net import

usage over the last 2 years. It is a combination of both consumption and domestic production.

The important thing to understand is the way in which the SPRO is to be filled. This is simply the wrong way to do it.

When you see the gentleman from Ohio, DON PEASE, and the gentleman from Texas, BILL ARCHER, both stand up on the same side of the issue, that covers virtually the entire spectrum of the House. Both are in opposition to this measure. It will be an administrative nightmare.

The goal is good, it is the wrong way to do it.

Mr. Chairman, I urge a vote in favor of striking this ill-conceived, ill-advised, and unnecessary provision in an otherwise generally reasonable energy package.

Mr. ANDREWS of Texas. Mr. Chairman, to close our debate, I yield 2 minutes to the gentleman from Texas, [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I rise in full support of Chairman ROSTENKOWSKI'S amendment to strike the strategic petroleum reserve because of its harmful effects on our refineries and on the consumer as well.

To impose a tax at a time when the oil rig count is at its lowest number in recorded history simply is not good policy. The tax would cause domestic refiners to take their operations abroad, creating more losses, more job losses. Mr. Chairman, 300,000 jobs have been lost by this industry already. We ought not put a $15 billion tax on an already beleaguered industry.

Further, the cost of the set-aside would be passed on to consumers and business, as has been stated here over and over today. And the hardest hit by these high prices would be the lower income Americans.

□ 1350

No other industry do we find the Government requiring a free reserve of resource.

Now, Mr. Chairman, we have heard statements here today that we ought to mark down as absolutely false. One gentleman got up and said, "When will we ever learn? We ought not to let our strategic oil reserves go too low."

Well, we ought to have learned that what we need to do is give the industry some incentives to go and produce the oil. If I came forward with an incentive today for an oil import fee, or any kind of incentives to drill, the people against this amendment today would be standing up here squealing like a stuck pig. They would not give us the time of day. They have cut out the incentives year after year, and that is where our problem is.

Second, we have had people say, "Well, this really won't hurt our refineries." My refineries in Texas tell me it will hurt us. To say it would not hurt them when we are going to impose a $15 million tax just does not make sense.

That is kind of like a man getting in a dentist's chair, and the dentist has a big long needle, and he says, "Just stay still. This won't hurt you a bit." It is going to hurt our people, and we, therefore, ought not to keep this bill like it is. The amendment of Mr. ROSTENKOWSKI ought to be approved.

Mr. Chairman, we, in the producing States, do not oppose the SRO. We favor it. But the cost of such a reserve ought not be borne by the oil and gas industry alone. That is not fair.

Mr. Chairman, I am in full support of Chairman ROSTENKOWSKI's amendment to strike the strategic petroleum reserve provision because of the harmful affects the set-aside requirement would have on our domestic petroleum industry, and on consumers.

To impose a tax at a time when the oil rig count is at its lowest number in recorded history is simply bad policy. The tax would cause domestic refiners to take their operations abroad—creating more job losses—when nearly 300,000 jobs have been lost in the oil industry over the past decade. We ought not put a $15 billion tax on an already-beleaguered industry.

Further, the cost of the set-aside would be passed on to consumers and businesses. We all would see higher prices for not only gasoline, but heating fuel, as well. And the hardest hit by these higher prices would be lower income Americans.

In no other industry do we find the Government requiring a free reserve of a resource. In our Ways and Means Committee, we voted to strike this 1 percent tax on oil refiners and importers and I urge my colleagues to do the same today. A mandated set-aside imposed on industry is not a fair way to fill out strategic petroleum reserves.

Mr. SHARP. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we are at a key point on an issue that for more than a decade has had strong bipartisan support to filling the reserve. Our colleague, the gentleman from California [Mr. THOMAS], who has been a strong supporter of SPR, and many other important energy policies in this country, stated it. We all believe in the goal. He does not like the means.

Well, my colleagues, we set this up as a backup. That means that if the administration wants to fill SPR, if the Congress wants to fill SPR, we can do as we have in the past, appropriate the money, and that will happen.

My concern, and the concern of the Committee on Energy and Commerce, has been that increasingly this has not been done despite the fact that everybody says it is critically important. Indeed, because our imports are going to continue to grow, the filling of SPR becomes increasingly important over time.

Mr. Chairman, the SPR is our most important international tool. Whether we use it or not, it is a major deterrent in a world market in which many, or actually a few, governments can make major decisions that have major impacts on the world economy.

Yesterday, one of those governments made a decision that cost much more than the strategic petroleum reserve. In 1 day they made that decision in Saudi Arabia.

My colleagues, this is the only protection we have. Let us keep it.

Now, as to those costs, nobody wants to add any costs. But the reality is we are talking about half-a-cent-a-gallon. As I said, "yesterday, you already got five times that increase." That happens to us daily in this marketplace.

The reality is that we lose tons of money, as we pointed out on several of our charts, when oil shocks come, before the recessions, the last three recessions when people were thrown out of work. The SPR is the only tool available for us. It is not my favorite way to do it, by a setaside, but we have it as a backup. If the administration is committed, if the Congress is committed, we will never see this.

Now my colleagues also know that when we go to conference committee on this, we are going to be scaled back. We will never win the full amount. But, Mr. Chairman, we have got to win something, we have got to start here.

This is the only emergency provision. It is the only policy that we have that can protect the consumer, the economy, the farmer, and the worker at a time of an oil price shock, and it will only be good if we continue to fill it because its need is going to be greater in the future, and I have heard no one here today say there is less likelihood of an oil price shock in the future. No one here today has said we suddenly have stability in the Middle East. Nobody here today has denied the fact that 65 percent of the world's oil reserves are in the Middle East.

Mr. Chairman, we must reject this amendment and protect the Nation's security.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I rise in strong support of the amendment offered by Mr. ROSTENKOWSKI to strike portions of title 14 of H.R. 776 dealing with filling the strategic petroleum reserve. The SPR set-aside fee, as reported by the Energy and Commerce Committee, was the one provision of H.R. 776 which did not receive bipartisan support.

I believe that this reserve is critical in protecting the United States from interruptions in oil supply. However, the proposal to fill the SPR by taxing oil importers and domestic refiners is both costly and unworkable.

Presently, the SPR contains about 568 million barrels of petroleum product. This is roughly equivalent to 81 days of supply in the event of a total shutoff of all petroleum imports. This means we already have a significant level of energy security. Thus, I do not feel it is imperative that we now rush to fill the

reserve to the serious detriment of the U.S. economy.

The petroleum set-aside provision in title 14 increases the cost of petroleum products to consumers. Its impact on the U.S. economy will be far-reaching, costing possibly $1 billion per year and as many as 45,000 jobs. These costs are especially high in light of the fact that the SPR petroleum account dedicated to financing acquisition of oil for the reserve currently contains about $748 million.

Thus, I urge my colleagues to support the amendment to strike the strategic petroleum reserve set-aside.

Mr. SCHEUER. Mr. Chairman, I rise in opposition to the Rostenkowski amendment. We need the strategic petroleum reserve to reduce our vulnerability and dependence on OPEC oil.

As a member who is deeply concerned about Middle East issues, I feel very strongly about our need for a strategic petroleum reserve. The 1973 Arab-Israeli War was one of the primary reasons for the energy crisis we lived through that year.

The more dependent we are on foreign oil, the greater leverage the Arabs have and the greater the risk to Israel's security. That is why we need the strategic petroleum reserve and why the American Jewish Congress opposes this amendment.

A sufficient and operating strategic petroleum reserve will reduce our dependence on Middle East oil and improve the security of both the United States and Israel.

Three times in the last 20 years, Arab oil embargoes have sent oil prices skyrocketing with severe consequences. We can all remember the long gas lines.

In New York we can remember only being able to buy gas on odd or even days. The last embargo, the one following the Iraqi invasion of Kuwait, was largely responsible for the recession in which we now find ourselves.

Title 14 of H.R. 776 also contains an authorization and a filling mechanism for a regional refined product reserve [RPR]. Despite the fact that the RPR has been in place for 2 years now, the administration has gone out of its way to avoid filling it.

In its 1993 budget request, the Department of Energy requested a grand total of zero dollars to fill the RPR. It is obvious we are need a new method of filling the RPR. H.R. 776 gives us such a method.

For the sake of our economy, for the sake of Israel's security, we need the strategic petroleum reserve. Vote "no" on this amendment.

Mr. LEWIS of Florida. Mr. Chairman, I rise in support of the Rostenkowski amendment, which will strip the several billion dollar tax on all consumers of oil in this country out of H.R. 776, the Comprehensive Energy Policy Act.

Like most in this body, I support the existence of a strategic petroleum reserve. This reserve makes sense from both an economic and military strategic standpoint.

However, the issue here is funding. I believe that we must be honest if we are to accelerate the filling of this reserve. We must buy the oil with appropriated funds.

Going through the back door and requiring petroleum companies to contribute to this fund is nothing more than a thinly disguised gas tax on the American public.

I have been on record opposing a tax of this type for several reasons. First, I believe this type of tax to be regressive. Second, we do not need new taxes, we need to reduce spending. Third, gasoline taxes should be used for transportation purposes, not as general revenue.

Regressive hidden taxes are not the answer to our energy problems. Support the Rostenkowski amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I just wanted to comment on the mistaken notion presented here that taxing our refiners and petroleum importers by a half cent per gallon of fuel is a good idea for farmers.

I believe farmers have a good understanding of what is good for them, and I find that every major farm organization, whether liberal or conservative, or whether representing those who raise livestock or those who raise crops, are all opposed to the bill's plan for expanding our strategic petroleum reserve.

We all know that we need a SPR, and we know we must continue to increase the SPR to avoid fuel price spikes when our oil import sources are threatened. The best answer to accomplish that, however, is not found in the new tax proposed by the bill, and that is why we must remove it from the bill.

It seems to me that, before we ask American farmers to pay higher fuel costs to enlarge our petroleum reserve, we have an obligation to force the administration to use the SPR the way it was intended, and to continue to increase the SPR under the plan that is already in law.

A good way to build up our SPR would be to apply an import fee on oil whenever the price of oil fell below $20 per barrel. With that kind of plan, I could support a program to rebuild the SPR faster than it is presently being rebuilt.

Mr. MARLENEE. Mr. Chairman, the tax-and-spend mentality of the liberal establishment of this Congress is at it again. In their never-ending search for new ways to extract from Americans their hard-earned dollars, they have stumbled upon another crafty idea—contained in the House comprehensive energy bill. It is a provision that would levy a tax on petroleum refiners and importers to pay for future strategic petroleum reserve purchases—a hidden tax that would immediately be passed on to consumers.

Is it any wonder that the American people are so fed up with the liberal establishment of this Congress? Mr. Chairman, I adamantly urge my colleagues to strike this provision from the bill.

If any of my colleagues really believe the oil industry is going to absorb the cost of this tax, you are either terribly naive or incredibly stupid. They will simply pass the cost on to individual Americans.

They will pass it on to America's independent oil and gas producers, who have suffered the loss of 410,000 jobs nationwide, including some 4,000 in my State of Montana in the past decade.

They will pass it onto Montana's farmers and ranchers, who this year face a drought of potentially devastating proportions.

They will pass it onto our senior citizens and families with young children.

Representative PHIL SHARP, the author of this tax, himself has stated that consumers will "shoulder the brunt of the set-aside costs" of this provision.

And it is the people of my State of Montana who'll carry the heaviest part of the burden. Montana has the fourth largest land mass of any State in the Union. The population is spread out evenly in hundreds of cities, towns, and communities dotting the State.

Transportation is easily one of the biggest costs in Montana. And it comes as no surprise to me that the Congressional Budget Office estimates this tax on the strategic petroleum reserve:

Makes Montana one of 20 States that will pay 75 percent of the cost; and

Forces Montanans to pay the 12th highest cost per family of any of the 50 States.

The average cost of this tax to Montana families is estimated at $200 a year. That's more than 10 percent of the average wage earned by Montanans. Total cost to Montana consumers is estimated at $110 million—about the size of the projected deficit in Montana's State government budget.

Perhaps the east coast urban States can afford to pay this tax, but the people of my State don't have any more to give. If you want to fill up the strategic petroleum reserve—fine. I support that. But don't do it on the backs of our producers and our consumers.

I vehemently urge support of the Rostenkowski amendment to strike this tax from the bill, and I call upon my colleagues to join me in protecting American jobs and American families.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHARP. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 263, noes 135, not voting 36, as follows:

[Roll No. 140]

AYES—263

Allard	Byron	Dreier
Allen	Callahan	Duncan
Anderson	Camp	Edwards (OK)
Andrews (NJ)	Campbell (CO)	Edwards (TX)
Andrews (TX)	Cardin	Emerson
Annunzio	Chandler	English
Applegate	Chapman	Erdreich
Archer	Clement	Espy
Armey	Clinger	Ewing
Baker	Coble	Fawell
Ballenger	Coleman (TX)	Fazio
Barnard	Combest	Feighan
Barrett	Condit	Fields
Barton	Coughlin	Foglietta
Bateman	Cox (CA)	Ford (TN)
Bereuter	Coyne	Franks (CT)
Bevill	Cramer	Frost
Bilbray	Cunningham	Gallegly
Bilirakis	Darden	Gallo
Blackwell	Davis	Gaydos
Bliley	de la Garza	Gekas
Boehner	DeFazio	Geren
Borski	Derrick	Gibbons
Brewster	Dickinson	Gilchrest
Brooks	Dicks	Gillmor
Broomfield	Dooley	Gingrich
Bryant	Doolittle	Glickman
Bunning	Dorgan (ND)	Gonzalez
Bustamante	Dornan (CA)	Goodling

Goss	McCandless	Roth
Gradison	McCrery	Rowland
Grandy	McCurdy	Sangmeister
Gunderson	McDermott	Santorum
Hall (TX)	McEwen	Sarpalius
Hammerschmidt	McMillan (NC)	Sawyer
Hancock	McNulty	Saxton
Hansen	Meyers	Schaefer
Hastert	Michel	Schiff
Hatcher	Miller (CA)	Schroeder
Hayes (LA)	Miller (OH)	Sensenbrenner
Hefley	Miller (WA)	Shaw
Hefner	Molinari	Shuster
Henry	Montgomery	Sisisky
Herger	Moorhead	Skaggs
Hoagland	Moran	Skeen
Hobson	Morrison	Skelton
Hopkins	Murtha	Smith (IA)
Horton	Myers	Smith (NJ)
Houghton	Nagle	Smith (OR)
Hoyer	Natcher	Smith (TX)
Hubbard	Neal (NC)	Snowe
Huckaby	Nichols	Solomon
Hunter	Nussle	Spence
Hutto	Ortiz	Spratt
Hyde	Orton	Staggers
Inhofe	Parker	Stallings
Ireland	Patterson	Stearns
James	Paxon	Stenholm
Jefferson	Payne (VA)	Stump
Jenkins	Pease	Sundquist
Johnson (CT)	Perkins	Tallon
Johnson (TX)	Peterson (FL)	Tanner
Jones (NC)	Peterson (MN)	Tauzin
Kasich	Petri	Taylor (NC)
Kleczka	Pickett	Thomas (CA)
Klug	Pickle	Thomas (GA)
Kolbe	Porter	Thomas (WY)
Kolter	Poshard	Thornton
Kopetski	Pursell	Traficant
Kostmayer	Quillen	Upton
Kyl	Rahall	Valentine
Lancaster	Ramstad	Vander Jagt
LaRocco	Rangel	Visclosky
Laughlin	Ravenel	Volkmer
Leach	Ray	Vucanovich
Lehman (CA)	Regula	Walker
Lent	Rhodes	Walsh
Levin (MI)	Richardson	Weber
Lewis (CA)	Ridge	Weldon
Lightfoot	Riggs	Williams
Lipinski	Rinaldo	Wilson
Livingston	Ritter	Wise
Lloyd	Roberts	Wolf
Long	Roemer	Wylie
Lowery (CA)	Rogers	Young (AK)
Luken	Rohrabacher	Zeliff
Machtley	Ros-Lehtinen	Zimmer
Marlenee	Rostenkowski	

NOES—135

Abercrombie	Engel	Martinez
Ackerman	Evans	Mavroules
Andrews (ME)	Fish	Mazzoli
Aspin	Flake	McCloskey
Atkins	Ford (MI)	McHugh
AuCoin	Frank (MA)	McMillen (MD)
Bacchus	Gejdenson	Mfume
Beilenson	Gephardt	Mineta
Bennett	Gilman	Mink
Berman	Gordon	Moakley
Boehlert	Green	Moody
Bonior	Hall (OH)	Morella
Boucher	Hamilton	Mrazek
Browder	Harris	Murphy
Brown	Hayes (IL)	Neal (MA)
Carper	Hertel	Nowak
Clay	Hochbrueckner	Oberstar
Coleman (MO)	Horn	Obey
Collins (MI)	Hughes	Olin
Conyers	Jacobs	Olver
Cooper	Johnson (SD)	Owens (NY)
Costello	Johnston	Owens (UT)
Cox (IL)	Jones (GA)	Pallone
DeLauro	Jontz	Panetta
Dellums	Kanjorski	Pastor
Dingell	Kennedy	Payne (NJ)
Dixon	Kennelly	Pelosi
Downey	Kildee	Penny
Durbin	LaFalce	Price
Dwyer	Lantos	Reed
Dymally	Lehman (FL)	Roe
Early	Lewis (GA)	Rose
Eckart	Lowey (NY)	Roukema
Edwards (CA)	Markey	Roybal
Sabo	Solarz	Vento
Sanders	Stark	Washington
Savage	Stokes	Waters
Schumer	Studds	Waxman
Serrano	Swett	Weiss
Sharp	Swift	Wheat
Shays	Synar	Wolpe
Sikorski	Taylor (MS)	Wyden
Slattery	Torres	Yates
Slaughter	Traxler	Yatron
Smith (FL)	Unsoeld	Young (FL)

NOT VOTING—36

Alexander	Donnelly	McDade
Anthony	Fascell	McGrath
Bentley	Guarini	Mollohan
Boxer	Holloway	Oakar
Bruce	Kaptur	Oxley
Burton	Lagomarsino	Packard
Campbell (CA)	Levine (CA)	Russo
Carr	Lewis (FL)	Scheuer
Collins (IL)	Manton	Schulze
Crane	Martin	Torricelli
Dannemeyer	Matsui	Towns
DeLay	McCollum	Whitten

□ 1416

The Clerk announced the following pairs:

On this vote:

Mr. Anthony for, with Mr. Levine of California against.

Mr. Lagomarsino for, with Mrs. Boxer against.

Mr. Holloway for, with Mrs. Collins of Illinois against.

Mr. PRICE and Mr. ATKINS changed their vote from "aye" to "no."

Mr. BLACKWELL, Mr. SKAGGS, and Ms. LONG changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Chairman, I was unavoidably detained during the rollcall vote on the Rostenkowski strategic petroleum reserve amendment to H.R. 776. Had I been here, I would have voted for the amendment.

PERSONAL EXPLANATION

Mr. SCHEUER. Mr. Chairman, I was unavoidably detained and did not have the opportunity to cast my vote on the Rostenkowski amendment to delete the strategic petroleum reserve set-aside funding provision. Had I been present, I would have voted "no."

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 102–533.

AMENDMENT OFFERED BY MR. RAHALL

Mr. RAHALL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RAHALL: Page 704, after line 4, insert:

SEC. 2502. COAL REMINING.

(a) MODIFICATION OF PROHIBITION.—Section 510 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260) is amended by adding the following new subsection at the end thereof:

"(e) After the date of enactment of this subsection, the prohibition of subsection (c) shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making such application. As used in this subsection, the term 'violation' has the same meaning as such term has under subsection (c). The authority of this subsection and section 515(20)(B) shall terminate on September 30, 2010.".

(b) PERIOD OF RESPONSIBILITY.—Section 515(b)(20) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1265(b)(20)) is amended as follows:

(1) Insert "(A)" after "(20)".

(2) Add the following new subparagraph at the end thereof:

"(B) on lands eligible for remining assume the responsibility for successful revegetation for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will extended for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards.".

(c) DEFINITIONS.—Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by striking the period at the end of paragraph (32) and inserting a semicolon in lieu thereof, and by adding the following new paragraphs at the end thereof:

"(33) the term 'unanticipated event or condition' as used in section 510(e) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit; and

"(34) the term 'lands eligible for remining' means those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4).".

(d) ELIGIBILITY.—Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by adding the following new sentence at the end thereof: "Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this title after the release of the bond or deposit for any such operation as provided under section 519. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this title may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his authority under section 410.".

(e) ABANDONED COAL REFUSE SITES.—(1) Notwithstanding any other provision of the Surface Mining Control and Reclamation Act of 1977 to the contrary, the Secretary of the Interior shall, within one year after the enactment of this Act, publish proposed regulations in the Federal Register, and after opportunity for public comment publish final regulations, establishing environmental protection performance and reclamation standards, and separate permit systems applicable to operations for the on-site reprocessing of abandoned coal refuse and operations for the removal of abandoned coal refuse on lands that would otherwise be eligible for expenditure under section 404 and section 402(g)(4) of the Surface Mining Control and Reclamation Act of 1977.

(2) The standards and permit systems referred to in paragraph (1) shall distinguish

between those operations which reprocess abandoned coal refuse on-site, and those operations which completely remove an abandoned coal refuse from a site for the direct use of such coal refuse, or for the reprocessing of such coal refuse, at another location. Such standards and permit systems shall be premised on the distinct differences between operations for the on-site reprocessing, and operations for the removal, of abandoned coal refuse and other types of surface coal mining operations.

(3) The Secretary may devise a different standard than any of those set forth in section 515 and section 516 of the Surface Mining Control and Reclamation Act of 1977, and devise a separate permit system, if he determines, on a standard-by-standard basis, that a different standard may facilitate the on-site reprocessing, or the removal, of abandoned coal refuse in a manner that would provide the same level of environmental protection as under section 515 and section 516.

(4) Not later than 30 days prior to the publication of the proposed regulations referred to in this subsection, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate containing a detailed description of any environmental protection performance and reclamation standards, and separate permit systems, devised pursuant to this subsection.

SEC. 2503. SURFACE MINING ACT IMPLEMENTATION.

(a) SUBSIDENCE.—(1) Section 717(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1307(b)) is amended as follows:

(A) Strike "a surface coal mine" and insert in lieu thereof "surface coal mining operations".

(B) Strike "surface coal mine operation" and insert in lieu thereof "surface coal mining operations".

(2) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section at the end thereof:

"SEC. 720. (a) Surface coal mining operations shall comply with each of the following requirements:

"(1) Promptly repair, or compensate for, damage resulting from subsidence caused to any structure or facility due to underground coal mining operations, without regard to the mining technique used. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged structure or facility. Compensation shall be provided to the owner of the damaged structure or facility and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.

"(2) Promptly replace any water supply for domestic, agricultural, industrial, or other legitimate use which has been affected by contamination, diminution, or interruption resulting from surface coal mining operations.

"(b) Within one year after the date of enactment of this section, the Secretary of the Interior shall, after providing notice and opportunity for public comment, promulgate final regulations to implement subsection (a). Such regulations shall include adequate bonding to ensure that the requirements of subsection (a) are met.".

(b) VALID EXISTING RIGHTS.—Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by adding the following new paragraph after paragraph (34) (as added by section 2801(c) of this Act):

"(35) for the purpose of section 522(e) 'valid existing rights' means—

"(A) Except for haul roads and as otherwise provided under this paragraph, those property rights of the applicant in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract or other document which authorizes the applicant, any subsidiary, affiliate or persons controlled by or under common control with the applicant, to produce coal by a surface coal mining operation; and the person proposing to conduct surface coal mining operations in an area protected under section 522(e) either—

"(i) had been validly issued, or was making a good faith effort to obtain, as of August 3, 1977, all state and federal permits necessary to conduct such operations on those lands; or

"(ii) can demonstrate that the coal is both needed for, and immediately adjacent to, an ongoing surface coal mining operation which existed on August 3, 1977.

"(B) For haul roads the term 'valid existing rights' means—

"(i) a recorded right-of-way, a recorded easement or a permit for a coal haul road recorded as of August 3, 1977, or

"(ii) any other road in existence as of August 3, 1977.

"(C) When an area comes under the protection of section 522(e) after August 3, 1977, the date the protection comes into existence shall be used in lieu of August 3, 1977.

"(D) Notwithstanding the reference to surface impacts incident to an underground coal mine in paragraph (28)(A), for the purpose of section 522(e) the term 'surface coal mining operations' shall not include subsidence caused by an underground coal mine.".

(c) AGREEMENT.—(1) Section 510(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260(c)) is amended by adding the following new sentence at the end thereof: "The terms and conditions set forth in the Settlement Agreement, dated January 24, 1990, in *Save Our Cumberland Mountains, Inc. et al. v. Lujan*, Civil Action No. 81-2134 are incorporated herein and the Secretary shall comply with such terms and conditions.".

(2) Section 520(c)(1) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1270(c)(1)) is amended to read as follows:

"(c)(1) Any pending or future action brought under this section may be brought in any judicial district where venue is proper under title 28 U.S.C. 1391. In granting relief or approving or reviewing any settlement in any pending or future action under this section, the courts shall afford the relief necessary to achieve full compliance with the Act and regulations.".

(d) RESEARCH.—(1) Section 401(c)(6) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)(6)) is amended as follows:

(A) Insert ", research, and demonstration projects" after "studies".

(B) Strike "to provide information, advice, and technical assistance, including research and demonstration projects".

(2) Section 403(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended by striking paragraph (4) and renumbering the subsequent paragraphs accordingly.

(3) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section after section 720:

"SEC. 721. The Office of Surface Mining Reclamation and Enforcement is authorized to conduct studies, research and demonstration projects relating to the implementation of, and compliance with, title V of this Act, and provide technical assistance to states for that purpose. Prior to approving any such studies, research or demonstration projects the Director, Office of Surface Mining Reclamation and Enforcement, shall first consult with the Director, Bureau of Mines, and obtain a determination from such Director that the Bureau of Mines is not already conducting like or similar studies, research or demonstration projects. Studies, research and demonstration projects for the purposes of title IV of this Act shall only be conducted in accordance with section 401(c)(6).".

(e) COAL FORMATIONS.—(1) Notwithstanding section 205 of Public Law 89-4 and any regulation relating to such section, in furtherance of the purposes of the Act of August 31, 1954 (30 U.S.C. 551-558) the Secretary of the Interior, acting through the Director of the Office of Surface Mining Reclamation and Enforcement, shall enter into a cooperative agreement with any State that has an approved abandoned mine reclamation program pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977 to undertake the activities referred to in section 3(b) of the Act of August 31, 1954 (30 U.S.C. 553(b)). The Secretary shall immediately enter into such cooperative agreement upon application by a State.

(2) For the purposes of the cooperative agreements entered into pursuant to paragraph (1), the requirements of section 5 of the Act of August 31, 1954 (30 U.S.C. 555) are hereby waived.

(3) Section 8 of the Act of August 31, 1954 (30 U.S.C. 558) is amended by striking "not to exceed $500,000 annually,".

(4) Notwithstanding any other provision of law, independent of the cooperative agreements referred to in this section, any State referred to in paragraph (1) may at its discretion transfer up to 30 percent of the annual grants available to the State under section 402(g) of the Surface Mining Control and Reclamation Act of 1977 for the purpose of undertaking the activities referred to in paragraph (1) if such activities conform with the declaration of policy set forth in section 1 of the Act of August 31, 1954 (30 U.S.C. 551). Such activities shall be deemed to meet the requirements of section 403(a) of the Surface Mining Control and Reclamation Act of 1977.

SEC. 2504. FEDERAL COAL LEASING CONSIDERATIONS.

Section 2(a)(3) of the Mineral Leasing Act (30 U.S.C. 201(a)(3)) is amended by adding the following new subparagraph at the end thereof:

"(F)(i) Prior to the issuance of any coal lease under this Act, the Secretary shall consider the effects which mining of the proposed lease might have on competition in the coal industry, and the market demand for coal from such proposed lease. Included in this consideration shall be a determination as to whether production of coal from the proposed lease would lead to the displacement of coal produced from existing mining operations from markets which have largely been served and can reasonably and economically be served by such coal.

"(ii) This subparagraph shall not apply to the issuance of a coal lease which would in the reasonably foreseeable future prevent the bypass of federal coal deposits, or which would provide for the expansion of existing mining operations.".

SEC. 2505. FEDERAL COAL ROYALTY STUDY.

(a) ROYALTY STUDY.—(1) The Secretary of the Interior shall conduct a study of current Federal coal royalty rates for surface mined and underground mined coal, and the valuation methodology of such coal, for the purposes of assessing, for each of the following, whether the current Federal coal royalty system:

(A) Creates competitive inequities among the Federal coal producing regions and States.

(B) Suppresses coal production in certain Federal coal producing regions and States.

(C) Results in a loss of mineral receipts to the Federal Government and to State government.

(D) Causes inefficiencies in Federal valuation, audit and collection activities.

(2) The Secretary shall compare the alternative royalty systems identified in subsection (b) with the current system and make separate findings, on each of the following, with respect to whether any such alternative royalty system would:

(A) Mitigate any competitive inequities among the Federal coal producing regions and States.

(B) Increase coal production in certain Federal coal producing regions and States.

(C) Result in an increase in mineral receipts to the Federal government and to State governments.

(D) Provide for a more efficient valuation, audit and collection program.

(b) ALTERNATIVES.—(1) For the purposes of making the comparison referred to in subsection (a)(2), the Secretary shall examine each of the following alternative coal royalty systems based on:

(A) The value of coal measured in cents per million British thermal units.

(B) A flat cents-per-ton rate.

(C) Any other methodolcgy the Secretary deems appropriate for the purpose of the study.

(2) For the purposes of making the comparison referred to in subsection (a)(2), the Secretary shall examine the justification for establishing a separate royalty rate for lignite coal and a separate valuation methodology for lignite coal.

(c) NOTICE.—Within 60 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a notice detailing the scope and methodology proposed to be used in the study, and after opportunity for public comment, publish a final notice on the scope and methodology that will be used in the study.

(d) REPORT.—The Secretary shall report the findings of the study, and recommendations on alternative Federal royalty systems, to the President and the Congress within 2 years after the date of enactment of this Act.

SEC. 2506. ACQUIRED FEDERAL LAND MINERAL RECEIPTS MANAGEMENT.

(a) MINERAL RECEIPTS UNDER ACQUIRED LANDS ACT.—Section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355) is amended by inserting "(a)" before the first sentence and by adding the following new subsection at the end thereof:

"(b) Notwithstanding any other provision of law, any payment to a State under this section shall be made by the Secretary of the Interior and shall be made not later than the last business day of the month following the month in which such moneys or associated reports are received by the Secretary of the Interior, whichever is later. The Secretary shall pay interest to a State on any amount not paid to the State within that time at the rate prescribed under section 111 of the Federal Oil and Gas Royalty Management Act of 1982 from the date payment was required to be made under this subsection until the date payment is made.".

(b) AUTHORITY TO MANAGE CERTAIN MINERAL LEASES.—The Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) is amended by adding the following new section at the end thereof:

"SEC. 11. Each department, agency and instrumentality of the United States which administers lands acquired by the United States with one or more existing mineral lease shall transfer to the Secretary of the Interior the authority to administer such lease and to collect all receipts due and payable to the United States under the lease. In the case of lands acquired on or before the date of the enactment of this section, the authority to administer the leases and collect receipts shall be transferred to the Secretary of the Interior as expeditiously as practicable after the date of enactment of this section. In the case of lands acquired after the date of enactment of this section, such authority shall be vested with the Secretary at the time of acquisition. The provisions of section 6 of this Act shall apply to all receipts derived from such leases where such receipts are due and payable to the United States under the lease in the same manner as such provisions apply to receipts derived from leases issued under the authority of this Act. For purposes of this section, the term 'existing mineral lease' means any lease in existence at the time land is acquired by the United States.".

(c) CLARIFICATION.—Section 7 of the Act of August 18, 1941, ch. 377 (33 U.S.C. 701c-3) is amended by adding the following sentence at the end thereof: "For the purposes of this section, the term 'money' includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.".

SEC. 2507. RESERVED OIL AND GAS.

(a) IN GENERAL.—Section 17(b) of the Mineral Leasing Act (30 U.S.C. 226(b)) is amended—

(1) in paragraph (1)(A), by striking out "under paragraph (2)" and inserting in lieu thereof "under paragraphs (2) and (3)"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1).

"(B) An election under this paragraph is effective—

"(i) in the case of an interest which vested after January 1, 1990, and on or before the date of enactment of this paragraph, if the election is made before the date that is 1 year after the date of enactment of this paragraph;

"(ii) in the case of an interest which vests within 1 year after the date of enactment of this paragraph, if the election is made before the date that is 2 years after the date of enactment of this paragraph; and

"(iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

"(C) Notwithstanding the consent requirement referenced in section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352), the Secretary shall issue a noncompetitive lease under subsection (c)(1) to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this Act. Such lease shall be subject to all terms and conditions under this Act that are applicable to leases issued under subsection (c)(1).

"(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

"(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to those mineral estates in which the interest of the United States becomes a vested present interest after January 1, 1990.

SEC. 2508. OUTSTANDING OIL AND GAS.

(a) IN GENERAL.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding the following new subsection after subsection (o):

"(p)(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (3), the Secretary of Agriculture is authorized to require, pursuant to regulations promulgated by the Secretary, that such activities be subject to such reasonable terms and conditions as may be necessary to protect the interests of the United States in accordance with applicable laws, rules and regulations governing the Secretary's acquisition of an interest in such lands, and in accordance with applicable laws, rules and regulations relating to the management of such lands.

"(2) The terms and conditions referred to in paragraph (1) shall prevent or minimize damage to the environment and other resource values.

"(3) The lands referred to in this subsection are those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.".

(b) REGULATIONS.—Within 90 days after the enactment of this Act the Secretary of Agriculture shall promulgate regulations to implement the amendment made by subsection (a).

SEC. 2509. OIL AND GAS LEASING ON OIL SHALE LANDS.

(a) IN GENERAL.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding the following new subsection after subsection (n) thereof:

"(o) Notwithstanding any other provision of law, and notwithstanding the reservation

of public domain lands located in Garfield County, Colorado, by Executive order of the President dated December 6, 1916 (as amended by Executive order of the President dated June 12, 1919), and by Executive order of the President dated September 27, 1924, such lands shall be available, subject to valid existing rights, at the discretion of the Secretary of the Interior, for leasing under the terms and conditions of this section and such other provisions of this Act as are applicable to oil and gas leases issued pursuant to this section.".

(b) MANAGEMENT.—The Secretary of the Interior, acting through the Bureau of Land Management, shall hereafter manage the surface estate in the lands in Garfield County, Colorado, referenced in subsection 17(o) of the Mineral Leasing Act pursuant to the Federal Land Policy and Management Act of 1976, and the other laws applicable to the public lands.

SEC. 2510. FEDERAL ONSHORE OIL AND GAS LEASING.

Section 17(c)(1) of the Mineral Leasing Act is amended by adding the following after the first sentence: "If more than one qualified person applies for a noncompetitive lease under this paragraph for any unit on the first day on which applications for noncompetitive leases may be submitted under this paragraph for that unit, the Secretary shall not issue a noncompetitive lease for that unit under this paragraph but shall make such unit available for competitive leasing under subsection (b) at the next quarterly competitive oil and gas lease sale held by the Secretary.".

SEC. 2511. OIL PLACER CLAIMS.

Notwithstanding any other provision of law, in furtherance of the purposes of the Act of February 11, 1897, commonly referred to as the Oil Placer Act, and section 37 of the Mineral Leasing Act, the Secretary of the Interior is authorized and directed to, within 90 days after the enactment of this Act, (1) convey by quit-claim deed to the owner or owners, or separately and as an alternative, (2) disclaim and relinquish by a document in any form suitable for recordation in the county within which the lands are situated, all right, title and interest or claim of interest of the United States to those lands in the counties of Hot Springs, Park and Washakie in the State of Wyoming, held pursuant to the Act of February 11, 1897, and which are currently producing covered substances under a cooperative or unit plan of development.

SEC. 2512. OIL SHALE CLAIMS.

Section 37 of the Mineral Leasing Act (30 U.S.C. 193) is amended by inserting "(a)" before the first sentence and by adding the following at the end thereof:

"(b) REVIEW.—(1) Not later than 30 days after the enactment of this subsection the Secretary of the Interior shall publish proposed regulations in the Federal Register containing standards and criteria for determining the validity of all unpatented oil shale claims referred to in subsection (a). Final regulations shall be promulgated within 180 days after the date such proposed regulations are published. The Secretary shall make a determination with respect to the validity of each such claim within 2 years after the promulgation of such final regulations. In making such determinations the Secretary shall give priority to those claims referred to in subsection (c).

"(2) The proposed regulations referred to in paragraph (2) shall be in lieu of proposed regulations concerning oil shale claims published in the Federal Register on January 9, 1991, and shall provide that oil shale claims supported a discovery of a valuable oil shale deposit within the meaning of the general mining laws of the United States on February 25, 1920, not imposed arbitrary limitations on lawful contest proceedings against such claims by the United States with respect to failure to comply with the assessment work requirements of the general mining laws of the United States or sanction an absolute right of resumption with respect to such requirements, and shall be limited in scope to oil shale claims.

"(c) FULL PATENT.—(1) Except as provided under subsection (d)(2), after April 8, 1992, no patent shall be issued by the United States for any oil shale claim referred to in subsection (a) unless the Secretary determines that, for the claim concerned—

"(A) a patent application was filed with the Secretary on or before April 8, 1992;

"(B) all requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) were fully complied with by that date; and

"(C) the claim is valid pursuant to the regulations referred to in subsection (b).

"(2) If the Secretary makes the determinations referred to in paragraph (1) for any oil shale claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this subsection, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

"(d) ELECTION.—(1) The holder of each oil shale claim for which no patent may be issued by reason of subsection (c) shall make an election under paragraph (2) or paragraph (3). Not later than 30 days after the enactment of this subsection, the Secretary shall by certified mail notify the holder of each such claim of the requirement to make such election. The holder shall make the election within such period shall be deemed conclusively to constitute a forfeiture of the claim and the claim shall be null and void.

"(2)(A) The holder of a claim required to make an election pursuant to paragraph (1) may apply for a patent within 1 year after making such election. The Secretary may issue a patent to such claim as provided under this paragraph if the requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) are met and the Secretary determines the claim to be valid pursuant to the regulations referred to in subsection (b).

"(B) Notwithstanding any other provision of law, the patent referred to in subparagraph (A) shall be limited to the oil shale and associated minerals and may be issued only upon the payment of fair market value for the oil shale and associated minerals by the holder of the claim to the Secretary.

"(C) Any patent issued for an oil shale claim under this paragraph shall be subject to an express reservation to the United States of the surface of the affected lands, and the provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to such claim in the same manner and to the same extent as such provisions apply to the unpatented mining claims referred to in such provisions.

"(3)(A) The holder of a claim required to make an election pursuant to paragraph (1) may continue to maintain the claim by complying with the general mining laws of the United States, except in order to maintain the claim as valid such claim holder shall also make an annual payment to the Secretary of at least $1,000 for each claim. Payments received under this paragraph shall be deposited into the General Fund of the Treasury.

"(B) The holder of a claim referred to in subparagraph (A) shall comply with the provisions of section 314(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744) by filing the affidavit referred to in such section and including the payment referred to in subparagraph (A). The payment requirement shall take effect on the first day of the first month of September which occurs more than 90 days after an election is made to maintain a claim under this paragraph.

"(C) Failure to comply with the requirements of this paragraph shall be deemed conclusively to constitute a forfeiture of the oil shale claim and the claim shall be null and void.

"(D) The provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to oil shale claims under this paragraph in the same manner and to the same extent as such provisions apply to the mining claims referred to in such provisions.

"(e) RECLAMATION.—In addition to other applicable requirements, any person who maintains a claim pursuant to subsection (d) shall be required to reclaim the land subject to such claim and to pose a surety bond or provide other types of financial guarantee satisfactory to the Secretary before disturbance of the land subject to such claim to ensure reclamation.".

SEC. 2513. HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PROGRAM.

(a) HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PLAN.—(1) Every 5 years, the Secretary of the Interior, acting through the Director of the Bureau of Mines (hereinafter referred to as the "Director"), shall develop a Plan for Health, Safety, and Mining Technology Research (hereinafter in this subsection referred to as the "Plan"). After developing a proposed Plan, the Director of the Bureau of Mines shall submit it to the Committee established under subsection (b) for its review.

(2) The Plan shall identify the goals and objectives of the Health, Safety, and Mining Technology program of the Bureau of Mines, and shall guide research and technology development under such program, over each 5-year period.

(3) In preparing the proposed Plan referred to in paragraph (1), the Director shall solicit suggestions, comments and proposals for research and technology development projects from the mining industry, labor, academia and other concerned groups and individuals.

(4) The Director shall prepare a list of all health, safety, and mining technology projects received pursuant to the solicitation referred to in paragraph (3), and all such projects initiated by the Bureau of Mines, and submit the list to the Committee established under subsection (b) as part of the proposed Plan. The list shall contain the following information:

(A) the title and a brief synopsis of each project;

(B) a justification of the health, safety, and employment benefits anticipated by each project;

(C) an estimate of the timeframe to complete each project;

(D) an estimate of the funding requirements of each project; and

(E) an explanation of how each project would assist the Bureau of Mines in achieving the goals and objectives defined in the proposed Plan.

(5) The Director shall to the extent possible adopt the recommendations made by the Committee in the report referred to in subsection (b)(4) in selecting projects for the Health, Safety, and Mining Technology program, unless the Director determines, in writing, that a deviation from such report is necessary to meet a high-priority research need that was unanticipated at the time of the submission of the Committee report. The Director shall submit an explanation for any such deviation to the Secretary and to the Congress.

(b) HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH ADVISORY COMMITTEE.—(1) There is hereby established the Health, Safety, and Mining Technology Research Advisory Committee (hereinafter in this subsection referred to as the "Committee"). The Committee shall be composed of 14 members appointed by the Secretary of the Interior. Members of the Committee shall serve for terms of two years. Any member of the Committee may serve after the expiration of a term until a successor is appointed. Any member of the Committee may be appointed to serve more than one term.

(2) The Secretary shall appoint members to the Committee as follows:

(A) A representative from the Mine Safety and Health Administration.

(B) A representative from the National Institute for Occupational Safety and Health.

(C) Two representatives from the coal mining industry, one with expertise in surface mining techniques and one with expertise in underground mining techniques.

(D) Two representatives from the metal, non-metal mining industry, one with expertise in surface mining techniques and one with expertise in underground mining techniques.

(E) Six representatives from unions representing miners, of which 2 shall have expertise in metal, non-metal mining.

(F) A representative from a school of mines with expertise in coal mining research located in the eastern portion of the United States.

(G) A representative from a school of mines with expertise in metal, non-metal mining research located in the western portion of the United States.

(3) Members of the Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this subtitle on vouchers signed by the Chairman.

(4) Notwithstanding the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), the Committee established under this subtitle shall serve as a standing Advisory Committee to the Bureau of Mines. The provisions of section 14(b) of such Act (relating to the charter of the Committee) are hereby waived with respect to the Committee established under this subsection.

(5) The purpose of the Committee shall be to review the proposed Plan submitted by the Director under subsection (a), evaluate the list contained in such proposed Plan using the values set forth in paragraph (5), and submit the proposed Plan within 60 days after it is received by the Committee to the Director as part of a report with recommendations.

(6) Each proposal on the list submitted by the Director as part of the proposed Plan shall be assigned a value by the Committee for each of the following factors: safety, health, impact on employment of miners and timeliness of the proposed project's benefits. The values shall be as follows:

(A) Safety can assume a value of 0 to 5, where a 0 signifies little or no safety value, a 1 signifies an indirect safety benefit, a 3 signifies a direct safety benefit, and a 5 means a significant, direct safety benefit.

(B) Health can assume a value of 0 to 5, where a 0 signifies little or no health value, a 1 signifies an indirect health benefit, a 3 signifies a direct health benefit, and a 5 means a significant, direct health benefit.

(C) Employment can assume a value of 0 to 5, with a value of 0 if miners will be unemployed as a result of the research program, 5 if employment will be increased and 3 if there is no change in employment.

(D) Timeliness can assume a value of 0 to 2, where a 0 signifies that all health, safety, and productivity benefits will require 5 or more years, a 1 signifies that health, safety, and productivity benefits will be realized in 3 to 5 years, a 2 signifies that health, safety, and productivity benefits will be realized in less than 3.

(c) TECHNICAL AMENDMENT.—For the purposes of section 501(b) of Public Law 91-173, as amended, activities in the field of coal or other mine health under such section shall also be carried out by the Secretary of the Interior acting through the Director of the Bureau of Mines.

SEC. 2514. SURFACE MINING REGULATIONS.

Section 710 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300) is amended by adding at the end the following new subsection:

"(i) The Secretary shall make grants to the Navajo, Hopi, Northern Cheyenne, and Crow tribes to assist such tribes in developing regulations and programs for regulating surface coal mining and reclamation operations on Indian lands, except that nothing in this subsection may be construed as providing such tribes with the authorities set forth under section 503. Grants made under this subsection shall be used to establish an office of surface mining regulation for each such tribe. Each such office shall—

"(1) develop tribal regulations and program policies with respect to surface mining;

"(2) assist the Office of Surface Mining Reclamation and Enforcement established by section 201 in the inspection and enforcement of surface mining activities on Indian lands, including, but not limited to, permitting, mine plan review, and bond release; and

"(3) sponsor employment training and education in the area of mining and mineral resources.".

The CHAIRMAN. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] as the designee of the gentleman from California [Mr. MILLER], will be recognized for 20 minutes and a Member opposed will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment, based on provisions approved by the Committee on Interior and Insular Affairs as part of its version of energy legislation, is premised on the fact that vast deposits of coal, oil and natural gas remain relatively untapped in this country.

Mr. Chairman, is it in order before I proceed with my opening comments to recognize the gentleman from Massachusetts [Mr. MAVROULES] for an amendment to my amendment?

The CHAIRMAN. The gentleman from West Virginia [Mr. RAHALL] may reserve his time and the Chair will recognize the gentleman from Massachusetts [Mr. MAVROULES].

Mr. RAHALL. Mr. Chairman, I reserve the balance of my time.

AMENDMENT OFFERED BY MR. MAVROULES TO THE AMENDMENT OFFERED BY MR. RAHALL

Mr. MAVROULES. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from West Virginia [Mr. RAHALL].

The CHAIRMAN. The Clerk will designate the amendment to the amendment.

The text of the amendment to the amendment is as follows:

Amendment offered by Mr. MAVROULES to the amendment offered by Mr. RAHALL: Strike section 2509.

The CHAIRMAN. Under the rule, the gentleman from Massachusetts [Mr. MAVROULES] is recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Chairman, I ask the House to delete section 2816.

First, process. This section as worded would avoid stating that it's actually a raid on the naval oil shale reserve in Colorado. The naval oil shale reserves are properly within the jurisdiction of the Armed Services Committee. We are perfectly happy to consider this legislation on its merits through the accepted hearing process. But we reject an effort to slip it by with crafty wording intended to bypass rule X on committee jurisdictions.

Second, the subtle wording also obscures the fact that this has revenue impacts. Right now, any revenues from leases go into the U.S. Treasury. The way this provision is worded, 50 percent of any revenues would be diverted to the Colorado State Treasury.

This provision may have policy merit. And if it does, it will certainly stand up to scrutiny through the normal hearing process by the committee of jurisdiction. But, when we're running a monstrous deficit, I question any provision that would restrict Federal revenues—especially when the provision avoids stating that it deals with revenues.

Let's strike this provision. Let's deal with the issue in the committee where it belongs. Let's be up front and admit this is a local interest measure meant to benefit the Colorado Treasury and only the Colorado Treasury.

Mr. Chairman, it is my understanding that the gentleman from West Virginia [Mr. RAHALL] will accept my amendment.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, without prejudice to the Committee on Interior and Insular Affairs' position on jurisdiction over this matter, I accept the amendment.

Mr. MAVROULES. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MAVROULES] yields back his time. The amendment has been agreed to by the gentleman from West Virginia [Mr. RAHALL].

Is there any Member seeking recognition in opposition to the amendment offered by the gentleman from Massachusetts [Mr. MAVROULES] to the amendment offered by the gentleman from West Virginia [Mr. RAHALL]?

If not, the question is on the amendment offered by the gentleman from Massachusetts [Mr. MAVROULES] to the amendment offered by the gentleman from West Virginia [Mr. RAHALL].

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. RAHALL, AS AMENDED

The text of the amendment, as amended, is as follows:

Amendment offered by Mr. RAHALL, as amended: Page 704, after line 4, insert:

SEC. 2502. COAL REMINING.

(a) MODIFICATION OF PROHIBITION.—Section 510 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260) is amended by adding the following new subsection at the end thereof:

"(e) After the date of enactment of this subsection, the prohibition of subsection (c) shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making such application. As used in this subsection, the term 'violation' has the same meaning as such term has under subsection (c). The authority of this subsection and section 515(20)(B) shall terminate on September 30, 2010.".

(b) PERIOD OF RESPONSIBILITY.—Section 515(b)(20) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1265(b)(20)) is amended as follows:

(1) Insert "(A)" after "(20)".

(2) Add the following new subparagraph at the end thereof:

"(B) on lands eligible for remining assume the responsibility for successful revegetation for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will extended for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards.".

(c) DEFINITIONS.—Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by striking the period at the end of paragraph (32) and inserting a semicolon in lieu thereof, and by adding the following new paragraphs at the end thereof:

"(33) the term 'unanticipated event or condition' as used in section 510(e) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit; and

"(34) the term 'lands eligible for remining' means those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4).".

(d) ELIGIBILITY.—Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by adding the following new sentence at the end thereof: "Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this title after the release of the bond or deposit for any such operation as provided under section 519. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this title may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his authority under section 410.".

(e) ABANDONED COAL REFUSE SITES.—(1) Notwithstanding any other provision of the Surface Mining Control and Reclamation Act of 1977 to the contrary, the Secretary of the Interior shall, within one year after the enactment of this Act, publish proposed regulations in the Federal Register, and after opportunity for public comment publish final regulations, establishing environmental protection performance and reclamation standards, and separate permit systems applicable to operations for the on-site reprocessing of abandoned coal refuse and operations for the removal of abandoned coal refuse on lands that would otherwise be eligible for expenditure under section 404 and section 402(g)(4) of the Surface Mining Control and Reclamation Act of 1977.

(2) The standards and permit systems referred to in paragraph (1) shall distinguish between those operations which reprocess abandoned coal refuse on-site, and those operations which completely remove an abandoned coal refuse from a site for the direct use of such coal refuse, or for the reprocessing of such coal refuse, at another location. Such standards and permit systems shall be premised on the distinct differences between operations for the on-site reprocessing, and operations for the removal, of abandoned coal refuse and other types of surface coal mining operations.

(3) The Secretary may devise a different standard than any of those set forth in section 515 and section 516 of the Surface Mining Control and Reclamation Act of 1977, and devise a separate permit system, if he determines, on a standard-by-standard basis, that a different standard may facilitate the on-site reprocessing, or the removal, of abandoned coal refuse in a manner that would provide the same level of environmental protection as under section 515 and section 516.

(4) Not later than 30 days prior to the publication of the proposed regulations referred to in this subsection, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate containing a detailed description of any environmental protection performance and reclamation standards, and separate permit systems, devised pursuant to this subsection.

SEC. 2503. SURFACE MINING ACT IMPLEMENTATION.

(a) SUBSIDENCE.—(1) Section 717(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1307(b)) is amended as follows:

(A) Strike "a surface coal mine" and insert in lieu thereof "surface coal mining operations".

(B) Strike "surface coal mine operation" and insert in lieu thereof "surface coal mining operations".

(2) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section at the end thereof:

"SEC. 720. (a) Surface coal mining operations shall comply with each of the following requirements:

"(1) Promptly repair, or compensate for, damage resulting from subsidence caused to any structure or facility due to underground coal mining operations, without regard to the mining technique used. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged structure or facility. Compensation shall be provided to the owner of the damaged structure or facility and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.

"(2) Promptly replace any water supply for domestic, agricultural, industrial, or other legitimate use which has been affected by contamination, diminution, or interruption resulting from surface coal mining operations.

"(b) Within one year after the date of enactment of this section, the Secretary of the Interior shall, after providing notice and opportunity for public comment, promulgate final regulations to implement subsection (a). Such regulations shall include adequate bonding to ensure that the requirements of subsection (a) are met.".

(b) VALID EXISTING RIGHTS.—Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by adding the following new paragraph after paragraph (34) (as added by section 2801(c) of this Act):

"(35) for the purpose of section 522(e) 'valid existing rights' means—

"(A) Except for haul roads and as otherwise provided under this paragraph, those property rights of the applicant in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract or other document which authorizes the applicant, any subsidiary, affiliate or persons controlled by or under common control with the applicant, to produce coal by a surface coal mining operation; and the person proposing to conduct surface coal mining operations in an area protected under section 522(e) either—

"(i) had been validly issued, or was making a good faith effort to obtain, as of August 3, 1977, all state and federal permits necessary to conduct such operations on those lands; or

"(ii) can demonstrate that the coal is both needed for, and immediately adjacent to, an ongoing surface coal mining operation which existed on August 3, 1977.

"(B) For haul roads the term 'valid existing rights' means—

"(i) a recorded right-of-way, a recorded easement or a permit for a coal haul road recorded as of August 3, 1977, or

"(ii) any other road in existence as of August 3, 1977.

"(C) When an area comes under the protection of section 522(e) after August 3, 1977, the date the protection comes into existence shall be used in lieu of August 3, 1977.

"(D) Notwithstanding the reference to surface impacts incident to an underground coal mine in paragraph (28)(A), for the purpose of section 522(e) the term 'surface coal mining operations' shall not include subsidence caused by an underground coal mine.".

(c) AGREEMENT.—(1) Section 510(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260(c)) is amended by adding the following new sentence at the end thereof: "The terms and conditions set forth in the Settlement Agreement, dated January 24, 1990, in *Save Our Cumberland Mountains, Inc. et al. v. Lujan*, Civil Action No. 81-2134 are incorporated herein and the Secretary shall comply with such terms and conditions.".

(2) Section 520(c)(1) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1270(c)(1)) is amended to read as follows:

"(c)(1) Any pending or future action brought under this section may be brought in any judicial district where venue is proper under title 28 U.S.C. 1391. In granting relief or approving or reviewing any settlement in any pending or future action under this section, the courts shall afford the relief necessary to achieve full compliance with the Act and regulations.".

(d) RESEARCH.—(1) Section 401(c)(6) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)(6)) is amended as follows:

(A) Insert ", research, and demonstration projects" after "studies".

(B) Strike "to provide information, advice, and technical assistance, including research and demonstration projects".

(2) Section 403(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended by striking paragraph (4) and renumbering the subsequent paragraphs accordingly.

(3) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section after section 720:

"SEC. 721. The Office of Surface Mining Reclamation and Enforcement is authorized to conduct studies, research and demonstration projects relating to the implementation of, and compliance with, title V of this Act, and provide technical assistance to states for that purpose. Prior to approving any such studies, research or demonstration projects the Director, Office of Surface Mining Reclamation and Enforcement, shall first consult with the Director, Bureau of Mines, and obtain a determination from such Director that the Bureau of Mines is not already conducting like or similar studies, research or demonstration projects. Studies, research and demonstration projects for the purposes of title IV of this Act shall only be conducted in accordance with section 401(c)(6).".

(e) COAL FORMATIONS.—(1) Notwithstanding section 205 of Public Law 89-4 and any regulation relating to such section, in furtherance of the purposes of the Act of August 31, 1954 (30 U.S.C. 551-558) the Secretary of the Interior, acting through the Director of the Office of Surface Mining Reclamation and Enforcement, shall enter into a cooperative agreement with any State that has an approved abandoned mine reclamation program pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977 to undertake the activities referred to in section 3(b) of the Act of August 31, 1954 (30 U.S.C. 553(b)). The Secretary shall immediately enter into such cooperative agreement upon application by a State.

(2) For the purposes of the cooperative agreements entered into pursuant to paragraph (1), the requirements of section 5 of the Act of August 31, 1954 (30 U.S.C. 555) are hereby waived.

(3) Section 8 of the Act of August 31, 1954 (30 U.S.C. 558) is amended by striking "not to exceed $500,000 annually,".

(4) Notwithstanding any other provision of law, independent of the cooperative agreements referred to in this section, any State referred to in paragraph (1) may at its discretion transfer up to 30 percent of the annual grants available to the State under section 402(g) of the Surface Mining Control and Reclamation Act of 1977 for the purpose of undertaking the activities referred to in paragraph (1) if such activities conform with the declaration of policy set forth in section 1 of the Act of August 31, 1954 (30 U.S.C. 551). Such activities shall be deemed to meet the requirements of section 403(a) of the Surface Mining Control and Reclamation Act of 1977.

SEC. 2504. FEDERAL COAL LEASING CONSIDERATIONS.

Section 2(a)(3) of the Mineral Leasing Act (30 U.S.C. 201(a)(3)) is amended by adding the following new subparagraph at the end thereof:

"(F)(i) Prior to the issuance of any coal lease under this Act, the Secretary shall consider the effects which mining of the proposed lease might have on competition in the coal industry, and the market demand for coal from such proposed lease. Included in this consideration shall be a determination as to whether production of coal from the proposed lease would lead to the displacement of coal produced from existing mining operations from markets which have largely been served and can reasonably and economically be served by such coal.

"(ii) This subparagraph shall not apply to the issuance of a coal lease which would in the reasonably foreseeable future prevent the bypass of federal coal deposits, or which would provide for the expansion of existing mining operations.".

SEC. 2505. FEDERAL COAL ROYALTY STUDY.

(a) ROYALTY STUDY.—(1) The Secretary of the Interior shall conduct a study of current Federal coal royalty rates for surface mined and underground mined coal, and the valuation methodology of such coal, for the purposes of assessing, for each of the following, whether the current Federal coal royalty system:

(A) Creates competitive inequities among the Federal coal producing regions and States.

(B) Suppresses coal production in certain Federal coal producing regions and States.

(C) Results in a loss of mineral receipts to the Federal Government and to State government.

(D) Causes inefficiencies in Federal valuation, audit and collection activities.

(2) The Secretary shall compare the alternative royalty systems identified in subsection (b) with the current system and make separate findings, on each of the following, with respect to whether any such alternative royalty system would:

(A) Mitigate any competitive inequities among the Federal coal producing regions and States.

(B) Increase coal production in certain Federal coal producing regions and States.

(C) Result in an increase in mineral receipts to the Federal government and to State governments.

(D) Provide for a more efficient valuation, audit and collection program.

(b) ALTERNATIVES.—(1) For the purposes of making the comparison referred to in subsection (a)(2), the Secretary shall examine each of the following alternative coal royalty systems based on:

(A) The value of coal measured in cents per million British thermal units.

(B) A flat cents-per-ton rate.

(C) Any other methodology the Secretary deems appropriate for the purpose of the study.

(2) For the purposes of making the comparison referred to in subsection (a)(2), the Secretary shall examine the justification for establishing a separate royalty rate for lignite coal and a separate valuation methodology for lignite coal.

(c) NOTICE.—Within 60 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a notice detailing the scope and methodology proposed to be used in the study, and after opportunity for public comment, publish a final notice on the scope and methodology that will be used in the study.

(d) REPORT.—The Secretary shall report the findings of the study, and recommendations on alternative Federal royalty systems, to the President and the Congress within 2 years after the date of enactment of this Act.

SEC. 2506. ACQUIRED FEDERAL LAND MINERAL RECEIPTS MANAGEMENT.

(a) MINERAL RECEIPTS UNDER ACQUIRED LANDS ACT.—Section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355) is amended by inserting "(a)" before the first sentence and by adding the following new subsection at the end thereof:

"(b) Notwithstanding any other provision of law, any payment to a State under this section shall be made by the Secretary of the Interior and shall be made not later than the last business day of the month following the month in which such moneys or associated reports are received by the Secretary of the Interior, whichever is later. The Secretary shall pay interest to a State on any amount not paid to the State within that time at the rate prescribed under section 111 of the Federal Oil and Gas Royalty Management Act of 1982 from the date payment was required to be made under this subsection until the date payment is made.".

(b) AUTHORITY TO MANAGE CERTAIN MINERAL LEASES.—The Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) is amended by adding the following new section at the end thereof:

"SEC. 11. Each department, agency and instrumentality of the United States which administers lands acquired by the United States with one or more existing mineral lease shall transfer to the Secretary of the Interior the authority to administer such lease and to collect all receipts due and payable to the United States under the lease. In the case of lands acquired on or before the date of the enactment of this section, the authority to administer the leases and collect receipts shall be transferred to the Secretary of the Interior as expeditiously as practicable after the date of enactment of this section. In the case of lands acquired after the date of enactment of this section, such authority shall be vested with the Secretary at the time of acquisition. The provisions of

section 6 of this Act shall apply to all receipts derived from such leases where such receipts are due and payable to the United States under the lease in the same manner as such provisions apply to receipts derived from leases issued under the authority of this Act. For purposes of this section, the term 'existing mineral lease' means any lease in existence at the time land is acquired by the United States.".

(c) CLARIFICATION.—Section 7 of the Act of August 18, 1941, ch. 377 (33 U.S.C. 701c-3) is amended by adding the following sentence at the end thereof: "For the purposes of this section, the term 'money' includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.".

SEC. 2507. RESERVED OIL AND GAS.

(a) IN GENERAL.—Section 17(b) of the Mineral Leasing Act (30 U.S.C. 226(b)) is amended—

(1) in paragraph (1)(A), by striking out "under paragraph (2)" and inserting in lieu thereof "under paragraphs (2) and (3)"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1).

"(B) An election under this paragraph is effective—

"(i) in the case of an interest which vested after January 1, 1990, and on or before the date of enactment of this paragraph, if the election is made before the date that is 1 year after the date of enactment of this paragraph;

"(ii) in the case of an interest which vests within 1 year after the date of enactment of this paragraph, if the election is made before the date that is 2 years after the date of enactment of this paragraph; and

"(iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

"(C) Notwithstanding the consent requirement referenced in section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352), the Secretary shall issue a noncompetitive lease under subsection (c)(1) to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this Act. Such lease shall be subject to all terms and conditions under this Act that are applicable to leases issued under subsection (c)(1).

"(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

"(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to those mineral estates in which the interest of the United States becomes a vested present interest after January 1, 1990.

SEC. 2508. OUTSTANDING OIL AND GAS.

(a) IN GENERAL.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding the following new subsection after subsection (o):

"(p)(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (3), the Secretary of Agriculture is authorized to require, pursuant to regulations promulgated by the Secretary, that such activities be subject to such reasonable terms and conditions as may be necessary to protect the interests of the United States in accordance with applicable laws, rules and regulations governing the Secretary's acquisition of an interest in such lands, and in accordance with applicable laws, rules and regulations relating to the management of such lands.

"(2) The terms and conditions referred to in paragraph (1) shall prevent or minimize damage to the environment and other resource values.

"(3) The lands referred to in this subsection are those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.".

(b) REGULATIONS.—Within 90 days after the enactment of this Act the Secretary of Agriculture shall promulgate regulations to implement the amendment made by subsection (a).

SEC. 2510. FEDERAL ONSHORE OIL AND GAS LEASING.

Section 17(c)(1) of the Mineral Leasing Act is amended by adding the following after the first sentence: "If more than one qualified person applies for a noncompetitive lease under this paragraph for any unit on the first day on which applications for noncompetitive leases may be submitted under this paragraph for that unit, the Secretary shall not issue a noncompetitive lease for that unit under this paragraph but shall make such unit available for competitive leasing under subsection (b) at the next quarterly competitive oil and gas lease sale held by the Secretary.".

SEC. 2511. OIL PLACER CLAIMS.

Notwithstanding any other provision of law, in furtherance of the purposes of the Act of February 11, 1897, commonly referred to as the Oil Placer Act, and section 37 of the Mineral Leasing Act, the Secretary of the Interior is authorized and directed to, within 90 days after the enactment of this Act, (1) convey by quit-claim deed to the owner or owners, or separately and as an alternative, (2) disclaim and relinquish by a document in any form suitable for recordation in the county within which the lands are situated, all right, title and interest or claim of interest of the United States to those lands in the counties of Hot Springs, Park and Washakie in the State of Wyoming, held pursuant to the Act of February 11, 1897, and which are currently producing covered substances under a cooperative or unit plan of development.

SEC. 2512. OIL SHALE CLAIMS.

Section 37 of the Mineral Leasing Act (30 U.S.C. 193) is amended by inserting "(a)" before the first sentence and by adding the following at the end thereof:

"(b) REVIEW.—(1) Not later than 30 days after the enactment of this subsection the Secretary of the Interior shall publish proposed regulations in the Federal Register containing standards and criteria for determining the validity of all unpatented oil shale claims referred to in subsection (a). Final regulations shall be promulgated within 180 days after the date such proposed regulations are published. The Secretary shall make a determination with respect to the validity of each such claim within 2 years after the promulgation of such final regulations. In making such determinations the Secretary shall give priority to those claims referred to in subsection (c).

"(2) The proposed regulations referred to in paragraph (2) shall be in lieu of proposed regulations concerning oil shale claims published in the Federal Register on January 9, 1991, and shall provide that oil shale claims supported a discovery of a valuable oil shale deposit within the meaning of the general mining laws of the United States on February 25, 1920, not imposed arbitrary limitations on lawful contest proceedings against such claims by the United States with respect to failure to comply with the assessment work requirements of the general mining laws of the United States or sanction an absolute right of resumption with respect to such requirements, and shall be limited in scope to oil shale claims.

"(c) FULL PATENT.—(1) Except as provided under subsection (d)(2), after April 8, 1992, no patent shall be issued by the United States for any oil shale claim referred to in subsection (a) unless the Secretary determines that, for the claim concerned—

"(A) a patent application was filed with the Secretary on or before April 8, 1992;

"(B) all requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) were fully complied with by that date; and

"(C) the claim is valid pursuant to the regulations referred to in subsection (b).

"(2) If the Secretary makes the determinations referred to in paragraph (1) for any oil shale claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this subsection, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

"(d) ELECTION.—(1) The holder of each oil shale claim for which no patent may be issued by reason of subsection (c) shall make an election under paragraph (2) or paragraph (3). Not later than 30 days after the enactment of this subsection, the Secretary shall by certified mail notify the holder of each such claim of the requirement to make such election. The holder shall make the election within such period shall be deemed conclusively to constitute a forfeiture of the claim and the claim shall be null and void.

"(2)(A) The holder of a claim required to make an election pursuant to paragraph (1) may apply for a patent within 1 year after making such election. The Secretary may issue a patent to such claim as provided under this paragraph if the requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36,

and 37) are met and the Secretary determines the claim to be valid pursuant to the regulations referred to in subsection (b).

"(B) Notwithstanding any other provision of law, the patent referred to in subparagraph (A) shall be limited to the oil shale and associated minerals and may be issued only upon the payment of fair market value for the oil shale and associated minerals by the holder of the claim to the Secretary.

"(C) Any patent issued for an oil shale claim under this paragraph shall be subject to an express reservation to the United States of the surface of the affected lands, and the provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to such claim in the same manner and to the same extent as such provisions apply to the unpatented mining claims referred to in such provisions.

"(3)(A) The holder of a claim required to make an election pursuant to paragraph (1) may continue to maintain the claim by complying with the general mining laws of the United States, except in order to maintain the claim as valid such claim holder shall also make an annual payment to the Secretary of at least $1,000 for each claim. Payments received under this paragraph shall be deposited into the General Fund of the Treasury.

"(B) The holder of a claim referred to in subparagraph (A) shall comply with the provisions of section 314(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744) by filing the affidavit referred to in such section and including the payment referred to in subparagraph (A). The payment requirement shall take effect on the first day of the first month of September which occurs more than 90 days after an election is made to maintain a claim under this paragraph.

"(C) Failure to comply with the requirements of this paragraph shall be deemed conclusively to constitute a forfeiture of the oil shale claim and the claim shall be null and void.

"(D) The provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to oil shale claims under this paragraph in the same manner and to the same extent as such provisions apply to the mining claims referred to in such provisions.

"(e) RECLAMATION.—In addition to other applicable requirements, any person who maintains a claim pursuant to subsection (d) shall be required to reclaim the land subject to such claim and to pose a surety bond or provide other types of financial guarantee satisfactory to the Secretary before disturbance of the land subject to such claim to ensure reclamation.".

SEC. 2513. HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PROGRAM.

(a) HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PLAN.—(1) Every 5 years, the Secretary of the Interior, acting through the Director of the Bureau of Mines (hereinafter referred to as the "Director"), shall develop a Plan for Health, Safety, and Mining Technology Research (hereinafter in this subsection referred to as the "Plan"). After developing a proposed Plan, the Director of the Bureau of Mines shall submit it to the Committee established under subsection (b) for its review.

(2) The Plan shall identify the goals and objectives of the Health, Safety, and Mining Technology program of the Bureau of Mines, and shall guide research and technology development under such program, over each 5-year period.

(3) In preparing the proposed Plan referred to in paragraph (1), the Director shall solicit suggestions, comments and proposals for research and technology development projects from the mining industry, labor, academia and other concerned groups and individuals.

(4) The Director shall prepare a list of all health, safety, and mining technology projects received pursuant to the solicitation referred to in paragraph (3), and all such projects initiated by the Bureau of Mines, and submit the list to the Committee established under subsection (b) as part of the proposed Plan. The list shall contain the following information:

(A) the title and a brief synopsis of each project;

(B) a justification of the health, safety, and employment benefits anticipated by each project;

(C) an estimate of the timeframe to complete each project;

(D) an estimate of the funding requirements of each project; and

(E) an explanation of how each project would assist the Bureau of Mines in achieving the goals and objectives defined in the proposed Plan.

(5) The Director shall to the extent possible adopt the recommendations made by the Committee in the report referred to in subsection (b)(4) in selecting projects for the Health, Safety, and Mining Technology program, unless the Director determines, in writing, that a deviation from such report is necessary to meet a high-priority research need that was unanticipated at the time of the submission of the Committee report. The Director shall submit an explanation for any such deviation to the Secretary and to the Congress.

(b) HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH ADVISORY COMMITTEE.—(1) There is hereby established the Health, Safety, and Mining Technology Research Advisory Committee (hereinafter in this subsection referred to as the "Committee"). The Committee shall be composed of 14 members appointed by the Secretary of the Interior. Members of the Committee shall serve for terms of two years. Any member of the Committee may serve after the expiration of a term until a successor is appointed. Any member of the Committee may be appointed to serve more than one term.

(2) The Secretary shall appoint members to the Committee as follows:

(A) A representative from the Mine Safety and Health Administration.

(B) A representative from the National Institute for Occupational Safety and Health.

(C) Two representatives from the coal mining industry, one with expertise in surface mining techniques and one with expertise in underground mining techniques.

(D) Two representatives from the metal, non-metal mining industry, one with expertise in surface mining techniques and one with expertise in underground mining techniques.

(E) Six representatives from unions representing miners, of which 2 shall have expertise in metal, non-metal mining.

(F) A representative from a school of mines with expertise in coal mining research located in the eastern portion of the United States.

(G) A representative from a school of mines with expertise in metal, non-metal mining research located in the western portion of the United States.

(3) Members of the Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this subtitle on vouchers signed by the Chairman.

(4) Notwithstanding the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), the Committee established under this subtitle shall serve as a standing Advisory Committee to the Bureau of Mines. The provisions of section 14(b) of such Act (relating to the charter of the Committee) are hereby waived with respect to the Committee established under this subsection.

(5) The purpose of the Committee shall be to review the proposed Plan submitted by the Director under subsection (a), evaluate the list contained in such proposed Plan using the values set forth in paragraph (5), and submit the proposed Plan within 60 days after it is received by the Committee to the Director as part of a report with recommendations.

(6) Each proposal on the list submitted by the Director as part of the proposed Plan shall be assigned a value by the Committee for each of the following factors: safety, health, impact on employment of miners and timeliness of the proposed project's benefits. The values shall be as follows:

(A) Safety can assume a value of 0 to 5, where a 0 signifies little or no safety value, a 1 signifies an indirect safety benefit, a 3 signifies a direct safety benefit, and a 5 means a significant, direct safety benefit.

(B) Health can assume a value of 0 to 5, where a 0 signifies little or no health value, a 1 signifies an indirect health benefit, a 3 signifies a direct health benefit, and a 5 means a significant, direct health benefit.

(C) Employment can assume a value of 0 to 5, with a value of 0 if miners will be unemployed as a result of the research program, 5 if employment will be increased and 3 if there is no change in employment.

(D) Timeliness can assume a value of 0 to 2, where a 0 signifies that all health, safety, and productivity benefits will require 5 or more years, a 1 signifies that health, safety, and productivity benefits will be realized in 3 to 5 years, a 2 signifies that health, safety, and productivity benefits will be realized in less than 3.

(c) TECHNICAL AMENDMENT.—For the purposes of section 501(b) of Public Law 91–173, as amended, activities in the field of coal or other mine health under such section shall also be carried out by the Secretary of the Interior acting through the Director of the Bureau of Mines.

SEC. 2514. SURFACE MINING REGULATIONS.

Section 710 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300) is amended by adding at the end the following new subsection:

"(i) The Secretary shall make grants to the Navajo, Hopi, Northern Cheyenne, and Crow tribes to assist such tribes in developing regulations and programs for regulating surface coal mining and reclamation operations on Indian lands, except that nothing in this subsection may be construed as providing such tribes with the authorities set forth under section 503. Grants made under this subsection shall be used to establish an office of surface mining regulation for each such tribe. Each such office shall—

"(1) develop tribal regulations and program policies with respect to surface mining;

"(2) assist the Office of Surface Mining Reclamation and Enforcement established

by section 201 in the inspection and enforcement of surface mining activities on Indian lands, including, but not limited to, permitting, mine plan review, and bond release; and

"(3) sponsor employment training and education in the area of mining and mineral resources.".

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in continuation of my explanation of this amendment, it also embraces the concept that responsible energy development in an environmentally and socially responsible manner is possible.

Provisions of this amendment advance the notion that deposits of coal in previously mined areas that can be remined, with the triple benefit of obtaining additional coal production, reducing the need to mine on virgin lands and providing for needed reclamation.

Other provisions of the amendment seek to provide badly needed stability in the Federal Surface Coal Mining Program by settling controversies over subsidence protections, valid existing rights, and the applicant-violator system.

It would also make improvements in the Federal coal, oil, and gas leasing programs.

Further, provisions of this amendment would stop the give away of federally owned oil shale lands for a mere $2.50 an acre.

Finally, this amendment seeks to reduce the rate of fatalities and injuries in the mining industry by improving mine health and safety research conducted by the Bureau of Mines.

All of these provisions have as much to do with energy, as anything that is already in the bill.

But these provisions also say this: There is no free ride in energy development.

The amendment recognizes that federally owned coal in the West can be developed to the benefit of the Western markets while allowing Eastern and Midwestern coal to serve its traditional markets.

In addition, this legislation would provide for increased competition for Federal onshore oil and gas leases; improve the management of oil and gas activities on certain eastern Federal lands.

It would also provide for the more equitable and efficient disbursement of the State share of mineral lease receipts from Eastern Federal lands.

Yes, let us mine coal. At the same time, if that coal mining causes damages to someone's home, this amendment says that person should be compensated.

Vote against this amendment and you are voting to allow peoples' homes to be damaged without compensation.

Let us mine coal. But let us not issue new mining permits to companies with outstanding environmental violations.

Vote against this amendment and you are voting to allow companies in violation of our laws to get off the hook.

Let us mine coal. I would submit, however, that we should not be strip mining in units of the National Park System.

Vote against this amendment and you are saying that parks are a pretty nice place to mine.

And what of those who mine coal. The coal miners. Do they not deserve to see advances made in health and safety technologies?

This amendment says they do. It says that we should make it a priority to reduce the causes of black lung disease by devising new and innovative mining equipment and techniques.

Turning to some of the Federal energy issues in this amendment.

We are faced with a situation where the Interior Department insists on giving away thousands of acres of valuable oil shale land.

In 1986, within weeks after a number of claim holders paid the Interior Department $2.50 an acre for 17,000 acres of these oil shale lands, they turned around and sold the land for as much as $2,000 an acre.

In other words, the Federal Government received $42,500 for this public land. Weeks later the very same land was sold for $37 million.

Today, there are approximately 1,600 of those claims still encumbering over 240,000 acres of public lands in Colorado, Utah, and Wyoming.

The only activity the claim holders have undertaken involved rank speculation and profiteering.

The House has voted on this issue before. Several times. And each time it has passed Interior Committee legislation that would put a stop to this giveaway by overwhelming majorities.

Vote against this amendment, and you are voting to go home to your constituents and explain why Federal land should be given away for fast food hamburger prices.

I would like to raise one other item addressed by this amendment.

We produce a good deal of oil and gas from Federal lands in this country. The tracts are made available by the Interior Department, people bid on them, and if oil and gas is produced, we receive a royalty in return.

What is occuring here is that the competitive leasing process is being subverted, and the Treasury is losing out on bonus bid payments.

In fact, by our calculations, during fiscal year 1990 the Government could have collected $20 million through the bidding process rather than the $722,000 that it did.

Our bill would fix this situation.

Mr. Chairman, in short, this amendment is in the public interest as well as the interest of energy development.

□ 1425

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Is there a Member in opposition to the amendment offered by the gentleman from West Virginia [Mr. RAHALL]?

Mr. LENT. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from New York [Mr. LENT] is recognized for 20 minutes.

Mr. LENT. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I strongly oppose the Rahall amendment concerning coal, oil, and gas. This amendment includes provisions affecting coal remining, subsidence, existing rights of surface coal mining, and naval oil shale reserves.

The most objectionable provisions deal with amendments to the Surface Mining Control and Reclamation Act. Section A attempts to impose a national solution on the subsidence problem, when this is a distinctly local problem. Most States have told the Department of the Interior that it should not issue a national rule. Damage to underground water supplies is confined to limited areas.

Section B attempts to define valid existing rights legislatively, rather than through the judicial process. This constitutes a taking because it takes away the mineral rights that have been granted by the Government without any due process. This amendment undermines our ability to mine coal or other minerals by taking away mineral properties that are essential to continuous mining. Moreover, this provision could cost the Government $50 million per year beginning in fiscal year 1994 because this is what the value of mineral rights would be.

Finally, section C would remove the requirement that site specific violations be addressed locally, where the affected citizens and mine operations are located. The balance now in SMCRA between national rules and local problems would be upset. Instead all suits would be brought to the District of Columbia where there is limited contact, resources, and interest.

Finally, Mr. RAHALL's amendment deals with leasing of mineral rights on the Government's naval oil shale reserves. The amendment is fraught with problems. It sets up dual jurisdiction between the Department of the Interior and the Department of Energy. It would lease valuable naval oil reserves for oil and gas production below market rates. There are better ways to deal with this issue in legislation proposed by the Department of Energy.

I urge a "no" vote on Mr. RAHALL's amendment.

□ 1430

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL of Colorado. Mr. Chairman, I rise today in support of the Rahall amendment.

Included in the amendment are two provisions I introduced to amend the Mineral Lands Leasing Act of 1920. The first will permanently halt speculators from obtaining patents to oil shale lands; the second will open certain public lands in Colorado to competitive oil and gas leasing. This provision will allow communities in northwest Colorado to immediately capitalize on an underutilized resource associated with oil shale—natural gas.

The House is no stranger to the issue of oil shale reform. During the 100th and the 101st Congresses, by 3-to-1 votes, it passed legislation to prohibit speculators and the Department of the Interior from patenting oil shale claims, essentially transferring public lands to private ownership for $2.50 an acre.

The House took this action after the Interior Department proceeded to transfer 82,000 acres of the public's oil shale land into the hands of four energy companies for $205,000 when the Interior Department estimated the lands to be worth $164 million.

The public was quick to express its outrage over the 1986 Tosco settlement, and my friend Chairman RAHALL responded by sponsoring a bill to halt the giveaway of 270,000 acres of public lands in Utah, Colorado, and Wyoming for $2.50 per acre.

This amendment will bring to an end the threat of losing an additional 250,000 acres of public lands to profiteers. It will also resolve the question of validity of oil-shale mining claims by amending section 37 of the Mineral Lands Leasing Act of 1920.

This is crucial because if legislation is not passed these lands will remain available for speculative purposes with no production criteria. The claimants who will receive the land are not obligated to produce oil shale or make any developments or improvements in any specified time period. In fact, the Bureau of Land Management [BLM] began to process patent applications for an additional 11,000 acres of public land in 1988 following the end of a moratorium on oil shale patenting and an additional 7,729 acres of land this year following a Federal court decision which the Interior Department is refusing to appeal.

The American public is conservative in this sense: It likes to hold onto what it's got, not only mineral resources but those public lands values that contribute to recreation and tourism.

The public well understands that the sale of Federal lands under the guise of oil shale development is a travesty.

This bill will keep 79 percent of all the remaining oil shale claims from being patented. After nearly 75 years, it is not unreasonable to require that the conditions for developing a public resource emphasize diligent development rather than land speculation. Private parties should not be rewarded for their lack of effort in developing a mineral resource by being granted a fee-simple title not only to the subsurface minerals, but also to the surface resources. Congress has a responsibility to ensure that multiple use public lands, valuable for their wildlife, grazing, mineral, and recreational benefits, are not disposed of, as my friend Chairman RAHALL is fond of saying, "for a price less than a six pack of beer."

The House is also familiar with proposals to open the naval oil shale reserves, which are within my congressional district. In 1975, for instance, the House supported an Interior Committee bill that would allow the reserves to be used to meet the total energy needs of the Nation.

This amendment will help achieve that goal by adding to our ability to produce domestic oil and natural gas and to make the United States less dependent upon Arab oil imports. This resulted in the passage of an act in 1975 that specifically authorized the production of oil and natural gas from the naval petroleum reserves and the naval oil shale reserves.

Currently, the Department of Energy is responsible for managing the reserves that were set aside by Executive orders in 1913 and 1924. The oil shale reserves were established specially to provide the Navy with a domestic source of petroleum that scientists and geologists estimate exceeds that of the United States and the Middle East combined—if it could be developed. In the meantime, trapped beneath and between the sedimentary layers of shale is a tremendous amount of natural gas that can only be developed only when DOE signs an exclusive contract with a producer.

DOE's program is not working. If left to its own devices, the Department of Energy will continue to lose money even though natural gas may be this county's hottest commodity. The Department's own records show that it derived only $143,000, when it cost over $1.9 million to administer the program. In contrast, if the Interior Department is in charge of the program and competitively leases the area to private industry, we stand to make at least $200,000 per well simply because private industry is more efficient.

In fact, I am more than a little outraged that these exclusive contracts are considered "privileged proprietary" information. I think the public deserves to know how much it is really costing the DOE to run its program and who is getting rich at the public's expense.

This amendment will transfer the responsibility for managing the oil, gas, and surface resources of the reserve to the Department of the Interior.

Allowing Interior to manage this resource pursuant to the provisions of the 1920 Mineral Lands Leasing Act will immediately provide counties in the Third Congressional District with an additional source of revenue from royalties paid on production. The revenue from the development of trillions of cubic feet of gas will be a shot in the arm to communities that are still reeling from the pullout of the last oil company that had attempted to profit from the development of oil shale.

The amendment also opens the door to multiple use management of the area pursuant to the Federal Land Management and Policy Act. I have received many letters from local cattlemen and hunters who have long wished to retain grazing permits and access to the reserves but cannot because the Bureau of Land Management, the agency that will manage the area, is restricted from reissuing permits and from allowing unlimited public access because it must contract with the DOE in much the same way as producers.

The amendment would not affect the Navy's ability to mine oil shale should it ever become a realistic source of energy, because the shale resource will remain with the Navy. But, the current withdrawal effectively locks up all oil and gas development in this area.

This is due not only to the withdrawals themselves, but also to a 1-mile no-lease buffer zone along the outer edges. The preliminary data that has been collected by Interior indicates the reserves have a high potential for profitable development.

With the recent passage of the Clean Air Act, natural gas and low-sulfur coal will be the fuels of choice for many utilities and industries. It is time to refocus attention to these underutilized resources and this poorly run Government program.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD], a member of the Committee on Energy and Commerce.

Mr. MOORHEAD. Mr. Chairman, I strongly oppose the Rahall amendment concerning coal, oil, and gas. This amendment establishes barriers to the free movement of federally owned coal in order to protect high-sulfur coal, found primarily in the east, from competition with low-sulfur western coal.

Section A imposes a national solution on the subsidence problem. The States have stated that they do not want a national rule, but would deal with the problems locally.

Section B defines valid existing rights in such a way as to take property from individuals owning private coal interests in certain designated lands if their rights had not been exercised before 1977. This would be a legislative taking of property without just compensation and would lead to many law suits to settle the compensation issue.

Development of private oil and gas rights beneath national forests would be subject to additional regulatory delays even though the United States has no property interest in these mineral rights. State oil and gas commissions are the proper forum for regulation of this development, not the U.S. Forest Service.

Finally, Mr. RAHALL's amendment deals with leasing of mineral rights on the Government's naval oil shale reserves. The amendment is fraught with problems. It sets up dual jurisdiction between the Department of the Interior and the Department of Energy. It would lease valuable naval oil reserves for oil and gas production below market rates. There are better ways to deal with this issue in legislation proposed by the Department of Energy.

I urge a "no" vote on Mr. RAHALL's amendment.

Mr. RAHALL. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I thank the gentleman from West Virginia [Mr. RAHALL], the chairman of the Subcommittee on Mining and Natural Resources of the Committee on Interior and Insular Affairs, and commend the gentleman from California [Mr. MILLER], the chairman, and the chairman of the Subcommittee on Water, Power and Offshore Energy Resources, for coming to at least a substantial understanding of the provisions that will make the mining of America's largest energy resource better for the people and better for the coal industry.

Truly, without doubt, coal is America's future energy resource, with over 200 years of known reserves already in existence. The method is to find a way to burn it, burn it clean, provide our energy resources, and protect the people who live in our mining communities. This amendment goes a great deal of the way to do that.

I am personally disappointed that we could not address the Federal coal leasing provisions that Chairman RAHALL has sought so strenuously and fought strenuously for in committee. However, I understand that we will address that in the coming months of this Congress, and perhaps again next year. I do hope that this amendment will meet with the majority approval in this Congress. It is truly a step forward in the mining of our coal.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the amendment offered by Mr. RAHALL to the oil, gas, and coal title. As ranking member of the Subcommittee on Mining and Natural Resources I believe this amendment is counterproductive to fashioning a national energy policy.

I concur with the Energy and Commerce Committee view concerning the germaneness of these sections to the bill, but I also wish to point out several areas for which I disagree with the Interior Committee-passed substance of the amendment.

Briefly, the coal leasing provisions establish barriers to free market movement of federally owned coal in order to protect the predominantly high-sulfur coal found in the East from competition with low-sulfur western coal. What kind of energy strategy is that? We should be encouraging use of low-sulfur coal to help meet clean air requirements. Let's not hinder its expansion in the coal-fired electricity generation marketplace. Section 2504 would do just that by tying the Secretary of the Interior's hands with respect to new lease issuance.

Mr. MOORHEAD has explained the definition of valid existing rights.

Furthermore, in this amendment valid existing rights are defined in such a way as to take property from individuals owning private coal interests in certain designated public lands if their rights had not been exercised before 1977. This is clearly a taking of property without just compensation that cannot be defended by reliance upon public nuisance arguments. Time and again, Secretary Lujan has said that coal mining in the parks will not be allowed, but private rights will be compensated. Instead this amendment would just legislate it away. It's an invitation to the Court of Claims to file an inverse condemnation lawsuit and raid the U.S. Treasury on the grounds of a legislative taking. This is not a far-fetched analysis. Just 6 months ago the Supreme Court let stand an award for $140 million in the Whitney Benefits case and agreed that the Surface Mining Act was a legislative taking of private rights without just compensation. Let's not repeat that error today.

Another provision of concern to me is section 2508. It may subject the development of private oil and gas rights beneath national forests to additional regulatory delays despite the fact that the United States has absolutely no property interest in the mineral estate. On the concerned lands, the Forest Service knew at the time of purchase of the surface estate that outstanding rights to the oil and gas existed, but purchased the surface anyway. Now some people want to impose NEPA-style regulation on the exercise of these rights. I oppose this Federal intrusion because it is the job of each State's oil and gas commission to regulate development of the resource, without respect to who owns the mineral rights or the surface estate.

Last, Mr. Chairman, I would like to bring to my colleagues' attention the recent decision of the U.S. Court of Appeals for the District of Columbia in the Save Our Cumberland Mountains versus Lujan case. The court agreed with the administration that citizen suits under the Surface Mining Act must be brought in the judicial district where the harm is alleged, not in Washington, DC. I quote, "A charge that the Secretary is failing to enforce the act must be earthbound." In other words, let's not encourage judge-shopping by a small cadre of DC-based lawyers adept at using these provisions to halt coal development at every turn. If a violation is not being enforced in West Virginia, then bring a suit in Federal court in West Virginia, not here.

Mr. Chairman, I urge a "no" vote.

Mr. RAHALL. Mr. Chairman, I ask unanimous consent that the amendment, as amended, be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The amendment, as amended, offered by the gentleman from West Virginia [Mr. RAHALL] is withdrawn.

AMENDMENTS EN BLOC OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. DINGELL:

Page 704, after line 4, insert:

SEC. 2502. COAL REMINING.

(a) MODIFICATION OF PROHIBITION.—Section 510 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260) is amended by adding the following new subsection at the end thereof:

"(e) After the date of enactment of this subsection, the prohibition of subsection (c) shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making such application. As used in this subsection, the term 'violation' has the same meaning as such term has under subsection (c). The authority of this subsection and section 515(20)(B) shall terminate on September 30, 2010.".

(b) PERIOD OF RESPONSIBILITY.—Section 515(b)(20) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1265(b)(20)) is amended as follows:

(1) Insert "(A)" after "(20)".

(2) Add the following new subparagraph at the end thereof:

"(B) on lands eligible for remining assume the responsibility for successful revegetation for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will be extended for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards.".

(c) DEFINITIONS.—Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by striking the period at the end of paragraph (32) and inserting a semicolon in lieu thereof, and by adding the following new paragraphs at the end thereof:

"(33) the term 'unanticipated event or condition' as used in section 510(e) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit; and

"(34) the term 'lands eligible for remining' means those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4).".

(d) ELIGIBILITY.—Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by adding the following new sentence at the end thereof: "Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this title after the release of the bond or deposit for any such operation as provided under section 519. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this title may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his authority under section 410.".

(e) ABANDONED COAL REFUSE SITES.—(1) Notwithstanding any other provision of the Surface Mining Control and Reclamation Act of 1977 to the contrary, the Secretary of the Interior shall, within one year after the enactment of this Act, publish proposed regulations in the Federal Register, and after opportunity for public comment publish final regulations, establishing environmental protection performance and reclamation standards, and separate permit systems applicable to operations for the on-site reprocessing of abandoned coal refuse and operations for the removal of abandoned coal refuse on lands that would otherwise be eligible for expenditure under section 404 and section 402(g)(4) of the Surface Mining Control and Reclamation Act of 1977.

(2) The standards and permit systems referred to in paragraph (1) shall distinguish between those operations which reprocess abandoned coal refuse on-site, and those operations which completely remove an abandoned coal refuse from a site for the direct use of such coal refuse, or for the reprocessing of such coal refuse, at another location. Such standards and permit systems shall be premised on the distinct differences between operations for the on-site reprocessing, and operations for the removal, of abandoned coal refuse and other types of surface coal mining operations.

(3) The Secretary may devise a different standard than any of those set forth in section 515 and section 516 of the Surface Mining Control and Reclamation Act of 1977, and devise a separate permit system, if he determines, on a standard-by-standard basis, that a different standard may facilitate the on-site reprocessing, or the removal, of abandoned coal refuse in a manner that would provide the same level of environmental protection as under section 515 and section 516.

(4) Not later than 30 days prior to the publication of the proposed regulations referred to in this subsection, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate containing a detailed description of any environmental protection performance and reclamation standards, and separate permit systems, devised pursuant to this subsection.

SEC. 2503. SURFACE MINING ACT IMPLEMENTATION.

(a) SUBSIDENCE.—(1) Section 717(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1307(b)) is amended as follows:

(A) Strike "a surface coal mine" and insert in lieu thereof "surface coal mining operations".

(B) Strike "surface coal mine operation" and insert in lieu thereof "surface coal mining operations".

(2) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section at the end thereof:

"SEC. 720. (a) Surface coal mining operations shall comply with the following requirement: Promptly repair, or compensate for, damage resulting from subsidence caused to any structure or facility due to underground coal mining operations, without regard to the mining technique used. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged structure or facility. Compensation shall be provided to the owner of the damaged structure or facility and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.

"(b) Within one year after the date of enactment of this section, the Secretary of the Interior shall, after providing notice and opportunity for public comment, promulgate final regulations to implement subsection (a). Such regulations shall include adequate bonding to ensure that the requirements of subsection (a) are met.".

(b) VALID EXISTING RIGHTS.—Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by adding the following new paragraph after paragraph (34) (as added by section 2801(c) of this Act):

"(35) for the purpose of section 522(e) 'valid existing rights' means—

"(A) Except for haul roads and as otherwise provided under this paragraph, those property rights of the applicant in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract or other document which authorizes the applicant, any subsidiary, affiliate or persons controlled by or under common control with the applicant, to produce coal by a surface coal mining operation; and the person proposing to conduct surface coal mining operations in an area protected under section 522(e) either—

"(i) had been validly issued, or was making a good faith effort to obtain, as of August 3, 1977, all state and federal permits necessary to conduct such operations on those lands; or

"(ii) can demonstrate that the coal is both needed for, and immediately adjacent to, an ongoing surface coal mining operation which existed on August 3, 1977.

"(B) For haul roads the term 'valid existing rights' means—

"(i) a recorded right-of-way, a recorded easement or a permit for a coal haul road recorded as of August 3, 1977, or

"(ii) any other road in existence as of August 3, 1977.

"(C) When an area comes under the protection of section 522(e) after August 3, 1977, the date the protection comes into existence shall be used in lieu of August 3, 1977.

"(D) Notwithstanding the reference to surface impacts incident to an underground coal mine in paragraph (28)(A), for the purpose of section 522(e) the term 'surface coal mining operations' shall not include subsidence caused by an underground coal mine.".

(c) RESEARCH.—(1) Section 401(c)(6) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)(6)) is amended as follows:

(A) Insert ", research, and demonstration projects" after "studies".

(B) Strike "to provide information, advice, and technical assistance, including research and demonstration projects".

(2) Section 403(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended by striking paragraph (4) and renumbering the subsequent paragraphs accordingly.

(3) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section after section 720:

"SEC. 721. The Office of Surface Mining Reclamation and Enforcement is authorized to conduct studies, research and demonstration projects relating to the implementation of, and compliance with, title V of this Act, and provide technical assistance to states for that purpose. Prior to approving any such studies, research or demonstration projects the Director, Office of Surface Mining Reclamation and Enforcement, shall first consult with the Director, Bureau of Mines, and obtain a determination from such Director that the Bureau of Mines is not already conducting like or similar studies, research or demonstration projects. Studies, research and demonstration projects for the purposes of title IV of this Act shall only be conducted in accordance with section 401(c)(6).".

(d) COAL FORMATIONS.—(1) Notwithstanding section 205 of Public Law 89-4 and any regulation relating to such section, in furtherance of the purposes of the Act of August 31, 1954 (30 U.S.C. 551-558) the Secretary of the Interior, acting through the Director of the Office of Surface Mining Reclamation and Enforcement, shall enter into a cooperative agreement with any State that has an approved abandoned mine reclamation program pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977 to undertake the activities referred to in section 3(b) of the Act of August 31, 1954 (30 U.S.C. 553(b)). The Secretary shall immediately enter into such cooperative agreement upon application by a State.

(2) For the purposes of the cooperative agreements entered into pursuant to paragraph (1), the requirements of section 5 of the Act of August 31, 1954 (30 U.S.C. 555) are hereby waived.

(3) Section 8 of the Act of August 31, 1954 (30 U.S.C. 558) is amended by striking "not to exceed $500,000 annually,".

(4) Notwithstanding any other provision of law, independent of the cooperative agreements referred to in this section, any State referred to in paragraph (1) may at its discretion transfer up to 30 percent of the annual grants available to the State under section 402(g) of the Surface Mining Control and Reclamation Act of 1977 for the purpose of undertaking the activities referred to in paragraph (1) if such activities conform with the declaration of policy set forth in section 1 of the Act of August 31, 1954 (30 U.S.C. 551). Such activities shall be deemed to meet the

requirements of section 403(a) of the Surface Mining Control and Reclamation Act of 1977.

SEC. 2505. FEDERAL COAL ROYALTY STUDY.

(a) ROYALTY STUDY.—(1) The Secretary of the Interior shall conduct a study of current Federal coal royalty rates for surface mined and underground mined coal, and the valuation methodology of such coal, for the purposes of assessing, for each of the following, whether the current Federal coal royalty system:

(A) Creates competitive inequities among the Federal coal producing regions and States.

(B) Suppresses coal production in certain Federal coal producing regions and States.

(C) Results in a loss of mineral receipts to the Federal Government and to State government.

(D) Causes inefficiencies in Federal valuation, audit and collection activities.

(2) The Secretary shall compare the alternative royalty systems identified in subsection (b) with the current system and make separate findings, on each of the following, with respect to whether any such alternative royalty system would:

(A) Mitigate any competitive inequities among the Federal coal producing regions and States.

(B) Increase coal production in certain Federal coal producing regions and States.

(C) Result in an increase in mineral receipts to the Federal government and to State governments.

(D) Provide for a more efficient valuation, audit and collection program.

(b) ALTERNATIVES.—(1) For the purposes of making the comparison referred to in subsection (a)(2), the Secretary shall examine each of the following alternative coal royalty systems based on:

(A) The value of coal measured in cents per million British thermal units.

(B) A flat cents-per-ton rate.

(C) Any other methodology the Secretary deems appropriate for the purpose of the study.

(2) For the purposes of making the comparison referred to in subsection (a)(2), the Secretary shall examine the justification for establishing a separate royalty rate for lignite coal and a separate valuation methodology for lignite coal.

(c) NOTICE.—Within 60 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a notice detailing the scope and methodology proposed to be used in the study, and after opportunity for public comment, publish a final notice on the scope and methodology that will be used in the study.

(d) REPORT.—The Secretary shall report the findings of the study, and recommendations on alternative Federal royalty systems, to the President and the Congress within 2 years after the date of enactment of this Act.

SEC. 2506. ACQUIRED FEDERAL LAND MINERAL RECEIPTS MANAGEMENT.

(a) MINERAL RECEIPTS UNDER ACQUIRED LANDS ACT.—Section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355) is amended by inserting "(a)" before the first sentence and by adding the following new subsection at the end thereof:

"(b) Notwithstanding any other provision of law, any payment to a State under this section shall be made by the Secretary of the Interior and shall be made not later than the last business day of the month following the month in which such moneys or associated reports are received by the Secretary of the Interior, whichever is later. The Secretary shall pay interest to a State on any amount not paid to the State within that time at the rate prescribed under section 111 of the Federal Oil and Gas Royalty Management Act of 1982 from the date payment was required to be made under this subsection until the date payment is made.".

(b) AUTHORITY TO MANAGE CERTAIN MINERAL LEASES.—The Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) is amended by adding the following new section at the end thereof:

"SEC. 11. Each department, agency and instrumentality of the United States which administers lands acquired by the United States with one or more existing mineral lease shall transfer to the Secretary of the Interior the authority to administer such lease and to collect all receipts due and payable to the United States under the lease. In the case of lands acquired on or before the date of the enactment of this section, the authority to administer the leases and collect receipts shall be transferred to the Secretary of the Interior as expeditiously as practicable after the date of enactment of this section. In the case of lands acquired after the date of enactment of this section, such authority shall be vested with the Secretary at the time of acquisition. The provisions of section 6 of this Act shall apply to all receipts derived from such leases where such receipts are due and payable to the United States under the lease in the same manner as such provisions apply to receipts derived from leases issued under the authority of this Act. For purposes of this section, the term 'existing mineral lease' means any lease in existence at the time land is acquired by the United States.".

(c) CLARIFICATION.—Section 7 of the Act of August 18, 1941, ch. 377 (33 U.S.C. 701c-3) is amended by adding the following sentence at the end thereof: "For the purposes of this section, the term 'money' includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.".

SEC. 2507. RESERVED OIL AND GAS.

(a) IN GENERAL.—Section 17(b) of the Mineral Leasing Act (30 U.S.C. 226(b)) is amended—

(1) in paragraph (1)(A), by striking out "under paragraph (2)" and inserting in lieu thereof "under paragraphs (2) and (3)"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1).

"(B) An election under this paragraph is effective—

"(i) in the case of an interest which vested after January 1, 1990, and on or before the date of enactment of this paragraph, if the election is made before the date that is 1 year after the date of enactment of this paragraph;

"(ii) in the case of an interest which vests within 1 year after the date of enactment of this paragraph, if the election is made before the date that is 2 years after the date of enactment of this paragraph; and

"(iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

"(C) Notwithstanding the consent requirement referenced in section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352), the Secretary shall issue a noncompetitive lease under subsection (c)(1) to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this Act. Such lease shall be subject to all terms and conditions under this Act that are applicable to leases issued under subsection (c)(1).

"(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

"(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to those mineral estates in which the interest of the United States becomes a vested present interest after January 1, 1990.

SEC. 2508. OUTSTANDING OIL AND GAS.

(a) IN GENERAL.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding the following new subsection after subsection (o):

"(p)(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (3), the Secretary of Agriculture is authorized to require, pursuant to regulations promulgated by the Secretary, that such activities be subject to such reasonable terms and conditions as may be necessary to protect the interests of the United States in accordance with applicable laws, rules and regulations governing the Secretary's acquisition of an interest in such lands, and in accordance with applicable laws, rules and regulations relating to the management of such lands.

"(2) The terms and conditions referred to in paragraph (1) shall prevent or minimize damage to the environment and other resource values.

"(3) The lands referred to in this subsection are those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.".

(b) REGULATIONS.—Within 90 days after the enactment of this Act the Secretary of Agriculture shall promulgate regulations to implement the amendment made by subsection (a).

SEC. 2509. FEDERAL ONSHORE OIL AND GAS LEASING.

Section 17(c)(1) of the Mineral Leasing Act is amended by adding the following after the first sentence: "If more than one qualified

person applies for a noncompetitive lease under this paragraph for any unit on the first day on which applications for noncompetitive leases may be submitted under this paragraph for that unit, the Secretary shall not issue a noncompetitive lease for that unit under this paragraph but shall make such unit available for competitive leasing under subsection (b) at the next quarterly competitive oil and gas lease sale held by the Secretary.".

SEC. 2510. OIL PLACER CLAIMS.

Notwithstanding any other provision of law, in furtherance of the purposes of the Act of February 11, 1897, commonly referred to as the Oil Placer Act, and section 37 of the Mineral Leasing Act, the Secretary of the Interior is authorized and directed to, within 90 days after the enactment of this Act, (1) convey by quit-claim deed to the owner or owners, or separately and as an alternative, (2) disclaim and relinquish by a document in any form suitable for recordation in the county within which the lands are situated, all right, title and interest or claim of interest of the United States to those lands in the counties of Hot Springs, Park and Washakie in the State of Wyoming, held pursuant to the Act of February 11, 1897, and which are currently producing covered substances under a cooperative or unit plan of development.

SEC. 2511. OIL SHALE CLAIMS.

Section 37 of the Mineral Leasing Act (30 U.S.C. 193) is amended by inserting "(a)" before the first sentence and by adding the following at the end thereof:

"(b) REVIEW.—(1) Not later than 30 days after the enactment of this subsection the Secretary of the Interior shall publish proposed regulations in the Federal Register containing standards and criteria for determining the validity of all unpatented oil shale claims referred to in subsection (a). Final regulations shall be promulgated within 180 days after the date such proposed regulations are published. The Secretary shall make a determination with respect to the validity of each such claim within 2 years after the promulgation of such final regulations. In making such determinations the Secretary shall give priority to those claims referred to in subsection (c).

"(2) The proposed regulations referred to in paragraph (2) shall be in lieu of proposed regulations concerning oil shale claims published in the Federal Register on January 9, 1991, and shall provide that oil shale claims supported a discovery of a valuable oil shale deposit within the meaning of the general mining laws of the United States on February 25, 1920, not imposed arbitrary limitations on lawful contest proceedings against such claims by the United States with respect to failure to comply with the assessment work requirements of the general mining laws of the United States or sanction an absolute right of resumption with respect to such requirements, and shall be limited in scope to oil shale claims.

"(c) FULL PATENT.—(1) Except as provided under subsection (d)(2), after April 8, 1992, no patent shall be issued by the United States for any oil shale claim referred to in subsection (a) unless the Secretary determines that, for the claim concerned—

"(A) a patent application was filed with the Secretary on or before April 8, 1992;

"(B) all requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) were fully complied with by that date; and

"(C) the claim is valid pursuant to the regulations referred to in subsection (b).

"(2) If the Secretary makes the determinations referred to in paragraph (1) for any oil shale claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this subsection, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

"(d) ELECTION.—(1) The holder of each oil shale claim for which no patent may be issued by reason of subsection (c) shall make an election under paragraph (2) or paragraph (3). Not later than 30 days after the enactment of this subsection, the Secretary shall by certified mail notify the holder of each such claim of the requirement to make such election. The holder shall make the election within such period shall be deemed conclusively to constitute a forfeiture of the claim and the claim shall be null and void.

"(2)(A) The holder of a claim required to make an election pursuant to paragraph (1) may apply for a patent within 1 year after making such election. The Secretary may issue a patent to such claim as provided under this paragraph if the requirements established under sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) are met and the Secretary determines the claim to be valid pursuant to the regulations referred to in subsection (b).

"(B) Notwithstanding any other provision of law, the patent referred to in subparagraph (A) shall be limited to the oil shale and associated minerals and may be issued only upon the payment of fair market value for the oil shale and associated minerals by the holder of the claim to the Secretary.

"(C) Any patent issued for an oil shale claim under this paragraph shall be subject to an express reservation to the United States of the surface of the affected lands, and the provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to such claim in the same manner and to the same extent as such provisions apply to the unpatented mining claims referred to in such provisions.

"(3)(A) The holder of a claim required to make an election pursuant to paragraph (1) may continue to maintain the claim by complying with the general mining laws of the United States, except in order to maintain the claim as valid such claim holder shall also make an annual payment to the Secretary of at least $1,000 for each claim. Payments received under this paragraph shall be deposited into the General Fund of the Treasury.

"(B) The holder of a claim referred to in subparagraph (A) shall comply with the provisions of section 314(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744) by filing the affidavit referred to in such section and including the payment referred to in subparagraph (A). The payment requirement shall take effect on the first day of the first month of September which occurs more than 90 days after an election is made to maintain a claim under this paragraph.

"(C) Failure to comply with the requirements of this paragraph shall be deemed conclusively to constitute a forfeiture of the oil shale claim and the claim shall be null and void.

"(D) The provisions of sections 4 and 6 of the Act of August 13, 1954 (30 U.S.C. 524 and 526), popularly known as the Multiple Minerals Development Act, and of section 4 of the Act of July 23, 1955 (30 U.S.C. 612), popularly known as the Surface Resources Act, shall apply to oil shale claims under this paragraph in the same manner and to the same extent as such provisions apply to the mining claims referred to in such provisions.

"(e) RECLAMATION.—In addition to other applicable requirements, any person who maintains a claim pursuant to subsection (d) shall be required to reclaim the land subject to such claim and to pose a surety bond or provide other types of financial guarantee satisfactory to the Secretary before disturbance of the land subject to such claim to ensure reclamation.".

SEC. 2512. HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PROGRAM.

(a) HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PLAN.—(1) Every 5 years, the Secretary of the Interior, acting through the Director of the Bureau of Mines (hereinafter referred to as the "Director"), shall develop a Plan for Health, Safety, and Mining Technology Research (hereinafter in this subsection referred to as the "Plan"). After developing a proposed Plan, the Director of the Bureau of Mines shall submit it to the Committee established under subsection (b) for its review.

(2) The Plan shall identify the goals and objectives of the Health, Safety, and Mining Technology program of the Bureau of Mines, and shall guide research and technology development under such program, over each 5-year period.

(3) In preparing the proposed Plan referred to in paragraph (1), the Director shall solicit suggestions, comments and proposals for research and technology development projects from the mining industry, labor, academia and other concerned groups and individuals.

(4) The Director shall prepare a list of all health, safety, and mining technology projects received pursuant to the solicitation referred to in paragraph (3), and all such projects initiated by the Bureau of Mines, and submit the list to the Committee established under subsection (b) as part of the proposed Plan. The list shall contain the following information:

(A) the title and a brief synopsis of each project;

(B) a justification of the health, safety, and employment benefits anticipated by each project;

(C) an estimate of the timeframe to complete each project;

(D) an estimate of the funding requirements of each project; and

(E) an explanation of how each project would assist the Bureau of Mines in achieving the goals and objectives defined in the proposed Plan.

(5) The Director shall to the extent possible adopt the recommendations made by the Committee in the report referred to in subsection (b)(4) in selecting projects for the Health, Safety, and Mining Technology program, unless the Director determines, in writing, that a deviation from such report is necessary to meet a high-priority research need that was unanticipated at the time of the submission of the Committee report. The Director shall submit an explanation for any such deviation to the Secretary and to the Congress.

(b) HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH ADVISORY COMMITTEE.—(1) There is hereby established the Health, Safety, and Mining Technology Research Advisory Committee (hereinafter in this subsection referred to as the "Committee"). The

Committee shall be composed of 14 members appointed by the Secretary of the Interior. Members of the Committee shall serve for terms of two years. Any member of the Committee may serve after the expiration of a term until a successor is appointed. Any member of the Committee may be appointed to serve more than one term.

(2) The Secretary shall appoint members to the Committee as follows:

(A) A representative from the Mine Safety and Health Administration.

(B) A representative from the National Institute for Occupational Safety and Health.

(C) Two representatives from the coal mining industry, one with expertise in surface mining techniques and one with expertise in underground mining techniques.

(D) Two representatives from the metal, non-metal mining industry, one with expertise in surface mining techniques and one with expertise in underground mining techniques.

(E) Six representatives from unions representing miners, of which 2 shall have expertise in metal, non-metal mining.

(F) A representative from a school of mines with expertise in coal mining research located in the eastern portion of the United States.

(G) A representative from a school of mines with expertise in metal, non-metal mining research located in the western portion of the United States.

(3) Members of the Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this subtitle on vouchers signed by the Chairman.

(4) Notwithstanding the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), the Committee established under this subtitle shall serve as a standing Advisory Committee to the Bureau of Mines. The provisions of section 14(b) of such Act (relating to the charter of the Committee) are hereby waived with respect to the Committee established under this subsection.

(5) The purpose of the Committee shall be to review the proposed Plan submitted by the Director under subsection (a), evaluate the list contained in such proposed Plan using the values set forth in paragraph (5), and submit the proposed Plan within 60 days after it is received by the Committee to the Director as part of a report with recommendations.

(6) Each proposal on the list submitted by the Director as part of the proposed Plan shall be assigned a value by the Committee for each of the following factors: safety, health, impact on employment of miners and timeliness of the proposed project's benefits. The values shall be as follows:

(A) Safety can assume a value of 0 to 5, where a 0 signifies little or no safety value, a 1 signifies an indirect safety benefit, a 3 signifies a direct safety benefit, and a 5 means a significant, direct safety benefit.

(B) Health can assume a value of 0 to 5, where a 0 signifies little or no health value, a 1 signifies an indirect health benefit, a 3 signifies a direct health benefit, and a 5 means a significant, direct health benefit.

(C) Employment can assume a value of 0 to 5, with a value of 0 if miners will be unemployed as a result of the research program, 5 if employment will be increased and 3 if there is no change in employment.

(D) Timeliness can assume a value of 0 to 2, where a 0 signifies that all health, safety, and productivity benefits will require 5 or more years, a 1 signifies that health, safety, and productivity benefits will be realized in 3 to 5 years, a 2 signifies that health, safety, and productivity benefits will be realized in less than 3.

(c) TECHNICAL AMENDMENT.—For the purposes of section 501(b) of Public Law 91-173, as amended, activities in the field of coal or other mine health under such section shall also be carried out by the Secretary of the Interior acting through the Director of the Bureau of Mines.

SEC. 2513. SURFACE MINING REGULATIONS.

Section 710 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300) is amended by adding at the end the following new subsection:

"(i) The Secretary shall make grants to the Navajo, Hopi, Northern Cheyenne, and Crow tribes to assist such tribes in developing regulations and programs for regulating surface coal mining and reclamation operations on Indian lands, except that nothing in this subsection may be construed as providing such tribes with the authorities set forth under section 503. Grants made under this subsection shall be used to establish an office of surface mining regulation for each such tribe. Each such office shall—

"(1) develop tribal regulations and program policies with respect to surface mining;

"(2) assist the Office of Surface Mining Reclamation and Enforcement established by section 201 in the inspection and enforcement of surface mining activities on Indian lands, including, but not limited to, permitting, mine plan review, and bond release; and

"(3) sponsor employment training and education in the area of mining and mineral resources.".

Page 705, line 17, strike "sections 122 and 123" and insert "section 122".

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. DINGELL] will be recognized for 10 minutes and the gentleman from New York [Mr. LENT] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I offer this amendment in cooperation and consultation with the gentleman from New York [Mr. LENT], my dear friend, the senior Republican member of the Committee on Energy and Commerce. The amendment has been modified to meet the concerns of my dear friend, the gentleman from West Virginia [Mr. RAHALL], whose specific concerns are now embodied in there. He and I have had lengthy discussions, both in person and through our staffs, with regard to the substance of this.

I believe that the House owes Mr. RAHALL a considerable vote of thanks, not only for the responsible fashion in which he has handled a difficult problem, but I am sure that his constituents are very pleased that he has met their great concerns in this particular matter.

□ 1440

The amendment, with this exception, is as printed in the RECORD.

Mr. Chairman, I yield such time as he may consume to my dear friend, the gentleman from West Virginia [Mr. RAHALL] for such comments as he chooses to make.

Mr. RAHALL. Mr. Chairman, I thank the distinguished chairman of the Committee on Energy and Commerce for yielding the time.

Mr. Chairman, I do rise in support of the amendments as offered by the distinguished chairman and applaud him for his willingness to work with us, and with all of us on the Interior and Insular Affairs Committee in fashioning this compromise amendment. It does keep a lot intact that is important to us in the coalfields. It does keep the emphasis upon coal, oil, and gas in the lower 48 States, and it does keep the emphasis on mining and producing our energy independent in this country, and in an environmentally sound manner. So I salute the chairman and appreciate the discussion and negotiations that he has allowed to take place between the two of us. I do ask that the Members accept the amendment of the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank my good friend.

Mr. Chairman, I reserve the balance of my time.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I must rise in reluctant opposition to this amendment because I am deeply troubled by a provision which would require the promulgation of new regulations by the Department of Agriculture for outstanding mineral rights. This provision is specifically targeted toward oil and gas operators in the Allegheny Forest. I am a strong supporter of the Allegheny Forest as a multiple use forest which is a philosophy that recognizes that the needs of the forest can coexist harmoniously with recreational and economic needs. This has proven to be very successful with regards to the Allegheny Forest—one of the best managed and balanced forests.

With respect to outstanding mineral rights—where there is no legal relationship between the United States, as the owner of the surface, and a private mineral owner of the subsurface—the Department of Agriculture has already indicated that such regulations could constitute a violation of the fifth amendment's taking clause.

But new regulation is unnecessary. There is a longstanding, existing relationship between the Forest Service, the State of Pennsylvania, the EPA, and the oil and gas operators which governs outstanding oil and gas rights and regulates environmental concerns. The oil and gas operators in the Allegheny are, with perhaps a few exceptions, sensitive to environmental concerns. Such regulation would provide

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an additional and substantial burden on those operators already in compliance with environmental rules—and may indeed duplicate regulations. In addition, this language could effectively impose such a burden that small, independent operators could be put out of business. Given that this industry is responsible for about 1,000 jobs resulting in $20 million in salaries and wages in the Allegheny Forest area—we simply cannot afford to lose this economic base. But as important, additional regulations are just not needed—the Forest Service regulations suffice to address these concerns.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, I rise in very strong support of the amendment offered by the chairman of the committee on which I am privileged to serve, the Committee on Energy and Commerce, and in opposition to my good friend from Pennsylvania who spoke about this provision.

Just let me say in response to my colleague, the gentleman from Pennsylvania [Mr. CLINGER] that the purpose of the section of which he spoke is to provide for greater environmental safeguards on oil and gas development in our national forests in the Eastern United States. In Pennsylvania we have only one national forest, the Allegheny National Forest. My subcommittee, the Subcommittee on Energy and the Environment of the Interior and Insular Affairs Committee, has held hearings there on this very provision which I wrote.

At present, the Forest Service has no regulations whatsoever, Mr. Chairman, governing oil and gas development activities on Forest Service lands where the surface, but not the minerals, are owned by the Federal Government. This section would require that these oil and gas operations be subject to reasonable terms and conditions in order to protect the United States interests in surface resources.

I want to thank the gentleman from Michigan [Mr. DINGELL] for including this provision which originally I offered, and I urge its support.

Mr. LENT. Mr. Chairman, I yield myself such time as I shall consume.

Mr. Chairman, I support the provisions in the en bloc amendment. I originally opposed these provisions because of the adverse impact upon the Government's management of our Nation's coal and oil resources.

The most objectionable provisions, those dealing with replacement of water, leasing of the naval shale oil reserves, and other provisions incorporating the settlement of an agreement in a recent lawsuit have now been removed. As a result, I am pleased to be able to report, Mr. Chairman, that I support the remaining provisions of the en bloc amendments.

Mr. Chairman, I yield back the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Michigan [Mr. DINGELL].

The amendments en bloc were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 9 printed in House Report 102–533.

AMENDMENT OFFERED BY MR. THOMAS OF WYOMING

Mr. THOMAS of Wyoming. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. THOMAS of Wyoming: Page 703, strike line 23 and all that follows through line 4 on page 704 (and redesignate succeeding sections accordingly).

The CHAIRMAN. Under the rule, the gentleman from Wyoming [Mr. THOMAS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself such time as I may consume.

I rise to urge the committee to strike title XXV which extends the abandoned mine land tax for an additional 15 years, from the present expiration date of 1995 to the year 2010. This extension is unnecessary and, frankly, is nothing less than regional protectionism at the expense of electric consumers and utilities.

The AML fee has existed since enactment of SMCRA in 1977, and was intended to restore lands adversely affected by coal mining before Federal regulations took effect. In 1990, the tax of 15 cents a ton on underground coal and 35 cents a ton on surface coal was extended to 1995.

The AML Program has been highly successful and by the end of the current authorization, virtually all of the priority-1 and priority-2 sites will be reclaimed. The National Academy of Sciences said in 1988 that the reclamation projects identified at that time could be taken care of with the revenue collected through 1992.

There are also serious questions about the priorities of the AML projects recently added to the list. The GAO and Congress have leveled criticism at various projects that have been funded with AML tax money, and the AML Program has been heavy with administrative costs—more than 25 percent of the collections have gone to overhead. The Office of Surface Mining, which administers the AML Program, has said only a few States will have any significant projects remaining after the expenditure of all the revenues anticipated through this year. Those remaining sites can be readily taken care of with the State programs created through the AML Program.

This extension is a tax extender, plain and simple. The AML tax and other taxes and royalties make up half of the cost of coal coming from Wyoming's Powder River Basin. And if this extension to the year 2010 is approved, consumers across the country and the coal industry will pay more than $4 billion into a program that has been quite successful but is virtually complete. That means almost $332 million in Ohio, $356 million in Indiana, and more than $445 million in Texas—all for a program that's virtually completed its priority tasks.

Also, there were no hearings on this issue in the authorizing committee, and when it was originally raised in markup of the energy bill, the purpose for the extension was to fund a nonexistent retired miners health benefit plan. Resistance from the Ways and Means Committee and others in this body stripped that $50 million a year rakeoff from the section before it came to the floor. The extension of the AML tax remains, though, a tremendous, unnecessary economic burden.

Finally, Mr. Chairman, this extension of the AML tax is really regional economic protectionism disguised as environmental action. The low-sulfur coal of the surface mines in the West—the very coal that will help meet the requirements of the Clean Air Act reauthorization we passed just 2 years ago—is taxed 133 percent more than coal from underground mines. By keeping the AML tax in place and making consumers shoulder the burden, this extension would place cleaner Western coal at a market disadvantage and could hinder the goals of the Clean Air Act.

Again, I urge the Members to support my amendment and reject an unnecessary, unreasonable, and protectionist extension of the $4 billion AML tax. The chairman of the Energy and Commerce Committee asked the Rules Committee not to make this section in order because it involved matters outside the scope of this legislation; the Ways and Means Committee asked the Rules Committee to strike this section from the bill; and the administration has clearly stated its opposition to this extension. The reviews are in, Mr. Chairman, and this AML extension gets two thumbs down. Vote for the Thomas amendment striking title XXV.

□ 1450

Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MILLER], the chairman

of our Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, I rise in strong opposition to the Thomas amendment to strike the extension of the abandoned mine reclamation fund.

In 1976 Congress enacted one of the most successful pay-as-you-go environmental cleanup programs ever signed into law: the abandoned mine reclamation program title IV of the Surface Mining and Reclamation Act.

This program—generally referred to as AML—imposed a modest fee on domestically mined coal to be used to cleanup coal mines abandoned in an unreclaimed condition.

To understand the need for this program, you have to understand how coal mining worked before modern reclamation laws. When the coal was exhausted or the operation became uneconomic, the operator simply walked away, leaving:

Hazardous open shafts and pits, mine fires, and gases;

Unstable impoundments subject to failure and flooding;

Subsidence and caving as well as continuous acid drainage; and

Siltation and other water pollution.

And that's just for starters.

Under the AML Program, these problems and scores of others have been successfully treated without expenditure of taxpayer funds, the AML Program is entirely self-supporting.

But we need to finish the job and extension of the AML Program to the year 2010 will do just that.

The Thomas amendment to strike the AML extension should be defeated.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wyoming.

At issue here is the abandoned mine reclamation fund, which serves as the coal industry's version of the Superfund.

For each ton of coal mined, a fee is assessed, deposited into the fund, and then made available to reclaim abandoned coal mine lands.

These old mined-out areas pose serious health, safety, and environmental threats. There have been numerous deaths at these sites.

We have made a great deal of progress since 1977 when the fund was established to address these problems.

Yet, when the existing authority to collect the reclamation fee expires at the end of fiscal year 1995, OSM's own figures indicate approximately $1.6 billion worth of high-priority health and safety threatening sites will remain unreclaimed.

Contained in the pending legislation is an extension of the fund through 2010, the year the Interior Department has said it would be necessary in order to address all of the remaining high-priority sites.

The gentleman from Wyoming is opposed to this provision.

He does not feel that abandoned coal mines are a national problem, that this is something of concern only to States in the Midwest and the Appalachian Region.

However, the question we must ask is who has benefited from the exploitation of our coal resources?

Has it been only West Virginians or Pennsylvanians?

The answer is "no." The Nation as a whole has benefited from the extraction of coal from the Midwestern and the Appalachian States—coal which fueled the Industrial Revolution and today continues to provide a stable source of fuel to produce electricity for much of the country.

The question we must ask ourselves is who bears responsibility for what, when these old mine sites were operating, can only be termed the rape of the Appalachian region?

Is it the people of Appalachia? Are the people from Kentucky, Ohio, and Tennessee solely responsible for the scars left on their landscape due to coal mining practices of the past?

The answer is "no."

Companies which produced coal in Pennsylvania 20 years ago, and left the land unreclaimed, may be producing coal in Wyoming and Montana today.

The fact that a given Western State may soon no longer have any abandoned coal mine lands left simply has no bearing on whether the companies producing coal in that State should pay some type of fee and contribute to the program.

To say otherwise is like arguing that since my State has no Superfund sites listed for remedial action, the chemical and petroleum industries in my State should not pay into Superfund.

It is like saying that since I have no commercially harvestable timber or national forests in my State, no portion of my tax dollars should go to subsidize the Forest Service timber harvest program.

The gentleman's amendment ignores considerations of accountability and social responsibility.

I would further note that this body addressed the question of extending the abandoned mine reclamation fund in 1989. At that time, by a vote of 281 to 63 the House approved an extension measure.

Mr. Chairman, I urge the defeat of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself 15 seconds simply to say that there has been some responsibility.

Thirty-five percent of the money raised in Wyoming has been used in our State, and 65 percent has gone to fulfill this obligation.

Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. LENT], the ranking member of the committee.

Mr. LENT. Mr. Chairman, I would like to support this amendment. I think it is a good one.

This is a new tax, plain and simple, as I read it. There is a tax called the abandoned mine land tax that is going to expire in 1995, and the provision that has been inserted in the Interior title XXV would extend that tax an additional 15 years.

If this extension, which would go to the year 2010, is approved, consumers across the country and the coal industry will pay more than a quarter of a billion dollars a year into a program that has been quite successful but is virtually complete now.

This means almost $8 million per year in Wyoming, $13 million a year in Ohio, $14 million a year in Indiana, more than $17 million a year in Texas. So over the life of the extension, this tax will cost consumers and producers more than $4 billion, and that is probably why the Committee on Ways and Means had the good judgment to strike this coal-tax provision during their committee markup.

I would urge a "yes" vote on this amendment.

Mr. RAHALL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I thank the gentleman for yielding me this time.

I will try to make this brief, although the abandoned-mine program is a long story.

Chairman Udall led us in our effort to establish this fund in 1977. This is not a new tax but a continuation of an existing charge of 35 cents a ton on strip mine coal and 15 cents a ton on deep-mine coal to restore the areas in our country when mining was privileged to go on without restoration.

Today, we have laws, Federal and State laws, that protect the mining areas from the desecration caused by mining, but during World Wars I and II when the coalfields of West Virginia, Pennsylvania, Kentucky, and throughout the Eastern United States fueled the free world for the victories in World Wars I and II, we could not place restrictions. It would have been unpatriotic to do so. Our lands were desecrated. Our communities were desecrated. Coal banks and slate dumps were created, all in the cause of providing the energy necessary to fuel our country, our industry, and the war efforts.

All we have done since 1978 is to now try to restore that land. We have created public parks. We have restored the land. We are almost there. Let us finish the job and defeat this amendment.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the Thomas amendment.

This extension of the AML tax is really a regional economic protectionism designed as environmental action.

The low-sulfur coal of the surface mines of the West, the real coal that will be used to meet the requirements of the Clean Air Act reauthorization we passed 2 years ago is taxed 133 percent more than the coal from underground mines. By keeping the AML tax in place and making consumers shoulder the burden, this extension will place cleaner Western coal at a market disadvantage and hinder the goals of the Clean Air Act.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield the remainder of my time, 30 seconds, to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in support of the amendment of my colleague on the Mining Subcommittee. Although Nevada has not 1 ton of coal mined within its borders, my constituents do indeed consume coal—in the form of electricity. I agree with the gentleman from Wyoming that consumers ought not to have to pay this tax forever.

I note that the original text of the energy bill now contains language to prevent ratepayers served by nuclear utilities from open-ended liability for costs associated with the clean-up of uranium enrichment sites. In my view coal-fired utilities should receive the same treatment from the Congress. Let's not kid ourselves. If we extend this tax for another 15 years beyond its scheduled expiration it is very likely this tax will never go away.

Last, I urge a vote to strike section 2501 because the bill contains reference to a subsection of the Surface Mining Act that does not even exist. This clause is left over from the Interior Committee print wherein $50 million per year were to be diverted to fund retiree health benefits. Although this diversion was supposed to be deleted for purposes of original text, its ghost still lingers in the text we are about to vote upon. That is reason enough to vote "yes" on the Craig amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, the extension of the abandoned coal mine reclamation tax puts a completely unnecessary burden on electric power companies and customers for an additional 15 years.

It is estimated that people in North Dakota will pay $55 million in the form of electric power rates to pay for the extension of this fee to the year 2010, but the State will receive no benefits because the reclamation work for which the fee is intended has already been completed. In fact, all of the necessary reclamation work projected to be done across the entire Nation with revenue from this fee is to be completed by 1955.

The extension of the fund is an example of runaway taxation—a fee that is to be charged long after its purpose has expired. It is inexcusable to add 15 years of charges for a program that is completed and paid for.

The Thomas amendment should be passed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming [Mr. THOMAS].

The amendment was rejected.

The CHAIRMAN. Under the rule, it is now in order to consider amendment No. 10 printed in House Report 102–533. The gentleman from Connecticut does not appear to be present in the Chamber to offer his amendment.

It will now be in order to consider amendment No. 11 printed in House Report 102–533.

□ 1500

EN BLOC AMENDMENT, AS MODIFIED, OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, pursuant to the rule, I offer an en bloc amendment, as modified.

The CHAIRMAN. The Clerk will designate the en bloc amendment.

The text of the en bloc amendment, as modified, is as follows:

En bloc amendment, as modified, offered by Mr. DINGELL:

Page 727, strike line 17 and all that follows through page 729, line 12, and insert the following:

"(a) IN GENERAL.—No provision of this Act, or of the Low-Level Radioactive Waste Policy Act, may be construed to prohibit or otherwise restrict the authority of any State to regulate, on the basis of radiological hazard, the management, storage, incineration, or disposal of low-level radioactive waste, or other practices or materials involving low-level radioactivity, if the Nuclear Regulatory Commission, after January 1, 1990—

"(1) exempts such waste, practices, or materials from regulation; or

"(2) issues a regulation governing such waste, practices, or materials that substantially reduces protection of the public health and safety.

"(b) AUTHORITY TO EXCLUDE WASTE.—Any State that is a member of a compact for the disposal of low-level radioactive waste may prohibit or otherwise restrict the importation into such State, for purposes of storage or disposal in such State, of low-level radioactive waste, or other low-level radioactive materials, generated outside the borders of the compact region of such State, if the Commission, after January 1, 1990—

"(1) exempts such waste or materials from regulation; or

"(2) issues a regulation governing such waste or materials that substantially reduces protection of the public health and safety.

Page 730, strike line 5 and all that follows through page 733, line 2 (and redesignate the subsequent provisions, and conform the table of contents, accordingly).

Page 733, line 23, strike "or" and all that follows through "environment" on lines 24 and 25.

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. DINGELL] will be recognized for 10 minutes and the gentleman from New York [Mr. LENT] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to my dear friend, the gentleman from California [Mr. MILLER], the chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I seek recognition for purposes of engaging in a colloquy with the chairman of the Energy and Commerce Committee on subtitle B of title 29, as reported by the Rules Committee.

The Committee on Energy and Commerce and the Committee on Interior and Insular Affairs have reached a compromise on title 29. Unfortunately, we were unable in the short time available to reach agreement on all the details of subtitle B, standards for clean-up of contaminated sites.

This subtitle would codify the existing authority of the Environmental Protection Agency to promulgate general standards for the cleanup of radiologically contaminated site, and set a deadline for such promulgation. In the interest of reaching agreement, the Interior Committee has agreed to drop subtitle B from the bill today.

I would ask the gentleman from Michigan to confirm that the Energy and Commerce Committee generally agrees with the intent of subtitle B.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman from California is correct. The Committee on Energy and Commerce does agree with the general intent of subtitle B.

I would note further that the EPA should, even in the absence of legislation, immediately proceed to promulgate standards on the basis of its existing authority.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman. I agree with the gentleman that it is more appropriate for the EPA to act immediately to set generally applicable standards.

In addition, we feel it would be advisable for the Nuclear Regulatory Commission to postpone its own promulgation of standards for clean up of contaminated sites pending the EPA's action setting these general standards.

Mr. Chairman, I rise in support of the compromise en bloc amendment offered by Chairman DINGELL to the radiation protection title of H.R. 776—title XXIX. This amendment is the product of negotiations between the Interior and Energy and Commerce Committees.

The radiation protection title was reported by the Interior Committee on April 9, 1992, as title II of the Energy Development and Environmental Protection Act. The Rules Committee then incorporated the title into the H.R. 776 floor vehicle as title XXIX.

The compromise amendment makes technical changes to subtitle A "Below Regulatory Concern" and subtitle C, "Disposal Standards at Mill Tailings Sites" as reported by the Interior Committee.

Subtitle A revokes the Nuclear Regulatory Commission's below regulatory concern policy

to deregulate certain radioactive wastes and protects the right of States to regulate any radioactive wastes, practices or materials if the NRC either deregulates or relaxes regulation in this area.

The en bloc amendment also strikes subtitle B "Standards for Cleanup of Contaminated Sites" which directs EPA to issue standards for the decontamination of radiation contaminated sites. I am disappointed that it was necessary to strike this subtitle in order to reach agreement with the Energy and Commerce Committee. Currently, there are no Federal standards in this area even though a standard is desperately needed to rationalize the cleanup of thousands of contaminated sites across the Nation. Billions of dollars could be wasted and public health and safety threatened through botched cleanups if EPA does not issue standards in this area immediately.

Mr. Chairman, I am pleased that the committees were able to reach agreement on this important legislation to ensure that the right of the States to protect public health and safety is preserved. I hope that the committees can continue to work together to resolve the important issue of the need for an EPA cleanup standard for irradiated sites.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. LENT. Mr. Chairman, I rise in support of Mr. DINGELL's en bloc amendment which includes a compromise on below regulatory concern.

This amendment deals with provisions reported by Mr. MILLER's committee which permit a State to establish its own regulations for very low-level radioactive waste if that State decides for any reason that the Nuclear Regulatory Commission has relaxed its standards. This creates a crazy quilt of 50 possible State determinations of what can and cannot be disposed.

This amendment is a step in the right direction because it reduces the potential for States to engage in mischief by clarifying the standard under which States can exercise regulatory authority. The amendment also clarifies that these provisions do not apply to emissions which are regulated under the Clean Air Act, and it maintains an incentive for States to enter into low-level radioactive waste compacts by limiting the authority to exclude materials covered by the amendment to compact member States.

While this amendment is a step in the right direction, it still creates a big disincentive for NRC to take appropriate steps which most of us would like it to take. For example, if NRC sets decontamination and decommissioning standards for old industrial sites, then a State could act to set lower standards. In other words, NRC regulating creates the opportunity for the States to regulate.

Additionally, the compromise language still presents the possibility of dual regulation by States and the Federal Government of very low-level radioactive waste.

Thus, while I support this amendment, I hope the problems I have just listed will be fixed in conference.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise to express policy-related reservations I have with subtitle C of this title. Subtitle C would prohibit the disposal of waste at title II sites as defined under the Uranium Mill Tailings Radiation Control Act of 1978, unless the Governor of the receiving State agreed. Mr. Chairman, this is in essence an interstate ban on waste shipments.

Furthermore, this amendment also seems to impose redundant restrictions and regulations on the disposal of 11e.2 material as defined under the Atomic Energy Act.

While I will not oppose this title today, I wish to make my objections to this subtitle known.

Mr. LENT. Mr. Chairman, I yield back the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the en bloc amendment, as modified, offered by the gentleman from Michigan [Mr. DINGELL].

The en bloc amendment, as modified, was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 13 printed in House Report 102–533.

AMENDMENT OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GEJDENSON:

TITLE XXXI—CLASS C AND LOW-LEVEL RADIOACTIVE WASTE

SEC. 3101. REMOVAL OF CLASS C AND HIGHER RADIOACTIVE WASTE FROM LOW-LEVEL PROGRAM.

(a) IN GENERAL.—Section 3 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021c) is amended—

(1) in subsection (a)(1)(A), by striking "class A, B, and C" and inserting "class A or B";

(2) in subsection (a)(2)(A), by inserting "class A or B" after "is not"; and

(3) in subsection (b)(1)(D), by striking "class C" and inserting "class B".

(b) REGULATIONS.—The Nuclear Regulatory Commission shall, not later than 9 months after the date of the enactment of this Act, issue regulations to carry out the requirements of the amendments made by subsection (a).

SEC. 3102. REGULATIONS ON SITING OF LOW-LEVEL RADIOACTIVE WASTE FACILITIES.

(a) ISSUANCE.—The Nuclear Regulatory Commission shall issue regulations by not later than 9 months after the date of the enactment of this Act governing the siting of low-level radioactive waste disposal facilities.

(b) CONTENT.—Such regulations shall include—

(1) requirements that any candidate site be located—

(A) in an area of low population density where the potential for future population growth is estimated to be limited; and

(B) at least 5 kilometers from—

(i) the residential property limits of the nearest urban community in existence at the time of site selection; and

(ii) schools and other facilities that primarily serve children; and

(2) such other requirements as the Nuclear Regulatory Commission determines to be appropriate.

SEC. 3103. AVAILABILITY OF REPOSITORY FOR DISPOSAL OF CLASS C AND HIGHER RADIOACTIVE WASTE.

Section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) is amended—

(1) by striking "and" at the end of subparagraph (A) and by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) other radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for class B radioactive waste, as defined by section 61.55 of title 10, Code of Federal Regulations, as in effect on January 26, 1983; and".

The CHAIRMAN. Under the rule, the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 20 minutes, and a Member opposed to the amendment will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. VOLKMER. Mr. Chairman, if a Member wishes to ask for a division on the amendment, is it proper to ask for it at this time or when the question is put?

The CHAIRMAN. At either time it would be appropriate.

Mr. VOLKMER. Mr. Chairman, at this time I ask for a division of the question on the amendment.

The CHAIRMAN. The gentleman's request for a division of the question on the three sections of the amendment is noted.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me just take a few minutes to briefly describe the amendment and then hopefully we can spend some time with our colleague to review his concerns.

The amendment has some very basic principles, and that is when it comes to low-level waste and the difficulty as we go across the country, even in some of our very large States, in siting nuclear waste facilities, the low-level waste facilities that many of us had hoped the multi-State compacts would have solved.

From the experience in my State, one of the things that has become clear to me is that the standards are inadequate. We found in eastern Connecticut that suddenly the people who are siting the facility had overlooked housing developments and schools that were only a stone's throw away from the proposed low-level site, so what we

propose in this amendment is basically two things. The first is that there be a greater distance, that the sites must be in an area of low population density, that they are at least 5 kilometers from an urban community and 5 kilometers from a school community center and a facility serving children, so that they are at least somewhat removed from highly densely populated areas, or places where young people would congregate.

The reason for this is obvious. Many of our concerns about radiation, it is the long-term exposure that gives the greatest concern, so having young people exposed to this potential hazard over a long period of time during their school years is something we would rather avoid, so we move the site away from schools. We move them away from densely populated areas. That is the first part of the bill.

The second part of the bill separates the low-level wastes into two categories, and again we have chosen these on some very basic and obvious categories.

In the low-level waste category are three types of wastes: class A, class B, and class C. Class C is the only one of those three that requires a 500-year barrier.

□ 1510

Classes A and B require 100-year barriers each. So, again, to try to facilitate what I believe will be a growing challenge to all the States in the Nation to site facilities for low-level waste, we combine these two issues. The first is to remove the facilities from the immediate area of schools and places where populations accumulate, high-density population areas, and, second, to strip away the most radioactive of this waste, that waste which, as compared to the rest of the low-level waste, requires a 500-year barrier rather than a 100-year barrier.

Mr. Chairman, with that opening statement, I would reserve the balance of my time.

The CHAIRMAN. Is there a Member in opposition to the amendment?

Mr. DINGELL. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] will be recognized for 20 minutes.

Mr. DINGELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I had previously asked for a division of the question.

Mr. Chairman, I ask unanimous consent to withdraw that request and not ask for a division.

The CHAIRMAN. The demand for a division of the question is withdrawn.

Mr. VOLKMER. Mr. Chairman, I would like to say to the gentleman from Michigan that I have some severe reservations about parts of this amendment, and I oppose those parts and not others. However, I take the position to vote the whole thing down.

Mr. DINGELL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the gentleman from Missouri [Mr. VOLKMER] has made a large part of my speech. The amendment should be voted down, vigorously, overwhelmingly, and enthusiastically.

Mr. Chairman, my good friend, the gentleman from Connecticut [Mr. GEJDENSON] for whom I have enormous respect, has reminded us of the debate which took place on the high-level nuclear waste siting provisions late last week.

My colleagues will remember the bitterness and acrimony, they will remember the difficulty that existed with regard to persuading the State to accept the high-level waste.

What the gentleman's amendment does is sort out the low-level waste, nuclear waste. It requires that part of it be stored in a high-level nuclear waste repository. It requires that the balance remain in State custody.

What this means is that we will be overriding and doing away with the changes in law which were adopted a few years ago at the requests of the Governors, at the requests of the State legislatures, which gave the States the responsibility—they sought it and they got it—the responsibility to handle this, their generated nuclear waste of a low-level character.

Now, this means that we will have to set up another whole Yucca Mountain repository for this category of waste. It means that all of the bitterness and all of the angry discussion which occurred last week about Yucca Mountain is going to be replayed in here.

This, the waste that this amendment would give the Federal Government responsibility to store, is not high-level nuclear waste, it is low-level nuclear waste.

It is relatively safe, it is relatively easily managed, but some of the statistics as to what this amendment would do are interesting. First of all, it would require the Federal Government to take back an enormous amount of nuclear waste which the States have said they want to store and they want to manage pursuant to interstate compact.

Now, if the first repository at Yucca Mountain succeeds, the U.S. Government will have barely enough storage capacity for existing high-level nuclear waste. it is currently estimated that the United States generates 30,000 cubic feet of high-level spent fuel every year. This amendment would require that 10,000 cubic feet of class C waste generated annually be also sent to the permanent repository.

Mr. Chairman, this means that very shortly we will find the need for us to commence the management of a substantial additional amount of nuclear waste which the States said they were going to take over. This also means, I say to my colleagues, that those colleagues who come from dry States, Western States, States which are suitable for the placement of nuclear waste, should look to the possibility that they will have a high-level nuclear waste facility possibly in their area, for low-level nuclear waste, which will be imposed upon them by the Federal Government because we are generating enormous amounts of this waste and it has to be put somewhere.

Mr. Chairman, not only does this amendment require the development of a second permanent repository, but the fact is that class C waste does not need long-term permanent disposal. The Governors have said so, the State legislatures have said so, the Nuclear Regulatory Commission have all said so.

The typical half-life of this class C waste is about 20 years. High-level nuclear waste, on the other hand, contains much more dangerous substances, such as plutonium-239, which has a half-life of something like 24,000 years.

If you want to have the Federal Government, in a time of budget constraints when we cannot assist the cities, when we cannot deal with health care needs, when we cannot deal with highways, when we do not have enough money for conservation, when Social Security is threatened and when every program in the Federal Government is threatened, to have to take on additional high-cost programs of storing low-level nuclear waste, then of course you should vote for this amendment.

If you do not and you want to let the States carry forward the responsibilities which they have already said they want, which they have accepted and upon which they have now formed a series of compacts to place this low-level waste, then by all means you should vote against the amendment. If we are to address changes to the compact system, we must do it comprehensively, not in a piecemeal fashion. The amendment is irresponsible, it is mischievous, it is costly, and it is going to cause substantial additional trouble to the Federal Government and to this body if you vote for this amendment.

Mr. GEJDENSON. Mr. Chairman, I yield myself such time as I may consume for the purpose of engaging in small dialog with my friend, the gentleman from Michigan [Mr. DINGELL].

Mr. Chairman, it pains me to be on opposite sides of this or any other issue with my friend from Michigan. I think that obviously there must be some misunderstanding, because I would believe that he would come out where we are on this.

First of all, I have several things, it is not our intention that there need be a second site, that the originally planned for high-level site should be able to take all of this C classification

waste. And I guess what I would like to ask the gentleman, is this—and I say—if the gentleman would like to comment on that, I would be happy to yield him some time—but second, it seems to me that the C-level waste, which has plutonium in it, which primarily comes from nuclear powerplants, as compared to the medical and research wastes that are in categories A and B, does need stabilization for five times as long a period as the rest of the low-level waste.

And I understand where the gentleman in coming from when he says this is just kind of putting off a battle. I come at it from the other direction, that I think it makes it easier to site these facilities when you are dealing with items that are not as dangerous.

So I guess there are two questions. First, why is it his belief that we need a second site? Is it the volume that he believes that Yucca Mountain cannot handle? Second, there is this difference in the stabilization needs for C waste, which is 500 years rather than 100 years. Is that not a rational place, since A and B only have to be stabilized or contained in 100-year barrier, and this in the 500-year barrier, does that not make sense?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the chairman.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, the answer to the question is no, it does not. And the hard fact is that we generate 30,000 cubic feet of high-level spent fuel each year. This amendment would require us to store, in addition to that, 10,000 cubic feet of class C waste, which is much less dangerous, in a very high cost repository, substantially increasing the cost of storage.

That, I think, is fiscally unwise at a time of major shortages. It is clear that there is not now a sufficient amount of space in the permanent repository to meet the projected loads of nuclear fuel and other high-level permanent waste.

So there are two things wrong with the amendment and I say this with great respect and great affection for my good friend from Connecticut: First of all, it moves low-level waste into a high-level repository, it requires high-cost expenditure effort to control and contain that waste. That is extremely unwise; it wastes a lot of money.

Second of all, it is going to consume more space than is available to handle the nuclear waste of this country.

There is a third argument, and that is that it absolves the States of a major part of the responsibility which they have assumed in legislation adopted earlier by this Congress, at the request of the Governors and at the request of the State legislatures.

Mr. GEJDENSON. Mr. Chairman, reclaiming my time—and I thank the gentleman for his answer—I just want to say these two final points. One, I believe it is going to be impossible for the 50 States, under the present configuration, to site these facilities and that over the long term, if we adopt this amendment, we will have safer low-level facilities and we will be much more likely to site them.

I thank the gentleman for his earnest comments.

□ 1520

Mr. DINGELL. Mr. Chairman, if my good friend desires to deal with the question of low-level waste and to absolve the States of the cost and the need to conduct that program, then he should, by all means, deal with all of the low-level nuclear waste issues comprehensively, not just a small part, which is what this amendment does.

Mr. GEJDENSON. Mr. Chairman, reclaiming my time again, I just say I think we just passed an amendment which removed some radioactive waste from the daily landfills, which I applauded the chairman for and the committee's action on, and I think this goes on to the same kind of rational division.

Mr. Chairman, I yield 4 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise today in strong support of the amendment offered by my colleague, the gentleman from Connecticut. This amendment mirrors legislation that we introduced last October.

This amendment would establish new requirements governing the disposal of low-level radioactive waste. It would provide that sites being considered for low-level waste disposal facilities must be located in areas of low-population density, which have limited potential for future population growth, and which are at least 5 kilometers away from urban residential property limits and from schools and other facilities that primarily serve children. Currently a waste facility can be 2 kilometers from a residential area or school. The amendment would require the Nuclear Regulatory Commission to issue new regulations extending the distance from 2 to 5 kilometers.

In addition, this amendment would also remove class C and above wastes from State responsibility under the low-level waste disposal program. Currently there are three classes of waste for near-surface disposal: class A, class B, and class C and above. Class C and above wastes are the most highly radioactive of low-level wastes. They are generated primarily by nuclear power plants. While these wastes constitute about 1 percent of all low-level waste by volume, they constitute approximately 60 percent in terms of radioactivity. This amendment would provide for the disposal of class C and above wastes in facilities by the Federal Government for high-level radioactive waste disposal. This properly classifies hazardous waste material into a more suitable designation for future storage in a high-level waste facility, which would then be the responsibility of the Federal Government rather than the States.

Many States presently struggle with the chore of siting low-level waste facilities, my State of Connecticut among them. I know first-hand of this crisis. Connecticut has experienced this struggle recently over proposed siting ramifications. This amendment will ensure communities that a selected site will not be near schools or growing population. In addition, it will remove the most dangerous types of wastes from the facilities. The site selection process should not be left solely to the States. Congress should provide guidance in the protection of public health and safety.

Present law fails to address the pressing safety needs of thousands of individuals in numerous communities. It is time to correct this now before it jeopardizes the health and safety of future generations.

I urge my colleagues to support this amendment.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, Members of the Committee, I had previously asked for a division on this amendment in order to basically oppose that part of it which we have been speaking of here, and that is a siting of these low-level wastes, low-level nuclear wastes, facilities, and in the present law, which has been working, we had made provisions for a compact of States in various areas in order to work together in order to site these nuclear sites for this type of waste. That is working. It is working well.

But now what we are finding, it appears to me, is that in certain areas they do not want that which is generated in their areas. They want to take it to other areas, and I do not think that that is proper, nor is it proper and it does not make sense to me, to build another Federal depository when we are having trouble enough building one, and then take it from all over the country to that one Federal one, unless the gentlewoman would like to have that one in Connecticut. Maybe they would like to have it in Connecticut and we could put it all in there. I do not hear the gentlewoman from Connecticut [Mrs. KENNELLY] saying that.

Mrs. KENNELLY. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentlewoman from Connecticut.

Mrs. KENNELLY. No thank you.

Mr. VOLKMER. I did not think you would want it. But do not send me yours either.

Mr. GEJDENSON. It is not going to the gentleman.

Mr. VOLKMER. I know that.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that I be permitted to yield 6 minutes to the gentleman from New York [Mr. LENT] for use in debate any way he chooses.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Miller amendment offered by the gentleman from Connecticut [Mr. GEJDENSON] to move responsibility for class C radioactive waste, which is the most radioactive of the low-level wastes, from the States. The Miller amendment makes this waste orphan waste. It does not automatically become high-level radioactive waste although that presumably is the author's intent.

The effect of this amendment is to shift responsibility for class C radioactive waste from the States which have successfully disposed of this waste for years at the three existing low-level radioactive waste repositories to the Federal Government for disposal in the high-level waste repository which will be completed who knows when.

Contrary to what the gentleman from Connecticut [Mr. GEJDENSON] is arguing in support of this change, removal of class C waste will not lead communities to open their arms to low-level radioactive waste storage facilities. It will only encourage further politicizing of the process, raising the hope of putting responsibility for disposal of all low-level radioactive waste on the Federal Government.

I urge my colleagues to oppose this amendment.

Mr. Chairman, I yield 1 minute to the distinguished ranking member of the Subcommittee on Energy and Power, the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

For years, the States have had the responsibility of disposing of class C radioactive wastes at existing low-level waste repositories. This amendment would transfer that responsibility to the Federal Government and require disposal of class C wastes in the high-level waste repository.

Unfortunately, the high-level repository is not completed, nor do we have any guidance as to when it will be completed. The effect of this amendment, therefore, is to make class C waste orphan waste and further frustrate our attempts to develop safe and efficient alternative sources of energy.

Mr. Chairman, this amendment frustrates our goal of greater energy security, and I urge my colleagues to oppose the amendment.

□ 1630

Mr. LENT. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Chairman, I simply will associate myself with the remarks that have been made by the gentleman from Michigan [Mr. DINGELL], the gentleman from New York [Mr. LENT], and the gentleman from California [Mr. MOORHEAD], concerning the implications of the reclassification of class C waste into high-level waste.

Mr. Chairman, let me spend my time talking about the provisions of the amendment that relate to the siting requirements. First of all, it is interesting to note that virtually every person in this country except the gentleman from Connecticut [Mr. GEJDENSON] and virtually every jurisdiction in this country, apparently with the exception of the State of Connecticut, measures distances in miles. The gentleman from Connecticut [Mr. GEJDENSON] measures distances in kilometers, for what reason I do not know.

This amendment essentially places the Nuclear Energy Commission in the business of local land use planning. What is a more local issue than land use planning? What is a more local issue than determining where certain activities will take place in a local jurisdiction?

But now, because of problems apparently that arose in Connecticut, we are suggesting that the Nuclear Regulatory Commission should determine where radioactive nuclear waste sites should be located in a local jurisdiction.

Mr. Chairman, the Nuclear Regulatory Commission has problems enough of its own in doing the things that it was chartered to do when it was established. Now we are to say that it is to impose its will over local jurisdictions to determine where nuclear waste sites should be located.

Mr. Chairman, I think that there could be no more pure local decision than that. I do not see why we should take it away from the local jurisdictions. It is for them to decide and for their voters to judge the wisdom of their decision.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I think I can answer many of the questions of the gentleman from Arizona. I would precisely like to answer the issue of kilometers.

It is in the Nuclear Regulatory Commission's own regulations that they use the kilometer measurement. In trying to be consistent with that, we are trying to extend the present 2 kilometers to I think a more reasonable 5 kilometers.

Mr. RHODES. Mr. Chairman, reclaiming my time, I thank the gentleman from Connecticut for his explanation. Consistency certainly is something for which the gentleman from Connecticut [Mr. GEJDENSON] is well known. I appreciate his assistance.

The CHAIRMAN. The Chair will inform Members that the gentleman from New York [Mr. LENT] has 30 seconds remaining, the gentleman from Connecticut [Mr. GEJDENSON] has 8 minutes remaining, and the gentleman from Michigan [Mr. DINGELL] has 8 minutes remaining.

Mr. LENT. Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I have been much interested in the excellent explanation set forth by my dear friend, the gentleman from Connecticut [Mr. GEJDENSON], and also the admirable comments made by the distinguished gentlewoman from Connecticut [Mrs. KENNELLY].

I am beginning to understand a little bit about what this amendment does because I have taken the trouble to read it. All of a sudden I find that this amendment says that the Nuclear Regulatory Commission will set up standards with regard to low level nuclear waste storage facilities.

Mr. Chairman, I am interested in this because, first of all, that power was delegated to the States and State compacts. I get the feeling that this amendment is trying to take back from the States and the State compacts the authority which we gave them earlier to draft the kinds of regulations with regard to siting and safety which would be associated to the establishment of these low level nuclear waste sites.

So essentially what we are doing is taking back from the States by the amendment that is offered by the gentleman from Connecticut [Mr. GEJDENSON] the authority which was given to the States and to the interstate compacts to deal with siting questions, safety, environmental protection, and health.

Mr. Chairman, I am unaware of any need for that to be done, since it directly overrides the actions which the Congress took earlier in response to a request from the Governors and from the State legislatures.

Now I note something else. I am sure my colleagues here concerned with tight budgets would be interested in this. I mentioned this will probably occasion the siting of a second Yucca Mountain facility, because we are generating waste faster under the amendment which the gentleman moves than we will be able to store at Yucca Mountain.

I would observe that there is another interesting phenomenon which comes to mind, and that is that the State of Connecticut is an enormous generator,

one of the largest, of class C waste in the country. I thank the gentlewoman from Connecticut [Mrs. KENNELLY] for nodding affirmatively, because that is the case.

What this tells me is that Connecticut, through its very able and outstanding elected Representatives, particularly my good friend, the gentleman from Connecticut [Mr. GEJDENSON], has figured out an adroit way to have the Federal taxpayers in all the other States pick up the cost of storing Connecticut's class C waste.

Mr. Chairman, I want to commend the gentleman from Connecticut [Mr. GEJDENSON] for this adroit move. It took me a good while to figure out what the gentleman was up to and why it was that he wanted to stomp into the mud of the legislation, previously adopted, which dealt with the siting and which conferred power upon the State of Connecticut.

I note with distress that I have finally found out why. The gentleman wants the rest of the country to pick up the costs of storing Connecticut's class C waste.

Mr. Chairman, this is a splendid idea if you are from Connecticut. I would urge my colleagues from Connecticut at all costs and in all haste to vote for this amendment and support it with great vigor. I would assume that the other 49 States would very sensibly oppose this amendment.

Mrs. KENNELLY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my dear friend from Connecticut.

Mrs. KENNELLY. Mr. Chairman, you speak eloquently. You speak with great knowledge. You speak with great experience. I am speaking in favor of this amendment because I have had very recently the experience of having low level sites being chosen in the very heart of communities where schools and housing existed.

We are not talking about high level waste. All we are trying to do by this amendment is to caution our colleagues that the States such as Connecticut who are highly density States have a very definite difficulty in finding a place to put the low level wastes. We are not talking about the high level waste.

Mr. Chairman, what I said in my remarks is, and I would caution my colleagues, be very careful with this vote, because when I went to those towns, I was very glad to say I was not here in 1981 when this legislation was passed, because they were out of their minds with the lack of thought that went into this legislation.

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Chairman, I yield myself 1 minute just to ask the chairman a question.

I think this is a good amendment in toto, but if the gentleman from Michigan [Mr. DINGELL] is concerned simply about the reclassification of high-level waste, I would ask unanimous consent, if the chairman would then support the amendment, to withdraw the reclassification of class C waste and simply put in place the population density and the 5 kilometers from schools and urban communities standard. If the gentleman's concern is that we are trying to simply push off our waste somewhere else, let us at least give the schoolchildren the protection they deserve.

□1540

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I would simply say to the gentleman, the standards which are fixed with regard to the siting of low-level nuclear facilities are fixed by the States and by their interstate compacts by interstate agreement. There is no reason for us to make that change.

Mr. GEJDENSON. Mr. Chairman, reclaiming my time, let me correct the chairman on one small point. I want to thank him for the kind words he said about me earlier.

Mr. DINGELL. Mr. Chairman, if the gentleman will continue to yield, I admit every one of them.

Mr. GEJDENSON. Mr. Chairman, for States that are not agreement States, it is the NRC that sets the standards, not the States.

Mr. DINGELL. Mr. Chairman, if the gentleman will continue to yield, the standards which are now fixed for low-level nuclear sites, low-level nuclear waste storage sites are fixed by the States, by the interstate compact. There are some Federal standards which are there, but the States and the interstate compacts can, if they so choose, fix much more stringent and much more impressive standards with regard to safety.

Mr. LENT. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would like to ask the sponsor of this amendment, is it not the fact that his home State, Connecticut, is a member of the low level waste disposal compact and, in fact, asked for this site to be placed in Connecticut?

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, basically what happened is that the Northeast compact is nonfunctioning and that each State has agreed to take its own waste. And, therefore, the chairman's statement regarding the standards set by the States is not accurate. In those cases, the standard is set by the NRC.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman for yielding time to me.

I am just trying to understand where this amendment came from. If the chairman would allow me to understand, was this an amendment that was brought up and debated and passed in the Committee on Energy and Commerce?

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, in all truth, I do not know where it came from. I think the gentleman from Connecticut would have to address that point. I gather that it comes to us from the Committee on Interior and Insular Affairs. I suspect it really comes from Connecticut, which wants to get rid of waste and dump it on the rest of us.

Mr. THOMAS of California. Mr. Chairman, did this come from the Committee on Interior and Insular Affairs? Was it debated and voted on?

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, my understanding is it was debated in the Committee on Interior and Insular Affairs. It passed in the Committee on Interior and Insular Affairs, apparently, on a voice vote.

Mr. THOMAS of California. Mr. Chairman, reclaiming my time, there was a hearing on the amendment?

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, as a member of the Committee on Interior and Insular Affairs, let me just quickly tell my colleagues, the amendment was brought up at the time of the committee markup. There was no hearing. There was no discussion. It was voice voted. It was brought up initially at markup.

Mr. THOMAS of California. Mr. Chairman, the reason I was concerned was that it sounded as though there was an attempt by the gentleman from Connecticut to offer proposed amendments by unanimous consent on the floor of the House to an amendment that apparently was brought up at the time of markup with hearings or debate in the Interior Committee. The gentleman from Connecticut is basically shopping for something that will pass and it is a concern to all of us, as we examine these amendments that are going to affect a great number of us, to remember that we all have our own narrow interests, but to the extent that the narrow interests are opposed by the chairman of the committee, and by members of other committees and, the author of the amendment is more than willing to shop amendments by

unanimous consent on the floor, that perhaps this is something that ought not to move at this time but that a reasoned and considered judgment should prevail that perhaps we ought not to try to shop unanimous-consent amendments to something as important as a fundamental energy bill.

Mr. GEJDENSON. Mr. Chairman, if the gentleman will continue to yield, does the gentleman want class C waste in his district, in his landfill?

Mr. THOMAS of California. Mr. Chairman, my district has nuclear power.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, it is redundant to follow the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], to agree with him, and I sense it is not necessary here today, but in a remarkable hearing in Utah in December of the Subcommittee on Energy and the Environment of the Committee on Interior and Insular Affairs, we had an interesting thing happen.

One of the ranking officers of the Nuclear Regulatory Commission indicated very clearly it was their intention to move all of the low-level radioactive waste out of the East and put it into Utah and into the Mountain States.

And when asked why, he responded, it was because of the overcrowding.

And I said to him, "Mr. Director, it is really not the overcrowding of people that you are concerned about, is it? It is the overcrowding of Congressmen in the Northeast?" He responded, with a smile, "Mr. Congressman, I think I ought not to respond to that."

I obviously rise in opposition to the amendment of my friend from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I yield myself such time as I may consume.

My colleagues, we can have a lot of diversions here. We can talk about whether there was a hearing on the amendment when it was offered in committee. How many amendments that are offered in committee actually have hearings Let us be honest with ourselves. Whether it is the Committee on Ways and Means or the Committee on Energy and Commerce, that is where Members offer their own insights from their own experience and try to make the legislative process deal with the reality back home.

This reality is not just one for my district. It is one for every district in this country.

The question is, Do Members want to go home and face their constituents and say that they had an opportunity that plutonium from nuclear powerplants will not be buried on their block and they voted "no"? Do they want to go home to their constituents and tell their constituents that they had an opportunity in the U.S. Congress to guarantee that no nuclear wastesite would be within 5 kilometers of a school and they said, "No; we do not have to worry about the kids"?

Let me tell my colleagues the history here. When I was a little kid, we were not rich enough to go to these stores but there were stores one could go buy shoes in, and they have x-ray machines. A person put the shoes on, wiggled their toes, and would look down. Everybody thought it was great. If someone had acne as a kid, they would give them x rays.

Then we found out that was bad news. Those people ended up with cancer.

Each day we learn that as smart as we think we are in dealing with hazardous and toxic substances, we are not quite smart enough.

There was a study on where to dump waste off of Long Island. They figured out, the scientists, where the best place was to dump waste in the ocean. What a great idea. They figured out where the currents would take it right to the bottom, so they moved out to that precise point. And do my colleagues know what happened? The next day all of that stuff washed up on shore.

What I am asking for is let us make sure that we are just a little bit more cautious, that we cannot see the nuclear wastesite from the classroom, that the kids that go to school for 8, 12 years at a clip in a facility ought not to be going to that school and put a nuclear waste repository within 2 kilometers of it, a mile and three quarters or something.

We can go home to our constituents and say that we helped nuclear power today, that we voted against an amendment that would simply add 2 kilometers or 3 kilometers to the existing proposal so that we have 5 kilometers from the school to the wastesite, or we can say we passed on that opportunity, that we did not think it was important enough for the U.S. Congress to take 30 seconds and vote to give children in a classroom a little protection.

We have not located one of these facilities in the country, and the reason is not because we have got too tough a set of laws. It is because the public does not trust us and does not trust the regulators. And if we want to help nuclear power, make it safer, make it tighter, give the public some protection, and then we will have a shot to locate one of these facilities.

Mr. Chairman, I rise in support of an amendment to H.R. 776, the Comprehensive National Energy Policy Act, to remove class C and higher radioactive waste from the Low-Level Waste Program and make this waste eligible for the high level waste repository. It also requires the Nuclear Regulatory Commission [NRC] to establish specific siting criteria for the siting of low-level waste facilities to ensure that any candidate site would be in an area of low population density and not near schools and other public facilities.

In 1979, two of the three low-level radioactive waste operating facilities in Hanford, WA and Beatty, NE, were temporarily closed while the third site, at Barnwell, SC, reduced the annual volume of waste that it would accept by 50 percent. These actions by the host States were due primarily to a series of transportation and packaging incidents. These three States with operating waste disposal sites made it clear that they would no longer accept all the Nation's low-level radioactive wastes. Initially, the U.S. Congress considered a federally oriented solution to the problem of assuring adequate low-level waste disposal capacity.

Eventually, however, in response to police recommendations from State-supported organizations, including the National Governors' Association and the National Conference of State Legislators, the Congress enacted the Low-Level Radioactive Waste Policy Act of 1980.

The 1980 act made each State responsible for providing disposal capacity for low-level radioactive waste generated within its borders. The act also encourage States to form regional compacts to collectively meet their obligations to provide for disposal capacity, and allowing those compacts ratified by the Congress to exclude waste generated outside their borders, beginning January 1, 1986.

By late 1984, it was evident that regions without wastesites were not progressing rapidly enough to have new facilities operating by the 1986 deadline. A change in the law appeared necessary to allow for construction of the additional disposal sites foreseen in the 1980 act. After extensive negotiations between representatives of the States with operating sites and the 47 unsited States, a consensus was reached which enabled Congress to pass the Low-Level Waste Policy Act Amendments of 1985.

This act provided that the States of Washington, Nevada, and South Carolina would agree to continue to make their sites available to the entire country for an additional 7 years—but only if the unsited States and regions demonstrate specific progress toward developing new disposal capacity. The final date when sited sites could exclude waste from outside their regional borders was extended to January 1993. In exchange, the other States and regions were required to meet a series of specific dates and milestones. Among other provisions, the 1985 act also specified precisely which categories of low-level radioactive waste would be the State's responsibility and made the Federal Government responsible for the disposal of commercial low-level radioactive waste exceeding class C concentration limits.

Today, as we all know, the low-level radioactive waste siting process is ongoing in many States. As the 1993 deadline approaches, many States, both individually and in regional compacts, have begun to select and study candidate sites for disposal facilities. To date, all of these candidate sites have facilities.

Mr. Chairman, when Congress enacted the 1980 and 1985 Low-Level Radioactive Waste Acts, we did not have the foresight to prescribe specific siting criteria. In fact, authority

to do so was delegated to the NRC. In turn the NRC developed four performance-based objectives by regulation to protect public health and safety and minimize the long-term burden on society. The objectives set out in regulation by the NRC attempt to ensure: First, protection from releases of radioactivity, second, inadvertent intrusion, third, safe operations, and fourth, site stability.

Unfortunately, we find ourselves today in the position where States are selecting candidate sites in locations that run contrary to common sense—in proximity to residential neighborhoods, schools, community centers, and other public facilities. Common sense dictates that if one of the objectives is to secure a site from public intrusion, we shouldn't locate a site in a neighborhood where the likelihood of school-aged children wandering onto the sites is great.

That is the reason that I introduced H.R. 3491, the Low-Level Radioactive Waste Policy Act Amendments of 1991, and join in support of this provision today. As you may know, during Interior Committee consideration of H.R. 776, I offered the provisions of H.R. 3491 which were incorporated into the bill as reported by the committee.

In its regulatory guidelines, the NRC has recommended that low-level waste facilities be at least 2 kilometers from residential boundaries. This amendment, and the language that was included in the Interior Committee version of H.R. 776, seeks to codify this as a siting requirement and further protects the public health and safety by increasing and threshold distance to 5 kilometers between the site and residential boundaries or facilities that primarily serve children such as schools and community centers.

This siting criteria will move States in the direction of at least ensuring that whatever screening techniques are utilized to select an environmentally safe site, at least it will not be near housing or schools.

The second provision of this amendment seeks to ensure that the waste that is sited in States is the least dangerous, by reclassifying class C and greater than C wastes from the Low Level Radioactive Waste Program into the High-Level Radioactive Waste Program. NRC regulations currently allow the following classes of low-level waste for near surface disposal: class A, class B, class C, and greater than C. Low-level radioactive waste typically contains both short lived and long lived radionuclides. Three important time intervals are relied on in setting the waste classification system. One is the length of time the government will actively control access to the site—an upper limit of 100 years was used. The second is the expected life of the waste form—a 300-year period of life expectancy was used. The third is the expected lifetime of engineered barriers or assured burial depth, and the time when total failure of the system is anticipated to occur—a 500-year period was assumed.

Of the categories of waste, class C comprises the smallest volume of low-level waste, only 1 percent, but the highest levels of radionuclides. In fact, it is class C and higher which requires sites to have both a 300-year stabilization period and a 500-year engineered barrier. It is evident that this waste, primarily from nuclear powerplants, should not be the responsibility of the States, but rather the Federal Government.

This amendment achieves this objective by removing class C waste from the jurisdiction of the Low-Level Radioactive Waste Policy Act and placing it under the responsibility of the Federal Government. This amendment would also enable the Federal Government to place this category of waste in the Federal high level nuclear waste repository.

As States struggle with the difficult task of sitting low-level radioactive waste facilities, passage of this amendment will provide our constituents with a greater sense of security that whatever site is finally selected is not near schools or growing population center. Moreover, passage of this amendment will remove from these sites the most dangerous type of waste.

It is my hope that this amendment will be adopted by the House so that States involved in the site selection process will have further guidance on protecting the public health and safety.

I urge the adoption of this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield myself such time as I may consume.

I want to express great respect and great affection for both the gentlewoman from Connecticut and my dear friend, the gentleman from Connecticut [Mr. GEJDENSON] and to commend them for offering an amendment on behalf of their constituents. They have served them well.

I come from a State where there was a possibility of a low-level nuclear waste facility being established. I know the intensity of public feeling on this matter.

If there is a problem here which requires safety matters to be addressed in terms of low-level nuclear waste, if there are other questions regarding health or the environment which should be addressed, they should be addressed after hearings, after careful thought, after careful consideration and after the entirety of the problem is addressed, to find out what we are doing to Connecticut, to find out what we are doing to the other States, to find out where we are putting the waste, to find out where we are abandoning the waste, to find out the economic consequences, to find out what States are going to pay more and what States are going to pay less, to find out who is going to get out of storing nuclear waste and who is going to be compelled to store more. Those are the kinds of questions which hearings and proper committee consideration is had to obtain the answers to.

I would urge my colleagues to reject this amendment. If there is a problem here which must be addressed, it should be addressed in an orderly process rather than the curious process which we have seen here today on the floor.

□ 1550

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. COLEMAN of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 293, answered "present" 1, not voting 23, as follows:

[Roll No. 141]

AYES—117

Abercrombie	Gejdenson	Ortiz
Ackerman	Gekas	Owens (NY)
Andrews (ME)	Gilman	Pallone
Andrews (NJ)	Hall (OH)	Panetta
Applegate	Hertel	Payne (NJ)
Aspin	Hochbrueckner	Pelosi
Atkins	Houghton	Pursell
AuCoin	Hughes	Rahall
Beilenson	Jacobs	Rangel
Berman	Jefferson	Reed
Blackwell	Johnson (CT)	Richardson
Boehlert	Johnson (SD)	Rose
Bonior	Jontz	Roybal
Borski	Kaptur	Sanders
Bryant	Kennedy	Savage
Camp	Kennelly	Schroeder
Cardin	Kildee	Schumer
Clay	Kostmayer	Serrano
Coleman (TX)	Lewis (GA)	Shays
Cox (IL)	Lowey (NY)	Sikorski
de la Garza	Luken	Slaughter
DeLauro	Markey	Snowe
Dellums	Mazzoli	Solarz
Dixon	McCloskey	Stark
Dorgan (ND)	McCurdy	Stokes
Downey	McDermott	Studds
Durbin	McHugh	Torres
Early	McNulty	Unsoeld
Edwards (CA)	Mfume	Upton
Engel	Miller (CA)	Walsh
Evans	Mineta	Washington
Fawell	Moakley	Waters
Feighan	Molinari	Waxman
Fish	Mrazek	Weber
Flake	Natcher	Weiss
Foglietta	Neal (MA)	Wheat
Ford (TN)	Neal (NC)	Wolpe
Frank (MA)	Nowak	Wyden
Franks (CT)	Olver	Yates

NOES—293

Allard	Bustamante	Dickinson
Allen	Byron	Dicks
Anderson	Callahan	Dingell
Andrews (TX)	Campbell (CO)	Dooley
Annunzio	Carper	Doolittle
Archer	Carr	Dornan (CA)
Armey	Chandler	Dreier
Bacchus	Chapman	Duncan
Baker	Clement	Dwyer
Ballenger	Clinger	Eckart
Barnard	Coble	Edwards (OK)
Barrett	Coleman (MO)	Edwards (TX)
Barton	Collins (MI)	Emerson
Bateman	Combest	English
Bennett	Condit	Erdreich
Bereuter	Conyers	Espy
Bevill	Cooper	Ewing
Bilbray	Costello	Fascell
Bilirakis	Coughlin	Fazio
Bliley	Cox (CA)	Fields
Boehner	Coyne	Ford (MI)
Boucher	Cramer	Frost
Brewster	Crane	Gallegly
Brooks	Cunningham	Gallo
Broomfield	Darden	Gaydos
Browder	Davis	Gephardt
Brown	DeFazio	Geren
Bunning	DeLay	Gibbons
Burton	Derrick	Gilchrest

Gillmor	Lowery (CA)	Roukema
Gingrich	Machtley	Rowland
Glickman	Manton	Russo
Gonzalez	Marlenee	Sabo
Goodling	Martin	Sangmeister
Gordon	McCandless	Santorum
Goss	McCollum	Sarpalius
Gradison	McCrery	Sawyer
Grandy	McEwen	Saxton
Green	McGrath	Schaefer
Gunderson	McMillan (NC)	Scheuer
Hall (TX)	McMillen (MD)	Schiff
Hamilton	Meyers	Schulze
Hammerschmidt	Miller (OH)	Sensenbrenner
Hancock	Miller (WA)	Shaw
Hansen	Mink	Shuster
Harris	Mollohan	Sisisky
Hastert	Montgomery	Skaggs
Hatcher	Moody	Skeen
Hayes (IL)	Moorhead	Skelton
Hayes (LA)	Moran	Slattery
Hefley	Morella	Smith (FL)
Hefner	Morrison	Smith (IA)
Henry	Murphy	Smith (NJ)
Herger	Murtha	Smith (OR)
Hoagland	Myers	Smith (TX)
Hobson	Nagle	Solomon
Holloway	Nichols	Spence
Hopkins	Nussle	Spratt
Horn	Oberstar	Staggers
Horton	Obey	Stallings
Hoyer	Olin	Stearns
Hubbard	Orton	Stenholm
Huckaby	Owens (UT)	Stump
Hunter	Oxley	Sundquist
Hutto	Parker	Swett
Hyde	Pastor	Swift
Inhofe	Patterson	Synar
James	Paxon	Tallon
Jenkins	Payne (VA)	Tanner
Johnson (TX)	Pease	Tauzin
Johnston	Penny	Taylor (MS)
Jones (GA)	Perkins	Taylor (NC)
Jones (NC)	Peterson (FL)	Thomas (CA)
Kanjorski	Peterson (MN)	Thomas (GA)
Kasich	Petri	Thomas (WY)
Kleczka	Pickett	Thornton
Klug	Pickle	Traficant
Kolbe	Porter	Traxler
Kolter	Poshard	Valentine
Kopetski	Price	Vander Jagt
Kyl	Quillen	Vento
LaFalce	Ramstad	Visclosky
Lancaster	Ravenel	Volkmer
Lantos	Ray	Vucanovich
LaRocco	Regula	Walker
Laughlin	Rhodes	Weldon
Leach	Ridge	Whitten
Lehman (CA)	Riggs	Williams
Lehman (FL)	Rinaldo	Wilson
Lent	Ritter	Wise
Levin (MI)	Roberts	Wolf
Lewis (CA)	Roe	Wylie
Lewis (FL)	Roemer	Yatron
Lightfoot	Rogers	Young (AK)
Lipinski	Rohrabacher	Young (FL)
Livingston	Ros-Lehtinen	Zeliff
Lloyd	Rostenkowski	Zimmer
Long	Roth	

ANSWERED "PRESENT"—1

Sharp

NOT VOTING—23

Alexander	Donnelly	Mavroules
Anthony	Dymally	McDade
Bentley	Guarini	Michel
Boxer	Ireland	Oakar
Bruce	Lagomarsino	Packard
Campbell (CA)	Levine (CA)	Torricelli
Collins (IL)	Martinez	Towns
Dannemeyer	Matsui	

□ 1610

The Clerk announced the following pairs:

On this vote:

Mr. Levine of California for, with Mr. Anthony against.

Mrs. Boxer for, with Mr. Martinez against.

Mrs. Collins of Illinois for, with Mr. Packard against.

Mrs. MORELLA changed her vote from "aye" to "no."

Mr. DE LA GARZA, Mrs. SCHROEDER, Mr. CAMP, and Mr. RAHALL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order, under the rule, to consider the amendment numbered 14 printed in House Report 102–533.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MILLER of California: Page 752, after line 16, insert the following:

TITLE XXXI—FEDERAL AND STATE LANDS

SEC. 3101. RIGHTS-OF-WAY ON CERTAIN FEDERAL LANDS.

(a) EXTENT OF RIGHTS.—(1) Section 501 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) is amended by adding at the end of subsection (b)(1) thereof the following: "Any right-of-way granted or issued under this section shall convey only the rights specifically described therein, and shall not convey or be construed to imply conveyance of any rights to the use of the affected lands or the resources of such lands.".

(2) Section 501 of such Act is amended as follows:

(A) Insert in subsection (a), after "public lands" the following: "(as defined in section 103(e) of this Act)".

(B) In paragraph (4) of subsection (a), strike "Federal Power Commission under the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791)" and insert in lieu thereof "Federal Energy Regulatory Commission under the Federal Power Act, including part 1 thereof (41 Stat. 1063, 16 U.S.C. 791a–825r).".

(b) ENERGY-RELATED RIGHTS-OF-WAY.—Section 501 of the Federal Land Policy and Management Act of 1976 is amended by adding at the end thereof a new subsection, as follows:

"(d)(1) Under this section, a right-of-way on public lands or lands within the National Forest System may be granted or issued for the construction or operation of a non-Federal system (including any dam, diversion, or appurtenant project works) for the generation, transmission, or distribution of electrical energy only if the Secretary or the Secretary of Agriculture, as appropriate, finds that the use of such lands for the construction or operation of the facilities involved in such system—

"(A) is consistent with applicable management plans for such lands, and will not interfere with or be inconsistent with the protection and utilization of such lands for the purposes for which such lands are managed; and

"(B) will not result in substantial degradation of natural or cultural resources, scenic or recreational values, watershed resources, or fish and wildlife populations or habitat affected by the proposed system or affected by the cumulative effects of the proposed system and other uses of such lands or adjacent lands.

"(2)(A) The Secretary concerned shall provide for early and continued public participation in connection with consideration of an application for a right-of-way under this subsection by making a copy of such application available for public inspection in the vicinity of the affected lands for at least 90 days prior to acting on the application and by conducting at least 1 public meeting thereon at a time and location likely to assure public participation.

"(B) All information, including documents and testimony, related to the concerned Secretary's decision on an application under this subsection shall be available for public inspection in regional or local offices of the Bureau of Land Management or Forest Service, and at the same time as such Secretary decides whether or not to grant or issue the requested right-of-way, such Secretary shall publish in the Federal Register an appropriate document stating and explaining the basis for such decision.

"(3)(A) If facilities of a system described in paragraph (1) would be located on lands under the administrative jurisdiction of a single agency of the United States, that agency shall have the principal role in preparing any analysis, under applicable law, of the effects of construction and operation of such facilities on the environment. If such facilities would be located on lands under the administrative jurisdiction of more than 1 such agency, each such agency involved may enter into an agreement among themselves in order to avoid duplication of responsibility or effort, to expedite the consideration of applications for rights-of-way or other rights with respect to use of such lands, to issue joint regulations in appropriate cases, and to assure that decisions about such system are based on a comprehensive review of possible effects on Federal lands and resources.

"(B) Any analysis described in subparagraph (A) of this paragraph shall be prepared by an agency of the United States with administrative jurisdiction over affected lands, or by an independent contractor selected by such an agency, and not by the applicant for a right-of-way under this subsection or by any other party selected or reimbursed by such applicant.

"(C) Nothing in this paragraph shall be construed as precluding an agency of the United States from requiring an applicant for a right-of-way under this section or any other party to provide any necessary information in connection with an analysis described in subparagraph (A) or in connection with decisions about any other aspect of a system described in paragraph (1) of this subsection.".

(c) EFFECTIVE DATE AND IMPLEMENTATION.—(1) The amendments to the Federal Land Policy and Management Act of 1976 made by this section shall not apply to any project for which the land-management agency has completed a final review of an application for a right-of-way prior to the enactment of this section.

(2) No later than 1 year after the date of enactment of this Act, the Secretaries of the Interior and Agriculture shall issue joint regulations to:

(A) establish procedures for appropriate public participation in decisions relating to applications for rights-of-way of the type covered by section 501(d) of the Federal Land Policy and Management Act of 1976; and

(B) establish procedures to coordinate, so far as possible, the timing of review by such Secretaries regarding such applications with review of related projects by other Federal agencies.

SEC. 3102. DAMS IN NATIONAL PARKS.

(a) PROHIBITION.—(1) Except as provided in paragraph (2), no individual corporation,

partnership, Federal or State agency, political subdivision, or any other legal entity may commence construction of—

(A) any new dam or other new impoundment within the external boundaries of any unit of the National Park Systems; or

(B) any new dam or other new impoundment which, after the date of enactment of this Act, will inundate any land within the external boundaries of any unit of the National Park System.

(2) The provisions of this subsection shall not apply to a project developed by the National Park Service that the Secretary of the Interior determines necessary to meet the purposes for which the affected unit of the National Park System was established if such project would not degrade the resources or values of such unit.

(b) DEFINITIONS.—For purposes of this section, the following terms shall have the following meanings:

(1) The term "new dam or other new impoundment" means any facility for impoundment or obstruction of the flow of water, construction of which commences after the enactment of this Act.

(2) The term "impoundment' means the formation of a body of water upstream from a dam or other structure caused by the construction or operation of the dam or other structure.

(3) The term "inundate" means to permanently or intermittently cover land with water.

(c) CONCURRENCE.—Notwithstanding any other provision of law, no department or agency of the United States shall renew or reissue any license, or issue a new license, for any dam or other facility for impoundment or obstruction of the flow of water that is located on or that inundates any land within the National Park System, if such action would result in new or increased effects on the resources and values of such land, unless the Secretary of the Interior concurs in such action.

(d) SCOPE.—The prohibition of this section shall be in addition to, and not in lieu of, any other prohibition or restriction on activities within any unit of the National Park System.

(e) OTHER PROJECTS.—Nothing in this section prohibits the Secretary of the Army or any other Federal department or agency from undertaking a study of any project or from submitting a recommendation to Congress for the authorization or licensing of such project.

SEC. 3103. STATE OR LOCAL GOVERNMENT LANDS.

Section 21 of the Federal Power Act is amended as follows:

(1) In the first sentence after the word "right" insert ", temporarily during project construction,".

(2) In the first sentence after the word "damage" insert "(and to restore and repair), ".

(3) After the first sentence insert: "The term 'unimproved dam site' shall not include any site or area that was acquired by a State or local government or agency thereof solely for the purposes of a public park, recreation, or wildlife refuge before the date such licensee is issued a license by the Commission and is owned and operated for such purposes, except that nothing in this sentence shall preclude a State or local government from consenting to the acquisition of such site or area with the licensee."

The amendments made by this section to section 21 of the Federal Power Act shall apply to the exercise of eminent domain by any licensee under such section after the date of enactment of this Act.

SEC. 3104. COORDINATION WITH FEDERAL AGENCIES.

Section 6(g) of the Land and Water Conservation Fund Act of 1965 is amended by inserting the following at the end thereof: "If a State has enacted statutory provisions providing for the permanent protection of the natural, ecological, cultural, scenic, or recreational resources of designated river segments within that State, if such protection is part of a comprehensive Statewide plan approved by the Secretary of the Interior under section 6, and if such provisions prohibit the development of new hydroelectric power projects on such designated segments, neither the Secretary nor any other officer or agent of the United States (other than the Secretary of the Army or the Chief of the United States Soil Conservation Service) shall assist or issue an original license or an exemption for the construction of any new hydroelectric power project if the project is located wholly within that State and if such assistance, license, or exemption would be inconsistent with such prohibition. The preceding sentence shall not apply to any project authorized for construction by the Secretary of the Army before, on, or after the date of the enactment of this sentence and not subsequently deauthorized pursuant to the provisions of Title X of Public Law 99-662 or any other provision of law.".

The CHAIRMAN. Under the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and a Member opposed to the amendment will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Members of the House, this amendment is very simple in its form and its results.

The amendment prohibits the construction of new dams in our national parks, and the amendment prevents a Federal agency from licensing new hydroelectric projects on a river that a State has statutorily prohibited from the construction of dams or called for the river's protection in the State's comprehensive outdoor recreation plan.

Mr. Chairman, this is an amendment against the arrogance of Federal power. This is an amendment to preserve the rights of States when they speak through their legislature or they speak through the initiative process and they make the designation to protect a river, they make a statewide decision to protect their resources, and then along can come the Federal Energy Regulatory Commission and site a dam on that particular river that the people of the State have said they wanted to protect.

This is the arrogance of a Federal bureaucracy that can give a right to a private developer to condemn State lands, to condemn State lands for the purposes of private projects against the wishes of the Governor, the legislature, and the people of the State. That is why this amendment is supported by the Western Governors' Association, the League of Conservation Voters, the National Wildlife Federation, Trout, Unlimited, and the American Rivers Campaign, as well as supported by State agencies and Governors from the States of California, Pennsylvania, New York, Massachusetts, Oregon, Kentucky, Tennessee, and Michigan among others. Because they recognize the rights of their citizens to make decisions and not have those overridden by a Federal bureaucracy to damage those resources and to take away the rights of the States to have that say.

It is important that we understand that States make those decisions, and it is for the reason that I offer this amendment to stop what has taken place over the last several years is the ability of people to come and override that with the support and with the power of a Federal agency against the wishes of the State.

Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, I will soon call up an amendment at the desk which would provide for the opportunity of review by the Secretary of the Interior and for public participation before rights-of-way through public lands are granted for oil and gas pipelines.

The fundamental issue addressed by my amendment is who shall make the value judgment that a right-of-way shall be granted across public lands for a pipeline. My amendment would ensure that before a pipeline right-of-way through public lands is granted that the Secretary of the Interior shall first determine that the use of the pipeline will not conflict with the purposes for which the lands are managed or result in substantial degradation of natural resources, scenic or recreational values.

The Secretary of the Interior is, after all, the official responsible for ensuring proper management of public lands held in trust for the people of this country, and he or she should make the critical decision about the environmental impact of a proposed pipeline on these lands.

In addition, my amendment would require at least one public hearing before the right-of-way could be granted as a means of ensuring public input on the Secretary's decision. By contrast, the committee's version of H.R. 776 would allow the Federal Energy Regulatory Commission [FERC] to make the crucial determination about the environmental effect of a pipeline on public lands.

□ 1620

Having FERC make this decision puts the proverbial fox in charge of the hen house, with predictable consequences.

We had a terrible experience in Davis County in Utah with the Kern River

pipeline where the Secretary of the Interior was left out of the process.

The devastating environmental impact of allowing FERC to make the decisions about use of public lands for pipelines is depressingly evident in springtime now in the mountains above Bountiful, UT. During construction of the Kern pipeline, miles of scenic Forest Service land were torn up. Extensive watershed and wildlife areas were devastated and numerous archaeological sites on the National Historic Register were destroyed.

Anyone who questions whether it makes a difference which agency conducts the environmental impact study should visit Davis County and look at the legacy of the Kern River pipeline. The pipeline route is a giant bleeding scar across the beautiful mountains of Davis County.

All of this environmental harm occurred with the full knowledge and acquiescence of FERC. Federal agencies with responsibility for protecting public lands recommended against construction of the Kern pipeline, but FERC overruled those agencies and the public's recommendations.

Why did this happen? Because an agency responsible for building the pipeline——

PARLIAMENTARY INQUIRIES

Mr. YOUNG of Alaska. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. YOUNG of Alaska. Mr. Chairman, I would like to inquire: The gentleman's discussion is not about the Miller amendment. He is talking about an amendment that has not even been offered at this time. It is way off the Miller amendment.

Now, how do we go about doing that?

The CHAIRMAN. The debate at this point should be confined to the pending Miller amendment.

Mr. OWENS of Utah. Mr. Chairman, my amendment is to the Miller amendment.

Mr. YOUNG of Alaska. A further parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. YOUNG of Alaska. Mr. Chairman, has the amendment been offered yet?

Mr. OWENS of Utah. Mr. Chairman, I do not want to upset my friend, the gentleman from Alaska.

I now offer my amendment to the amendment.

The CHAIRMAN. Before the gentleman offers his amendment to the amendment, the Chair will inquire whether any Member seeks recognition in opposition to the primary Miller amendment?

Mr. YOUNG of Alaska. Mr. Chairman, I ask for time to oppose the Miller amendment.

The CHAIRMAN. Does the gentleman from Michigan [Mr. DINGELL] seek recognition?

Mr. YOUNG of Alaska. Mr. Chairman, what I am suggesting is that the gentleman from Michigan offered an amendment, and then the gentleman from Utah began talking about his amendment, which was not offered.

Now, I am asking for time to oppose the amendment offered by the gentleman from California.

The CHAIRMAN. Is the gentleman from Alaska in opposition to the amendment of the gentleman from California [Mr. MILLER]?

Mr. YOUNG of Alaska. Yes, I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Alaska will be recognized in opposition for 20 minutes.

Mr. DINGELL. Mr. Chairman, I would like to be recognized in opposition to the amendment offered by the gentleman from California [Mr. MILLER].

The CHAIRMAN. The Chair had inquired and did not hear from the gentleman from Michigan, but as the manager of the bill the gentleman from Michigan would take priority, and the gentleman from Michigan [Mr. DINGELL] will be recognized for 20 minutes in opposition to the Miller amendment and will control the 20 minutes.

Mr. YOUNG of Alaska. Mr. Chairman, to make this easier, I would be glad to yield my 20 minutes to the gentleman from Michigan, if necessary, just as long as I get some time to talk about the Miller amendment.

The CHAIRMAN. The Chair has ruled that the gentleman from Michigan will control the 20 minutes in opposition to the amendment offered by the gentleman from California [Mr. MILLER].

We now will return to the gentleman from Utah [Mr. OWENS] who had an amendment to be offered to the Miller amendment.

PARLIAMENTARY INQUIRIES

Mr. THOMAS of Wyoming. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. THOMAS of Wyoming. Mr. Chairman, I am wondering, how do you get time to oppose the Owens amendment?

The CHAIRMAN. After it is offered, that inquiry will be appropriate.

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DINGELL. Mr. Chairman, am I incorrect that the opponents of the amendment offered by the gentleman from California are foreclosed from discussing that amendment at this particular time?

The CHAIRMAN. The time of debate is now controlled by the gentleman from Utah, having been recognized by the gentleman from California.

The Chair had interrupted the gentleman so that we could establish who would control the time in opposition to the underlying amendment by the gentleman from California [Mr. MILLER] and had recognized the gentleman from Michigan for that purpose.

The Chair will return to recognizing the gentleman from Utah, who is I think prepared to offer his amendment to the Miller amendment.

Mr. DINGELL. Well, I had the feeling, Mr. Chairman, that the regular order required that those who are opposed to the Miller amendment would be permitted to be recognized at this time.

Mr. OWENS of Utah. Mr. Chairman, my amendment is an amendment to the Miller amendment.

The CHAIRMAN. The gentleman from Utah will suspend.

The Chair will recognize the gentleman from Michigan initially in opposition to the underlying amendment, and then return to the Owens amendment.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, first, how much time do I have?

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] is recognized for 20 minutes.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that I be permitted to yield 10 minutes to the gentleman from New York [Mr. LENT] for such purposes of debate that he might choose.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. LENT] will control 10 minutes of the time in opposition.

There was no objection.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment which is offered by the gentleman from California.

It is an interesting amendment. It is not an amendment to any energy statute, rather it amends the Federal Land Policy and Management Act of 1976 and the Land and Water Conservation Fund Act of 1965. Neither of these statutes is an energy statute. Neither of these statutes relate to the basic purposes of this legislation. The basic purposes are to move the United States more toward energy sufficiency, to increase conservation and to increase production of energy and reduce our dependence on imported fossil fuels.

Were it not for the extraordinary action of the Rules Committee in making them in order, they would clearly be nongermane and subject to a point of order at this time.

It is plain that these amendments relate to such interesting and I believe important questions as rights-of-way on public lands and lands within the national forest system. They relate to questions such as dams and diversions of water from the public lands and elsewhere.

It must be observed that these amendments in a most curious way create a new and a different procedure

for rights-of-way on public lands and on Forest Service lands for generation, transmission, and distribution of electric energy.

These are sweeping amendments. They will adversely affect efforts under this legislation with regard to wheeling and transmission of power and they will adversely impact the efforts made in the legislation to encourage the development of independent power projects and to use energy sources other than coal and oil, energy sources such as biomass, natural gas, solar, and water power.

The amendment will adversely affect the siting of generation facilities, and more importantly, the location of transmission lines or distribution facilities that are essential for interconnection within the grids which exist in the United States for the distribution of power to cities, industries, and rural areas.

The amendment amends one portion of section 501 of the 1976 act to establish a detailed procedure for the consideration of right-of-way applications that do not now apply to such facilities or other right-of-way applications, such as those for pipelines for oil and gas, storage and terminal facilities, reservoirs, tunnels, flumes, ditches, and systems for the transmission, amongst other things, of radio, television, and telephone and other telecommunication means, the siting of roads and highways; and trails, railroads, and canals.

Now, I am not sure why this kind of amendment is here before us. It certainly is not an energy amendment. It is antienergy. It is a not-in-my-backyard amendment.

It also requires the Secretaries of Agriculture and the Interior to implement joint regulations within 1 year, and we all know how the regulatory process works. Clearly, it is not going to be able to respond to this demand in that time, if ever.

It also would prohibit dams, and this is a very interesting thing, and the relicensing of existing dams by the Federal Energy Regulatory Commission and by other regulatory agencies, outside areas within the National Park System.

I am also concerned because this legislation attempts to prohibit dams, including the relicensing of existing dams, outside areas within the National Park System, if the reservoir from those dams inundates even a foot or an inch of the external boundaries of any national park, recreation area, wilderness area, monument, historic site, or other area within the National Park System. This would be true even in the case of a dam by the Corp of Engineers or through the Soil Conservation Service that may be necessary for flood control purposes. In some cases the dams would likely not inundate National Park System lands, except in 100 or 200 years. Nevertheless, this proposal would preclude any new dam or new impoundment of this kind.

Most importantly, it would also affect the relicensing of existing dams without the concurrence of the Secretary of the Interior. This would include the Elwha and Glines Canyon Dams in the Pacific Northwest which are the subject of a bill, H.R. 4844, that has been recently introduced by the Washington State delegation and licensing at the Federal Energy Regulatory Commission. This could have a vast impact on public and private power projects throughout the country that are presently pending relicensing before the Federal Energy Regulatory Commission.

Mr. Chairman, this amendment is not sound from an energy standpoint nor from an environmental standpoint. It should not be adopted.

Shortly, I will offer an amendment to the Federal Power Act which is environmentally sound and consistent with the energy purposes of this legislation. It addresses many of the concerns that I and others concerned about adverse impacts of dams on fish, and wildlife, and natural resources. I urge you to reject the Miller amendment and support my amendment which I will discuss later.

The amendment is not an energy amendment. It is something which is a mish-mash of other matters which might be meritorious if they were offered to another bill or if they were to be brought up under a separate rule. They have no place in this legislation. They will rather make this country more dependent on foreign sources. They will inhibit protection of our public lands. They will inhibit siting of facilities which will be used for prevention of floods or for the generation of power.

□ 1630

Mr. Chairman, I urge my colleagues to reject this amendment and the Owens amendment with it.

Mr. Chairman, I reserve the balance of my time.

AMENDMENT OFFERED BY MR. OWENS OF UTAH TO THE AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. OWENS of Utah. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Clerk will designate the amendment to the amendment.

The text of the amendment to the amendment is as follows:

Amendment offered by Mr. OWENS of Utah to the amendment offered by Mr. MILLER of California: At the end of the amendment, insert the following new section and conform the table of contents accordingly:

SEC. 3105. RIGHTS-OF-WAY FOR OIL GAS PIPELINES.

(a) EXTENT OF RIGHTS.—Section 28(a) of the Mineral Leasing Act is amended by adding at the end thereof the following: "Any right-of-way granted or issued under this section shall convey only the rights specifically described therein, and shall not convey or be construed to imply conveyance of any other rights to the use of the affected lands or the resources of such lands.".

(b) OIL AND GAS RIGHTS-OF-WAY.—Section 28 of the Mineral Leasing Act is amended by adding at the end thereof the following:

"(z)(1) Under this section, a right-of-way through Federal lands may be granted or issued for the construction or operation of an expedited pipeline only if the Secretary of the Interior finds that the use of such lands for the construction or operation of the facilities involved in such system—

"(A) is consistent with applicable management plans for such lands, and will not interfere with or be inconsistent with the protection and utilization of such lands for the purposes for which such lands are managed; and

"(B) will not result in substantial degradation of natural or cultural resources, scenic or recreational values, watershed resources, or fish and wildlife populations or habitat affected by the proposed system or affected by the cumulative effects of the proposed system and other uses of such lands or adjacent lands.

"(2)(A) The Secretary shall provide for early and continued public participation in connection with consideration of an application for a right-of-way under this subsection by making a copy of such application available for public inspection in the vicinity of the affected lands for at least 90 days prior to acting on the application and by conducting at least 1 public meeting thereon at a time and location likely to assure public participation.

"(B) All information, including documents and testimony, related to the concerned Secretary's decision on an application under this subsection shall be available for public inspection in regional or local offices of the Bureau of Land Management, and at the same time as the Secretary decides whether or not to grant or issue the requested right-of-way, such Secretary shall publish in the Federal Register an appropriate document stating and explaining the basis for such decision.

"(3)(A) If facilities for an expedited pipeline would be located on lands under the administrative jurisdiction of a single agency of the United States, that agency shall have the principal role in preparing any analysis, under applicable law, of the effects of construction and operation of such facilities on the environment. If such facilities would be located on lands under the administrative jurisdiction of more than 1 such agency, each such agency involved may enter into an agreement among themselves in order to avoid duplication of responsibility or effort, to expedite the consideration of applications for rights-of-way or other rights with respect to use of such lands, to issue joint regulations in appropriate cases, and to assure that decisions about such system are based on a comprehensive review of possible effects on Federal lands and resources.

"(B) Any analysis described in subparagraph (A) of this paragraph shall be prepared by an agency of the United States with administrative jurisdiction over affected lands, or by an independent contractor selected by such an agency, and not by the applicant for a right-of-way under this subsection or by any other party selected or reimbursed by such applicant.

"(C) Nothing in this paragraph shall be construed as precluding an agency of the United States from requiring an applicant for a right-of-way under this section or any

other party to provide any necessary information in connection with an analysis described in subparagraph (A) or in connection with decisions about any other aspect of an expedited pipeline.".

(c) EFFECTIVE DATE AND IMPLEMENTATION.—(1) The amendments made by this section shall not apply to any project for which the land-management agency has completed a final review of an application for a right-of-way prior to the enactment of this section.

(2) No later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall issue regulations to:

(A) establish procedures for appropriate public participation in decisions relating to applications for rights-of-way of the type covered by section 28 of the Mineral Leasing Act; and

(B) establish procedures to coordinate, so far as possible, the timing of review by the Secretary regarding such applications with review of related projects by other Federal agencies.

The CHAIRMAN. Pursuant to the rule, the gentleman from Utah [Mr. OWENS] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. THOMAS of Wyoming. Mr. Chairman, I would like to be recognized in opposition to the amendment to the amendment.

The CHAIRMAN. The gentleman from Wyoming [Mr. THOMAS] seeks recognition in opposition to the amendment and will be recognized for 5 minutes.

Mr. OWENS of Utah. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I rise in support of my amendment to provide the opportunity for review by the Secretary of the Interior and for public participation before rights-of-way through public lands are granted for oil and gas pipelines.

The fundamental issue addressed by my amendment is who shall make the value judgment that a right-of-way should be granted across public land for a pipeline. My amendment would ensure that before a pipeline right-of-way through public lands is granted, the Secretary of the Interior first determines that the use of the pipeline will not conflict with the purposes for which the lands are managed or result in substantial degradation of natural resources, scenic or recreational values. The Secretary of the Interior is the official responsible for ensuring proper management of public lands held in trust for the people of this country, and he or she should make the critical decision about the environmental impact of a proposed pipeline on these lands. In addition, my amendment would require at least one public hearing before the right-of-way could be granted as a means of ensuring public input in the Secretary's decision.

By contrast, the Energy Committee's version of H.R. 776 would allow the Federal Energy Regulatory Commission [FERC] to make the crucial determination about the environmental effect of a pipeline on public land. Having FERC make this decision puts the fox in charge of the henhouse with predictable consequences.

We had a terrible experience in Davis County, UT, with the Kern River pipeline where the Secretary of the Interior was left out of the process. The devastating environmental impact of allowing FERC to make decisions about use of public land for pipelines is as depressing an event as Spring has come and the snow has melted. During construction of the Kern pipeline, miles of scenic Forest Service land were torn up, extensive watershed and wildlife areas were devastated, and numerous archaeological sites on the National Historic Register were destroyed. Anyone who questions whether it makes a difference which agency conducts the environmental impact study, should visit Davis County and look at the legacy of the Kern pipeline. The pipeline route is a giant bleeding scar across the beautiful mountains of Davis County.

All of this environmental harm occurred with the full knowledge and acquiescence of FERC. Federal agencies with responsibility for protecting public lands recommended against construction of the Kern pipeline, but FERC overruled these agencies' and the public's recommendations.

Why did this happen? Because an agency responsible for building pipelines was allowed to make decisions about the value of public lands. What a ridiculous situation in this day of environmental consciousness in Utah. The fox was not simply in charge of the henhouse, the fox divided up the hens and passed them around, and it was all disgustingly legal. What is the value of FERC of a sensitive environmental area? What is the value to this agency of a watershed area in an arid region? And what value does a historic site or scenic mountain range have? The answer is "none." Their job is to build pipelines.

To FERC, none of these environmental concerns carried any weight in its decision. Only two considerations played any role in FERC's decision to authorize a pipeline right-of-way across miles of Forest Service land: speed and cost.

The Kern pipeline was built using optional expedited certificates of public convenience and necessity. FERC turned the expedited procedure into a race among several pipeline companies by issuing multiple certificates to the competitors. The paramount consideration for FERC was which company could get its contracts signed first, not which route was the best for a pipeline. Under the process established by FERC, assessment of the environmental impact of the pipeline was not conducted until late in the process, by which time most of the critical decisions, had already been made. Predictably, environmental concerns were given short shrift.

FERC also arbitrarily allowed companies to exclude any route that would increase the cost over the shortest possible route by more than 10 percent, a requirement found nowhere in the law. Application of this 10-percent cost limitation eliminated 12 proposals for alternative routes that the U.S. Forest Service proposed because these alternatives exceed the 10-percent threshold. FERC was so rigid in holding to its 10-percent limit that a Forest Service proposal to utilize an existing utility corridor was rejected because it would have increased the pipelines' cost by 11 or perhaps 12 percent. Thus, the environmental devastation caused by construction of the Kern pipeline could have been avoided entirely by paying an additional 1 or 2 percent.

The requirements of my amendment are patterned on provisions of title XIII of the Interior Committee's amendment to H.R. 776 which preserve oversight and stewardship roles for the Bureau of Land Management, Forest Service, and Park Service in connection with rights-of-way through public lands for electrical energy projects. The same principle underlies my amendment as the similar amendment previously adopted by the Interior Committee. A separate amendment is required because rights-of-way for pipelines are governed by the Mineral Leasing Act, rather than the Federal Land Policy and Management Act which the Interior Committee's amendment addresses. I offer my amendment as a perfecting amendment to the Interior Committee's amendment.

In constructing either a pipeline or an electric energy project, the agencies responsible for stewardship of public lands should decide, and the public should be involved in the decision, whether a right-of-way will be granted across public lands. Like the Interior Committee amendment it is patterned on, my amendment represents an effort to ensure that energy projects on public lands are consistent with the purposes for which those lands are managed. Unless these safeguards are in place, environmental degradation on the scale of what occurred during construction of the Kern pipeline may become commonplace.

I urge adoption of this amendment to ensure that what happened to Davis County, UT, does not happen anywhere else.

Mr. Chairman, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, we ought to cut to the core of this issue.

Mr. Chairman, we rise up here every day and we worry about jobs, worry about the economy, and worry about overregulation, and then we stand up and do it and put overregulation on these kinds of things.

We come to the floor with issues that add more and more, more, and more

regulation. I am a little familiar with the Kern River project, as a matter of fact. It starts in Nopal, WY. It is in operation. It is designed, by the way, to bring clean fuel, abundant gas to California so that the environment there will be cleaner, and use it, and that is what it is designed for.

The section that the gentleman talks about is Forest Service section, which has nothing to do with the Secretary of the Interior. But we had hearings there. The Forest Service changed the route over several times, and I suggest to you that there was really nothing wrong with the process.

You may not have liked the outcome, and some of you folks did not like the outcome, but the process is there.

As a matter of fact, Kern River spent 4 years in getting the necessary permits to do this. There was readjustment of the route, there were meetings held all along the route, there were 150 environmental mitigation requirements attached to the certificate issued by FERC.

So I would not argue that the system worked perfectly, I would not argue the outcome is what you wanted, but I would argue strenuously that we do not need additional regulation, we do not need to pile on additional requirements in order to get an approval for a permit of this kind.

Mr. Chairman, I reserve the balance of my time.

Mr. OWENS of Utah. Mr. Chairman, as offeror of the amendment to the amendment, I have the opportunity to close debate, is that not right, on this amendment to the amendment?

The CHAIRMAN. The gentleman from Utah [Mr. OWENS] has 1 minute remaining, and the Chair would rule that the gentleman is entitled to close.

Mr. OWENS of Utah. Mr. Chairman, I reserve the balance of my time for the close.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

(Mr. THOMAS of California asked and was given permission to revise and extend his remarks.)

Mr. THOMAS of California. Mr. Chairman, I represent a district in California that produces more oil than the entire State of Oklahoma. In fact, if Kern County were a State, only Alaska, Texas, and Louisiana would produce more oil.

We talk often about the need to increase domestic energy production. I have an area that produces and wants to produce, but because of the Clean Air Act that this Congress passed and revised recently, it is becoming more difficult to produce oil domestically and in California.

We need to comply with the Clean Air Act. One of the ways in which we can do it is to burn natural gas in the boilers that heat the oil that allow us to bring oil to the surface.

The pipeline that the gentleman from Utah is talking about took 6 years to clear the regulatory process and 9 months to build. As long as we continue this 6-and 7-to-1 ratio of clearing the regulatory hurdles and then building, we will continue to fall behind our needs. A National Environmental Policy Act required FERC, as my friend from Wyoming indicated, to make sure that all of the environmental policies were cleared. it simply is a redundancy that is being placed in this bill and it is not needed, it will only drive up costs. It is another example, albeit a clever one, of "Not in my back yard, and if I can't win under these rules, I want new rules to try to make sure that I win."

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from Indiana.

Mr. SHARP. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct, there is a major environmental law in place. The Government can be sued under it if it is not producing and EIS that is real. It is not allowed to do a phony EIS.

We have got serious problems if we add more layers of bureaucracy to agencies fighting each other over this. We need to protect the environment, but we have laws in place to do that.

Mr. THOMAS of California. I thank the gentleman. No one is trying to duck any regulatory policy. We are trying to not duplicate and triplicate procedures and needlessly driving up costs.

Mr. Chairman, this is unneeded.

Mr. THOMAS of Wyoming. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the amendment offered by Mr. OWENS which would restrict the right of way for expedited oil and gas pipelines built on Federal lands.

I believe this amendment is unnecessary and will counteract a lot of the good provisions contained in title II of H.R. 776 which streamline the construction process for natural gas pipelines. Specifically, this amendment would require a new environmental review process for oil and gas pipeline right-of-ways across Federal lands. This environmental review process will be in addition to the comprehensive environmental review which must already be conducted under NEPA. This measure will be unnecessary, costly and most importantly, will prevent all citizens from receiving the environmental benefits of clean-burning natural gas because it will not be able to reach its potential markets.

□ 1640

Thus, Mr. Chairman, I urge my colleagues to vote "no" on this amendment.

Mr. OWENS of Utah. Mr. Chairman, I supported the building of the Kern River pipeline. What I opposed, may I say to my friend, the gentleman from Wyoming [Mr. THOMAS] and others, was the location in the mountains, bringing it through the mountains in Davis County. I argued for an existing corridor to the east about a hundred miles, which was already environmentally sound, which was already in existence and which would have cost, they told me, 1 or 2 percent more than the 10-percent variance that FERC extracted. It is the process which we deal with. This amendment would require that whichever secretary is involved, depending on which kind of publicly owned land is involved, that the secretary, who is the custodian of the land and has responsibility for the land, then would have the obligation or the opportunity to deal with the environmental impacts of the proposed pipeline. I think the natural gas is partly going to be the salvation of our energy problem, and I favor it, but the environmental implications are very real.

(Mr. MARLENEE asked and was given permission to revise and extend his remarks.)

Mr. MARLENEE. Mr. Chairman, I rise in opposition to the Owens amendment because the Owens amendment is ambiguous, overly broad, and seeks to rewrite a great deal of established Federal law merely for individual political gain.

The Owens amendment would establish a new environmental review process for expedited pipelines which would have the effect of delaying them well beyond the existing procedure for issuing a regular certificate.

The Owens amendment would add yet another tier of Federal interference and review to an already burdensome and time consuming process. It would double the review time rather than expedite it.

The Owens amendment will create a cross-jurisdictional morass that ignores the existing NEPA process and the congressional will that establishes the FERC as the lead agency for pipeline certificates.

The Owens amendment was not raised or debated in any committee hearing or mark up and is in direct contradiction with the streamling provisions of the natural gas title which enjoyed full debate and deliberation in the committees of jurisdiction.

The Owens amendment ignores the environmental benefit that natural gas can provide if only we can get it to market. This amendment would make it nearly impossible to construct new pipelines because nobody can overcome these many new requirements that it would impose. Also I ask, what interpretation are the bureaucrats going to place on these new requirements?

More importantly, the Owens amendment ignores those working men and women who rely on pipeline construction and natural gas production for their livelihoods. At what point are we going to stop putting cockroaches and beetles ahead of people?

There is a rational and reasonable system in place that is threatened by this amendment. A right of way should not have a second set of environmental regulations placed upon its already comprehensive and complete environmental review.

If Mr. OWENS wants to punish an individual company or project—let him pursue that in the

appropriate forum, the courts. Don't throw the baby out with the bathwater.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. OWENS] to the amendment offered by the gentleman from California [Mr. MILLER].

The amendment to the amendment was rejected.

AMENDMENT OFFERED BY MR. OWENS OF UTAH TO THE AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. OWENS of Utah. Mr. Chairman, I offer a second amendment to the amendment offered by the gentleman from California [Mr. MILLER].

The Clerk read as follows:

Amendment offered by Mr. OWENS of Utah to the amendment offered by Mr. MILLER of California. At the end of the amendment, insert the following new section and conform the table of contents accordingly:

SEC. 3105. RESTRICTION ON USE, OCCUPANCY, AND DEVELOPMENT OF PUBLIC LANDS FOR PURPOSES OF RADIOACTIVE WASTES OR ELECTRIC ENERGY.

(a) IN GENERAL.—Section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) is amended by adding at the end thereof the following:

"(e) The Secretary concerned may not provide for the use, occupancy, or development of lands subject to this Act for any of the following purposes, except as stated for that purpose:

"(1)(A) Handling, storage, disposal, or treatment of low level radioactive wastes or hazardous wastes, unless the Governor of the State in which the lands are located agrees to such use.

"(B) Transportation of low-level radioactive waste or hazardous waste on such lands shall be in accordance with the Hazardous Materials Transportation Act and the regulations issued pursuant to that Act.

"(2) The electric energy purposes described in section 501(a)(4), unless the Secretary concerned, in consultation with the Administrator of the Environmental Protection Agency, determines that such facilities are the best environmental alternative that will meet the demand for electricity. In making such determination, the Secretary concerned shall consider conservation of electrical energy and renewable energy resources as alternatives. Consultation under this paragraph shall be part of the compliance required under section 102(2)(C) of the National Environmental Policy Act of 1969.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to leases, permits, licenses, or other instruments the Secretary deems appropriate for the use, occupancy, or development of lands granted under the Federal Land Policy and Management Act of 1976 after the date of enactment of this Act.

Mr. YOUNG of Alaska. Mr. Chairman, since I do not know the amendment, I am going to rise in opposition to it until I find out.

Mr. OWENS of Utah. Mr. Chairman, I am sure the gentleman from Alaska will agree with my amendment after he hears about it.

The CHAIRMAN. The gentleman from Utah [Mr. OWENS] will be recognized for 5 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 5 minutes in opposition.

The Chair recognizes the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, I rise in support of my amendment giving a State the authority to prohibit use of Federal public lands within the State for disposal of radioactive or hazardous waste and also imposing certain conditions on the use of these lands for electric energy purposes.

The principle that States should be able to restrict the importation of waste is not just an issue of States' rights. A State's right to say "no" to out-of-state wastes is a logical extension of the Golden Rule: "Don't dump on others what you would not have them dump on you."

This is not a NIMBY response. It is a sane and rational statement about handling of waste. Each area of the country must confront its own waste problems. If each area of the country must deal with its waste products, we learn first to conserve, second to recycle and third to deal with the finite nature of our resources. To be able to ship waste products out of State is to permit the real problems of waste production to be ignored.

The bill contains an amendment that would codify the right of States to say "no" to low-level radioactive waste which is so low it is exempt from regulation by the Nuclear Regulatory Commission, so-called below regulatory concern [BRC] wastes.

Empowering States to say "no" to waste imports prevents exporting States from avoiding their waste problems by shipping the waste someplace else. If States can block out-of-state waste, this forces waste generators to employ more environmentally sound waste management methods; it forces them to conserve and recycle. So, there are strong environmental policy reasons to allow States to say "no" to waste imports.

Among the wastes that would be subject to State exclusion under my amendment are naturally occurring radioactive materials [NORM], which are byproducts of natural gas production, and radioactive wastes generated at uranium processing sites. Authorizing States to exclude imports of these and other hazardous wastes will mean that gas production facilities, uranium processing sites and other energy producers will have to manage byproduct wastes at the production site in many instances. As a result, environmental considerations will likely play a greater role in energy production.

My amendment goes one step further. It would also require, before Federal public lands can be used for electricity generating facilities, that the Secretary responsible for these lands determine that the facility is the best environmental alternative. In making this determination, conservation of electrical energy and renewable energy resources would have to be considered as alternatives.

Recently, a private joint venture proposed to construct a coal-fired generation facility on FLPMA lands located just over the Utah border in the Great Basin desert of Nevada. It was no coincidence that the proposed site was in an area that currently has the cleanest air in the United States. The strategy behind this project was obvious: locate in a place with clean air and minimal risk of State interference, burn inexpensive coal, sell the power produced to the southern California market, and let Utah figure out what to do with the 62,000 tons of air pollutants that would blow into the most populous, lowest air quality areas of our State.

I was astonished to learn that the only legal obstacle to this proposed project was FLPMA land exchange regulations requiring fair value exchanges. The environmental impact statement for this project did not seriously address the need for this additional power or cleaner alternatives for providing it. Nor did it adequately consider possible adverse effects of this project on cleaner generating facilities already serving the southern California market.

Fortunately, this proposed project was politically defeated, but the need for better policy guidance on use of FLPMA lands for electricity generating facilities remains. This amendment will provide this much needed guidance to Federal land management agencies and will help promote electrical generation projects that provide power in the most environmentally benign way possible.

Federal public lands serve many important purposes. They have natural resource, scenic, and recreational values. These other values must be considered when evaluating proposed uses of these lands. Dumping radioactive or hazardous wastes should be the least acceptable use of Federal public lands. By giving a State the right to block the use of Federal public lands in the State as waste sites, my amendment provides additional assurances that these lands will seldom, if ever, be used for disposal of radioactive or hazardous wastes. Similarly, my amendment provides safeguards to ensure that the multiple values of Federal public lands are considered before these lands are used for electrical energy purposes.

Mr. Chairman, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I strongly oppose the amendment offered by my colleague Mr. OWENS with respect to the Federal Land Policy and Management Act. This amendment limits the jurisdiction of the Secretaries of Interior or Agriculture from granting leases or permits to use or develop those lands for certain waste-related and electricity-related purposes.

The electricity provision applies to generation, transmission, and distribution of electric power and requires that the Secretary concerned rely upon only environmental considerations when making permit or use decisions. Consideration of cost or technical feasibility is not allowed.

This is improper. The decisionmaking process should be balanced and not rest entirely on environmental considerations. Moreover, the Owens amendment shifts the decision of how to meet demand for electricity from a utility or State public utility commission, and from the Secretary of Energy for the power marketing administrations, to the Secretary of the Interior and Secretary of Agriculture.

The waste provision affects the treatment, storage, or disposal of low level radioactive wastes or hazardous waste by requiring the agreement of the State Governor. This interferes with implementation of the Low-Level Waste Policy Act, by giving the Governor of each State a veto over siting. We do not need additional legislation to encumber the Low-Level Waste Policy Act.

I urge a no vote on the Owens amendment.

Mr. OWENS of Utah. In closing, Mr. Chairman, I point out that my amendment does not supersede existing requirements. It simply would permit a Governor to say no to exclude the importation of hazardous or low level radioactive waste if the Governor finds for any reason that it is not consistent with State regulations or it poses an additional hazard. I think that it is appropriate that the amendment be passed. I think it is very important we understand that only through giving Governors or State legislators the power to say no, to force them into and permit regional compacts in dealing with waste, can we expect that there will be a sane policy of disposal of waste. It is a problem which will not go away.

Mr. Chairman, I urge my colleagues to vote for my amendment this afternoon.

□ 1650

Mr. YOUNG of Alaska. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Indiana [Mr. SHARP], chairman of the Subcommittee on Energy and Power of the Committee on Energy and Commerce.

Mr. SHARP. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to rise in opposition to the amendment because of what it does on the electric side of this equation. It brings an entirely new set of regulators and regulations and insists that they pick the best environmental option, which is very difficult to ascertain under any circumstances. It will interfere with State powers and Federal powers. It provides a complication at a time when we are trying to get good sound environmental policy and good sound economic policy, and we simply do not need these additional complications. It has not been thoroughly considered, to begin with. So to lay out a whole set of regulations is just a big mistake.

Mr. MOORHEAD. Mr. Chairman, reclaiming my time, I strongly oppose the amendment offered by my colleague, Mr. OWENS, with respect to the Federal Land Policy and Management Act. This amendment limits the jurisdiction of the Secretaries of Interior or Agriculture from granting leases or permits to use or develop those lands for certain waste-related and electricity-related purposes.

The electricity provision requires that the Secretary concerned rely upon only environmental considerations when making permit or use decisions that apply to generation, transmission, and distribution of electric power. No consideration of cost or technical feasibility is permitted.

This is clearly wrong. We should have a balanced decisionmaking process and not rest entirely on environmental considerations. Moreover, the Owens amendment shifts the decision of how to meet demand for electricity from a utility or State public utility commission, and from the Secretary of Energy for the power marketing administrations, to the Secretary of the Interior and Secretary of Agriculture.

State Governors would have a veto over the treatment, storage, or disposal of low level radioactive wastes or hazardous wastes. This interferes with implementation of the Low-Level Waste Policy Act, by giving the Governor of each State a veto over siting. We do not need additional legislation to encumber the Low-level Waste Policy Act.

I urge a no vote on the Owens amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. OWENS] to the amendment offered by the gentleman from California [Mr. MILLER].

The amendment to the amendment was rejected.

Mr. MILLER of California. Mr. Chairman, may I inquire of the Chair how much time each side has remaining?

The CHAIRMAN. The gentleman from California [Mr. MILLER] has 15½ minutes remaining on the principal amendment, the gentleman from Michigan [Mr. DINGELL] has 5 minutes remaining, and the gentleman from New York [Mr. LENT] has 10 minutes remaining.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in strong support of the Miller amendment and regret some of the characterizations that have taken place today with regard to it.

Basically this amendment does four things, and four things only. They all deal with hydroelectric power and the power of FERC basically that exists in a unique way and is practiced in a way that I think is offensive not just to the other Federal agencies, but to the State and the rights of the public in these particular instances.

Mr. Chairman, this amendment does four things only. One, it clarifies the issue with regard to BLM or the Forest Service requiring a permit for hydroelectric or FERC activities on Federal land. That is an issue that I do not believe is in dispute here today with regard to that issue.

In addition, it provides conditions. Obviously we expect the public lands to be used for the purposes as espoused in the basic organic acts. I would challenge the suggestion that the FLPMA, the basic law, does not address itself to the energy issue. Indeed it does.

This is no extension or duplication of responsibility for these land management agencies. These are primary responsibilities for the land management agencies.

Second, this amendment provides for and clarifies the issue with regard to dams as they affect parks. We designate, Congress designates, the national parks, the monuments, and the other units of the Park System. Clearly, when we do that, we do not intend, for instance, for FERC to disregard or override the laws with regard to such designation.

I would suggest that there are 360 units of the Park System that are in question here. Both these measures of the Miller amendment have been acted upon before. They have passed the gentleman's Committee on Energy and Commerce. The gentleman saw fit to permit the dams and parks bill to go to the Senate, where they did not act on it. So he and his committee and this Congress is on record in the past Congresses.

The other measure has been considered by the gentleman's committee after being passed by the Interior Committee. The gentleman has not seen fit to act on it, so consequently bringing these matters up in this particular purpose is appropriate.

Third, this bill provides that we deal with States, we deal with application and licensure processes we provide due process and respect States rights not permitting areas to be developed simply without regard to a State role. Fourth, the Miller amendment address

eminent domain, and that FERC cannot give to the private party the right to condemn State park and conservation lands that are designated as wildlife and wild and scenic rivers. Today FERC is what handing over to private parties such development rights and resources.

Mr. Chairman, I would just point out these four activities all deal with hydroelectric and the unique power that FERC today exercises irrespective of what the impact is in terms of our public lands, where permits should be granted, irrespective of the impact on national parks that we designate, irrespective of the actions that a State has taken to protect their streams and their waterways, and irrespective of public State private property rights, for instance where FERC grants to a private party the power of eminent domain over public State lands.

What the Governors and conservation groups and others are saying is give us back our power. Give us the opportunity for due process. Give us the opportunity for due process. Give us the opportunity to use these lands as they are designated, and the proper authority with the power to exercise it.

Mr. Chairman, I urge a positive vote for the Miller amendment.

Mr. Chairman, this amendment would restore several important provisions that were adopted by the Interior Committee during its consideration of H.R. 776.

One part of the amendment would clarify the authority of the Bureau of Land Management and the Forest Service, regarding issuance of rights-of-way or special use permits associated with hydroelectric projects.

There is an interesting history about the need for this provision:

First, following enactment of the Federal Land Policy and Management Act of 1976, the Federal Energy Regulatory Commission refused to recognize the authority that act gave BLM and the Forest Service for these matters.

Therefore, in 1988 the Interior Committee reported a bill to make it clear that FLPMA meant what it said. Unfortunately, because this was sequentially referred to the Committee on Energy and Commerce, which did not act on it, the bill was not enacted.

At the request of the chairman of the Committee on Energy and Commerce, the General Accounting Office reviewed the legal situation and reported that BLM and the Forest Service did indeed have the authority under FLPMA to control rights-of-way. When Chairman DINGELL brought this to the attention of FERC, FERC modified its rules to recognize the BLM and Forest Service authority.

Unfortunately, a recent court decision has misconstrued the law and overturned those FERC rules—putting the matter back to square 1, and again making it necessary for Congress to act, to remove any question that GAO and FERC got it right and the court was in error.

In its proposals for energy legislation, the administration asked us to eliminate BLM and Forest Service authorities, leaving all right-of-way decisions to FERC. This proposal is simply inconsistent with sound management of Federal lands. Fortunately, the administration proposals were rejected by the Senate, but the corresponding provisions in the Senate bill themselves present serious problems.

This amendment would add to the bill a section, from title XIII of the bill as reported by the Interior Committee, that improves on the Senate version by making clear that BLM and the Forest Service have the authority for issuing and conditioning rights-of-way related to hydroelectric or similar projects on the national lands they manage. The effect of this is to reverse a decision of the Court of Appeals for the Ninth Circuit incorrectly interpreting the Federal Land Policy and Management Act of 1976.

Another part of this amendment would prohibit any new dam that would either be within a National Park System unit or that would flood any lands within such a unit. I would also make clear that an existing dam within or flooding park lands could be relicensed to permit new or increased effects on park lands only if the Secretary of the Interior concurs in that relicensing. Again, this would resolve a dispute over existing law, in ways consistent with the proper protection and management of the National Park System. In many acts, Congress has directed that these park lands receive the highest degree of protection. It makes no sense to leave open a legal loophole that could undermine this protection by allowing the damming and flooding of National Park System lands.

These provisions are an important part of any national energy strategy, because they will assure that development of power projects will occur only in a sound, balanced manner that protects the priceless resources and values of the National Park System and enables the land-managing agencies to properly balance energy production with the other multiple uses of the public lands and national forests. I urge the adoption of the amendment.

Mr. LENT. Mr. Chairman, I yield such time as he may consume to the gentleman from Montana [Mr. MARLENEE].

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from Alaska [Mr. YOUNG], the ranking member of the Committee on Interior and Insular Affairs.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong opposition to this amendment. It doesn't do anything for our energy picture. It makes renewable, clean, and cheap hydropower more difficult to develop. And it will probably result in successful lawsuits against the United States for takings of private property. It is also anti-State's rights.

Let me give you an example. In Alaska, we have over 50 million acres of national parks. Millions of acres in these national parks belong to either the State of Alaska or Alaska Natives. These lands were private- or State-owned before the parks were created. Under section 3102, the State and the Natives can't build dams on their own lands. That means that in at least one case, cheap, renewable, and clean hydropower will be denied Alaska Natives, and they will be forced to burn expensive, dirty diesel fuel in the park. It just doesn't make any sense.

Let me add one more thing. If the chairman really wanted to push this legislation, he would do so in a separate bill. This has a lot more to do with how our national parks are managed than with the national energy strategy. This is just a caboose looking for a train. That's why it wasn't original text—it doesn't have anything to do with energy.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would point out that the Native American holdings within a park would not be affected by the amendment on the dams and parks.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, it would be affected according to the way the amendment is being written.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, what we are talking about here are a couple of provisions which the gentleman from Minnesota [Mr. VENTO] and I have in this amendment. Mine very simply says that if a State, such as the State of Indiana, designates a river within the State as a wild and scenic river, that FERC does not have the right then to override the State of Indiana and license a dam, a hydroelectric dam, on that river. If the State of Indiana believes that there ought to be a hydroelectric dam, of course, they can have one.

□ 1700

It says that if the State chooses to deny FERC the option of licensing a hydroelectric project on its river, it has the right to do so.

The legislation is supported by the States of California, Michigan, New York, and my own State.

Second, the amendment says that if FERC licenses a hydroelectric project, that the party who is the recipient of that license cannot condemn State park land. This has happened in Pennsylvania and, in fact, in Connecticut. In Norwich, CT, a private party got a license from FERC to build a dam on a river which flows through a city park. They built the dam and condemned the park.

This says, "You cannot do that any more." This says, "You cannot do that any more."

We want to give States the right to maintain sovereignty over State and local parks, and we want to give States the right to maintain sovereignty over rivers which they designate wild and scenic. They are two modest provi-

sions. I hope that they will be agreed to.

Mr. LENT. Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding time to me.

I would just take 30 seconds of my time and ask the opponents of the Miller amendment, any such as are here, if they could tell me the names of the members of the Federal Energy Regulatory Commission without consulting with staff. I cannot. That is why I rise in strong support of the Miller amendment.

We have been elected to our positions to represent our constituencies. Part of that is representing the rights of the States and the people that we came to Washington to represent.

We have just had a example here. No one who has risen in opposition to the Miller amendment can name the faceless bureaucrats that sit on the Federal Energy Regulatory Commission. No one can name these faceless bureaucrats, but somehow we are going to allow them to preempt State law, State rights. When the people of the State of Oregon have voted in a public referendum, statewide, to name rivers as wild and scenic, we are going to say that these faceless bureaucrats, appointed by the President of the United States in some subterranean cavern downtown in Washington, that they know better and they can come in and preempt and condemn essentially the lands of the State of Oregon or private lands and force dams to be built on these rivers to destroy these precious public assets.

I rise in strong support of the Miller amendment, and I urge my colleagues, all my colleagues here, to respect the rights of States and the rights of the voters of their districts to have some self-control, some aspect of federalism left, to support the Miller amendment.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I just cannot let the last statement go by without being challenged. It is ironic to me that this individual talks about the faceless bureaucrats making decisions about what a State shall do and not do on an energy policy. We are the Congress of the whole United States, and we are supposed to be setting energy policy, developing the supply of energy for the people of the United States across every State's borders.

It is ironic to me when an individual stands up and talks about States rights and turns right around and supports the bureaucrats, the faceless bureaucrats that will take private land away from individual taxpaying citizens at the drop of a hat. I am talking about wetlands.

The individual supports the policy of the Corps of Engineers and the EPA of condemning wetlands.

Mr. Chairman, I am suggesting respectfully this is supposed to be an energy package to produce energy. It came out of the Committee on Energy and Commerce a fairly decent bill. But now we are talking about States rights and where a State should have a right to say no, energy should not be developed here, or they were not allowed to do this there and the Federal Government shall do it here.

I am saying, if we are to have a supply of energy, it is important that every State bear its burden and its share.

Alaska itself is very excited about producing energy. We want to produce energy.

I ask the gentleman, is he in support of opening the Arctic Wildlife Range? Is the gentleman in support, yes or no?

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, it is Federal land.

Mr. YOUNG of Alaska. Mr. Chairman, it is Federal land, but is the gentleman in support of opening it up?

Mr. DEFAZIO. Mr. Chairman, if the gentleman will continue to yield, I am not, as it is Federal land.

Mr. YOUNG of Alaska. Mr. Chairman, I am saying, it is ironic that we hear from the gentleman in the well talking about States rights. We have an energy policy. This committee wants to have a policy of energy production for this Nation. I am saying the Miller amendment takes away that right for a policy to be developed by this Congress.

If we want to dissolve the United States into little States, fine, that might be better for us in Alaska. That might be better for many of us. But if we are going to have an energy policy, then we should have a policy that produces something besides hot air. We should have a policy that produces energy that is good for this country and every State must share its burden.

I am tired of the Northeast taking the gas out of Texas and Louisiana. And frankly, I am tired of California taking Alaskan oil and saying no to Alaska drilling.

We have to accept the fact that we need energy in this country. We are doing very little here, and every amendment that is offered by anybody to the energy bill is destroying that bill.

I am suggesting respectfully we adopt the bill of the gentleman from Michigan and the gentleman from New York and let us get on with our business.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, the Miller amendment addresses several complex issues. The gentleman from Michigan [Mr. DINGELL] will be offering a substitute which goes part way on several of the portions of the Miller amendment. I think that is a better advised approach for us to take.

We will have an opportunity to hear that in a few minutes. Let me suggest to my colleagues, I see two fundamental problems in this.

One is there is an absolute ban here on any kind of hydroelectric dam that has any impact whatsoever on a national park. When they consider these dams, they consider them for very long term, up to 100 years of trying to assess what will happen. And maybe there will be some very partial flooding in a national park once in 100 years. That in-and-of itself would outlaw any possiblity of creating, and licensing a dam.

I strongly support the National Park System, strongly support additions to it, spending money for it, and adding to it. But as we expand our National Park System, we have got to be mindful of the fact that we have got to be able to have some common sense, some possibility of making an adjustment when we find that it really has very marginal impact.

But the amendment says under no circumstances, unless it is something that directly serves the benefit of the park.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I just wanted to comment to my friend and colleague, who serves on our Committee on Interior and Insular Affairs, that that is already allowed with regard to parks and monuments. There is no question with regard to wild and scenic rivers.

We are talking about the other units in the System. When we designate these on the floor here, we take them up individually. Why can we not change, if there is an impact?

We have done it, incidentally, with Yosemite.

Mr. SHARP. Mr. Chairman, reclaiming my time, we are writing in another hurdle, another problem to get over. I really think that is a mistake.

The second thing is, we are making the States' veto absolute here. The fact is, in the Dingell amendment we are going to give the State a position it has never had in the past, that the Federal Energy Regulatory Commission, if the State takes a position that there can be no dam in a scenic river system, then that will be presumed to be in the public interest and has to be demonstrated as a critical need for this dam.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gen-

tleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Miller amendment.

Frankly, I am sick and tired of FERC running roughshod over the justifiable concerns of States like West Virginia when it comes to licensing hydroelectric projects.

Just recently, FERC shoved 16 hydro projects down the throats of 3 States: Ohio, Pennsylvania, and West Virginia. In fact, these projects were approved over the objections of the Interior Department and the EPA as well.

This is incredible. Two Federal agencies and three States.

All arguing that these projects would result in widespread fish kills and that they would be detrimental to water quality. Yet, their views were simply ignored by FERC.

And do you know what happens when the fishery resources of a river are ignored by FERC? The hydro project is built and the fish blow up.

I am serious, the fish blow up.

That is, in fact, what happened at a southwestern Pennsylvania hydroelectric power facility a couple of years ago.

There were massive fish kills.

And let me tell this body. It was awful.

According to the official report, fish were chopped up and mutilated by the turbine blades.

Many of them also died when their air bladders exploded due to rapid water pressure changes.

I think the Miller amendment—and in particular, its provisions that would prohibit Federal licensing of hydro projects on river segments protected under State law—will help alleviate these types of situations.

Mr. Chairman, with the growing demand for outdoor recreational opportunities, we can ill-afford the continued loss of the natural resources on which hydroelectric power is based.

Now can many areas of the country afford to squander away its tourism potential for the sake of unnecessary hydropower developments.

I urge my colleagues to support the Miller amendment.

□ 1710

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. LAROCCO].

Mr. LAROCCO. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in support of the Miller amendment and in opposition to the amendment of the gentleman from Michigan.

The fundamental question before the House is this: Who is the better judge of whether a dam should be licensed and built? Is it the State where the resource is located or the Federal Government?

The answer to that question is an easy one for Idahoans. The Miller amendment would automatically protect an outstanding water resource in Idaho. The north fork of the Payette River tumbles for some 25 miles through Idaho forests. In fact, the north fork is considered by many people to be the finest stretch of whitewater in the United States.

Last year, this stretch of river was made off limits to dams in a State water plan adopted by Idaho's legislature. However, only a few months after the plan was approved, a group began the process of obtaining a hydropower license from the Federal Energy Regulatory Commission. Under current law, if FERC grants the license, there is nothing the State of Idaho can do to stop the dam.

The Miller amendment would solve this problem. I thank the chairman of the Interior Committee and the gentleman from Pennsylvania for bringing this legislation to the floor and urge my colleagues to support their efforts to allow States to protect their own resources.

Mr. VENTO. Mr. Chairman, will the gentleman yield to me?

Mr. LAROCCO. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think the gentleman makes a very good point. The question as put today on this floor is whether we have to exploit the resources of this country that we have set aside, that States have set aside, in the name of energy. If FERC is going to go in in terms of hydroelectric, and they don't come to Congress, they don't do anything, it is a rogue elephant out of control in terms of disrespecting the other agencies, disrespect of the issues that are designated, and irregardless, for instance, of what the States have set aside has conserved in terms of these very special State resources.

I just think this hydroelectric activity, Mr. Chairman, all other segments of power should subject themselves to permits, to other processes. But why should we give such developmental rights, and who are these rights given to by FERC? FERC gives such rights to private individuals that can come in with a license and he has rights under law to take public State land and despoil it. This is a throwback to 100 years ago when public policy permitted the exploitation of our Nation's natural resources and public policy gave away the resources of this country without proper care. That was stopped by President Teddy Roosevelt, but I guess some advocate that in the name of energy we open it up today for President George Bush.

Mr. LENT. Mr. Chairman, I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in support of the Miller amendment which restores a State's ability to protect its own surface waters from hydroelectric development without Federal intervention.

I am specifically referring to the provision which prohibits the Federal Energy Regulatory Commission [FERC] from licensing hydroelectric projects on rivers which are protected by a State law.

This amendment would allow States to protect rivers and waterways without preemptive intervention from the Federal Government.

Under the current interpretation of the Federal Power Act a developer can circumvent State regulation by voluntarily submitting itself to FERC licensing rather than State law.

In its 1990 decision in *California* v. *FERC* (110 S. Ct. 2024), the Supreme Court upheld FERC's preemptive authority to regulate surface waters and issue hydroelectric permits and licenses to parties who voluntarily apply even though it is not required to obtain a permit or a license from the Federal entity.

This means that even if the FERC determines that it has no jurisdiction over a hydroelectric project, the developer can specifically ask the FERC for a hydroelectric license and thereby preempt any State decision on the project.

This basically ties the hands of the State which then has no power to protect its waterways. And it allows Washington bureaucrats to make crucial decisions about the future of a State's natural and environmental resources without regard for State law or community decisions.

The Miller amendment is a sound step in the right direction. It will empower States and communities to make decisions about the future of their water supply, electric generation, and natural resources.

The Miller amendment allows States to designate certain rivers or segments of rivers for protection without the fear of Federal intervention. It is a balanced approach which requires that the designated waterways must be part of a statewide plan submitted to the Department of the Interior.

For the State of Hawaii this is a small but crucial step in protecting our State waters.

Mr. Chairman, in Hawaii FERC intervention is not even warranted in any case. Unlike the long interstate rivers of the continental United States, Hawaii's streams are isolated on individual islands. They are short and flashy, running off of steep volcanic slopes. There are no interstate rivers or inter-

state commerce concerns that warrant Federal intervention.

Yet under current interpretation of the law, the FERC can preempt State water use laws and authorize the development of the hydroelectric plant.

FERC's preemption powers has placed Hawaiian streams in grave danger of mismanagement and abuse by invalidating the long history of strict and protective surface water law in Hawaii that has evolved from native Hawaiian custom.

In the State of Hawaii streams are subject to protection under article XII of the State constitution, the State water code, and a comprehensive statewide stream assessment which serves as a basis for protecting stream resources. Proposed hydroelectric projects are subject to a thorough review both when they seek to amend instream flow standards to obtain a State water lease and when they seek to obtain a conservation district use permit.

It in unconscionable to think that the FERC, which is over 5,000 miles away from the unique rivers and streams in Hawaii, is better able to decide the fate of our waters.

The Miller amendment is proenvironment and it is pro-State's rights and I urge my colleagues to vote "aye" on the Miller amendment.

Mr. MILLER of California. Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I would ask how much time there is remaining.

The CHAIRMAN. The gentleman from New York [Mr. LENT] yielded back his time, and the gentleman from California [Mr. MILLER] has 3 minutes remaining.

Mr. DINGELL. Mr. Chairman, I yield myself 2 minutes for a brief discussion of some of these matters.

Mr. Chairman, the Members have heard my colleagues talk about States rights and preemption. That is old law. The Federal Power Act in 1920 set forth the proceedings and the way in which these matters are done. It was done under the constitutional power of the Federal Government over interstate commerce and over navigation. It was regarded as a very important power to protect the rights of all the people. Subsequently it has been modified by the Endangered Species Act, the National Environmental Policy Act, and a number of changes have taken place.

This is not a statute which allows frivolous behavior by the Federal Government. The Federal Power Commission and now the Federal Energy Regulatory Commission is hedged in by a large number of careful and carefully drawn constraints. It has to proceed carefully. There is no invasion of States' rights.

Now let us look at what my good friends would do. Here is the statute. It takes one statute which relates to public lands and rights away. It makes it much harder to license a dam or a power line, or a generation facility. It does not make it harder to build a road, and it does not make it harder to build anything else. It makes it virtually impossible to build a dam or provided transmission lines.

The Miller amendment has one other interesting feature my colleagues ought to know about. The Miller amendment allows this kind of situation to occur: If the State legislature does not like what FERC is doing, FERC is getting ready to license a dam, the State legislature at midnight convenes a session, with no notice, and the State legislature then says, "This land is protected. The Federal Government cannot move in and license the construction of a dam or the creation of any kind of energy generating or transmission facilities."

Is that good? No; it is not. It allows sneaky misbehavior. I must confess that the fact that this is sanctified by this kind of amendment gives me dark suspicions that that may be precisely what is intended here.

AMENDMENT OFFERED BY MR. DINGELL TO THE AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. DINGELL. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Clerk will designate the amendment to the amendment.

The text of the amendment to the amendment is as follows:

Amendment offered by Mr. DINGELL to the amendment offered by Mr. MILLER of California:

Strike sections 3101 through 3104 and insert in lieu thereof the following, and make the necessary conforming changes in the table of contents:

SEC. 3101. STATE OR LOCAL GOVERNMENT LANDS

Section 21 of the Federal Power Act is amended as follows:

(1) In the first sentence after the word "right" insert ", temporarily during project construction,".

(2) In the first sentence after the word "damage" insert "(and to restore and repair),".

(3) After the first sentence insert: "The term 'unimproved dam site' shall not include any site or area that was acquired by a State or local government or agency thereof solely for the purposes of a public park, recreation, or wildlife refuge before the date such licensee is issued a license by the Commission and is owned and operated for such purposes, except that nothing in this sentence shall preclude a State or local government from consenting to the acquisition of such site or area with the licensee." The amendments made by this section to section 21 of the Federal Power Act shall apply to the exercise of eminent domain by any licensee under such section after the date of this Act.

SEC. 3102. APPLICATION OF CERTAIN STATE LAWS.

Part I of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 32. APPLICATION OF CERTAIN STATE LAWS.

"If, prior to the filing of any application by any person for an original license under this Act, a State has previously enacted a law (after the Governor of such State has provided prior and timely notice of the State's intention to enact such a law to the Secretary of the Interior, the Secretary of Energy, the Secretary of Commerce, and the Chairman of the Commission, affording each an opportunity of at least 90 days to comment to the Governor and to the State legislature) specifically prohibiting, as part of a comprehensive State plan, development of hydroelectric power facilities and similar facilities, in order to protect permanently specific natural river segments within the State, including adjacent lands, the Commission, in any licensing proceeding, shall afford such State law a rebuttable presumption that issuance of a license for a hydroelectric project on such segments is not desirable and justified in the public interest. Notwithstanding any such State law, any person may apply to the Commission for a license under this part to construct a project on any such segment, and if such applicant rebuts such presumption, the Commission may, pursuant to a majority vote, after taking into consideration the provisions of section 4(e) and 10, issue a license under this part for such project. Nothing in this section shall apply to the issuance of a new license under section 15 for any existing facility in a relicensing proceeding under this Act.".

SEC. 3103. TECHNICAL CORRECTION.

Section 31(c) of the Federal Power Act is amended by striking out "or exemptee" and inserting "exemptee or other person".

SEC 3104. PUBLIC LANDS.

Section 24 of the Federal Power Act (16 U.S.C. 818) is amended by adding the following at the end thereof: "Any lands of the United States reserved as a power site pursuant to this section which are public lands within the meaning of section 103(e) of the Federal Land Policy and Management Act of 1976 shall be considered to be public lands for purposes of section 501 of that Act notwithstanding such reservation, and any reference in such section 501 to 'the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791)' shall be considered to be a reference to this act, including this part.". Nothing in this section shall apply to the issuance of a new license under section 15 of the Federal Power Act for any existing facility in a relicensing proceeding under that Act.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. DINGELL] will be recognized for 10 minutes on his amendment to the underlying Miller amendment, and a Member in opposition will be recognized for 10 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, my amendment is a substitute for the Miller amendment. It relates solely to licensing actions for hydroelectric facilities under the Federal Power Act.

My amendment would prevent hydroelectric power licensees from condemning State and local park, recreation, and wildlife refuge areas to build new dams. This amendment to section 21 of the FPA resolves the concern of our colleague Congressman GEJDENSON.

The provision is identical in the Miller amendment and my amendment.

My amendment would insure that State legislative actions, taken after

public notice, to protect natural river segments within a State will be presumed to be in the public interest in licensing proceedings at the Federal Energy Regulatory Commission [FERC] for new hydropower projects, while providing the licensee the opportunity for rebuttal of that presumption. There is no such presumption afforded States under the Federal Power Act today. At the same time, the amendment precludes a State veto of new hydro projects that are important energy sources and ensures that a State cannot adopt a prohibition without public notice, including notice to the relevant Federal agencies.

My amendment reverses the April 3, 1992, decision of the Ninth Circuit Court of Appeals in the Henwood case which rejected a decision of FERC that licensing new hydro projects using Federal public lands requires a right-of-way permit from the Bureau of Land Management under the Federal Land Policy and Management Act. The FERC decision was supported by a 1989 General Accounting Office [GAO] opinion requested by the Energy and Commerce Committee. The amendment reinstates the interpretation adopted by FERC based on the GAO opinion. The FERC decision is environmentally sound and not onerous to the hydro licensees that need Federal lands for such projects.

□ 1720

My amendment corrects a technical problem in the Federal Power Act to authorize FERC to assess and collect civil penalties for violations of the FPA and the relevant regulations. A recent court decision held that FERC could assess civil penalties against FERC licensees who violated the FPA, but not against a person who is a nonlicensee and is in violation of the law for failing to get a license. This amendment is supported by FERC.

The Dingell substitute is solely to the Federal Power Act, not to the Land and Water Conservation Fund Act or the Federal Land Policy and Management Act, which have nothing to do with hydroelectric power or the licensing of non-Federal dams.

The substitute does not affect the relicensing of existing dams in any State. It does not prohibit any new Federal or non-Federal dam, wherever located.

It does not affect matters under the jurisdiction of the Committee on Public Works and Transportation and the Committee on Agriculture.

In regards to proposals to prohibit dams in the National Park System, I point out that existing law, namely, 16 U.S.C. 797(a), prohibits the licensing or permitting of dams within the limits of any national park or national monument as those limits were established in 1921 without a specific authority of Congress. Thus, we already have a prohibition in existing law.

I would, of course, not oppose amending that section of existing law to encompass the exterior limits of the national parks, monuments, and other areas of the National Park System as they exist today. However, the amendment offered by Mr. MILLER does not amend that statute and it is much broader in that it covers dams located outside the exterior area of the National Park System. It also covers the relicensing of existing dams.

We believe that this is a sound environmental proposal. It is important, but short and simple and not complicated. It is effective on enactment. It does not require new joint regulations by the Interior and Agriculture Departments. We urge its adoption in lieu of Chairman MILLER's Federal and State lands amendment, which will require long, extensive, and quite complicated procedures.

Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California [Mr. MILLER] is recognized for 10 minutes.

Mr. MILLER of California. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I rise here to stand between my two chairmen, and reluctantly to oppose the substitute offered by the gentleman from Michigan.

The Miller amendment is common sense, and it is good public policy. The substitute is not.

Under the substitute the Federal Land Management Agency, usually the Forest Service, would not have the ability to manage the land in its jurisdiction. Instead, the Federal Energy Regulatory Commission would be able to dictate land use policy from Washington without public hearings, without regard for multiple use management concepts, and in contradiction of established plans and local interests.

Under the Miller proposal, FERC retains the right to license a power facility even when other Agencies that manage the property are opposed to the project. But the Forest Service or the BLM would retain their right to place reasonable conditions on the right-of-way permit to ensure that the project be consistent with local land management policies that have been adopted after considerable public hearings and deliberation.

Why should we not have public hearings on the management of public lands? Why should not the Agency in charge of the land have the right to protect the integrity of the plan developed over the years of study? Why should one Agency based in Washington have the right not only to license the project but to prevent any other interests, whether it is the logging industry, hunters, off-road enthusiasts, the local water interests, Native Americans, the State Department of Fish and Game, environmentalists, or whatever from having input into the conditions of the right-of-way permit through a public hearing process? Why should we override the wise decision of the Ninth Circuit to grant the public this ability?

The Miller proposal does not affect relicensing of existing projects, only new projects in this regard. Its greatest impact will be on small hydroprojects that are economical only because of PURPA concessions that produce power that utilities do not want and destroy small streams near rural neighborhoods. These projects only go forward because utilities are required to hook up to them and buy the power at avoided cost, and because there is no way for local residents to voice their opposition through public hearings in the FERC process. Only when the local land use management Agency has the authority to place conditions on rights of way will their feelings be hurt.

The Miller substitute also prohibits new dams in national parks. This is not a new idea. It passed this House without opposition 4 years ago.

Should we give FERC jurisdiction over the Park Service in this regard? Of course not. The American people do not want to hear or read about dams in national parks.

Almost 100 years ago in Yosemite we built a dam in a national park, but the people who wanted to build that dam came down here to Congress and had to ask permission to do it. They had to ask us permission to do it. We should require no less of anyone else who wants to build a dam in a national park. We have a trust with the American people in that regard. We should keep the trust and not give away that authority.

Finally, if a State determines that a river it owns should not be dammed because it has unique qualities that the people of that State want to protect, should we allow FERC to override the State's right to protect its own water on its own land? Of course not. The Kostmayer provisions of the Miller amendment protect a State's right to manage its own water.

Again, the Miller amendment is common sense and the substitute is contrary to the public interest. I ask Members to reject the substitute.

Mr. MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, I understand the gentleman from Michigan [Mr. DINGELL] has kept in my provision on the condemnation of State park property, and I appreciate that. There are 33 States in the Union which have laws allowing those State legislatures to designate rivers within those States as wild and scenic. Of those 33 States with such laws, 25 of them spe-

cifically prohibit the construction of hydroelectric projects on those rivers that have been designated as wild and scenic. The passage of the amendment offered by the gentleman from Michigan would simply override that.

The States ought to have the right to set a higher standard here and to protect their rivers. I understand what the author of the amendment is getting at and his concern about allowing the national interests to prevail here, and not to be undercut by the States. But I think in this instance if States pass laws protecting rivers within those States, the Federal Government should not have the right to overturn that State law.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

□ 1730

Mr. VENTO. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan [Mr. DINGELL].

Mr. Chairman, this is an area where I spend a considerable amount of time in terms of dealing with public lands and parks, and I think that I know the law very, very well.

The fact is the gentleman from Michigan has painted us a scenario where the legislature is meeting in response to a hydroelectric application or a license is pending, and the legislature acts, and the Governor signs the law. He referred to that as being inappropriate. Well, it may be the wrong decision nationally, and I guess that is the concern. But the other scenario, and let me paint for you the worst-case scenario going the other way, where a developer comes in, asks for a license application on a low-head hydro sitting in some pristine type of wilderness area or on some State land and then we have to buy back the development right that is being granted by FERC under the law because there are no provisions that prevent FERC or disallow that particular type of activity.

I just suggest to the gentleman that that is precisely what happens. That is exactly what can go on in this particular case, because FERC is not going to consider the other requirements.

We are talking about the rogue type of activity of FERC in this particular area. There is no reason for us to do that.

The amendment the gentleman offers suggests that we straighten out the permit process with regard to BLM and the Forest Service. It does not deal with the dams-in-the-parks issue, and I would suggest to the gentleman, as I did before, that the provisions dealing with monuments, parks, and wild and scenic are not applicable to half the units of the national park system. Those are the units that we are trying to address in this amendment.

The House passed this legislation and sent it to the Senate, a reasonable proposal, and I had hoped that we would not throw it out here.

The issue with regard to States rights has been articulated by my friend, the gentleman from Pennsylvania, and I think that the example I have given is a realistic one and one we ought to consider and defeat the gentleman's amendment and go on with the Miller amendment.

Mr. Chairman, I rise in opposition to the Dingell amendment and in support of the Miller amendment dealing with Federal and State lands.

I note the fact that the gentleman from Michigan understands the necessity to add provisions that would add some needed balance to this bill. However, I must oppose the amendment because it falls short of what is needed.

I note the gentleman from Michigan in his amendment recognizes the need to overturn the recent erroneous court decision and restore to BLM and the Forest Service their primacy on granting rights of way across public lands and national forests. However, the Dingell amendment, unlike the Miller amendment, is silent on the procedures for the consideration of right-of-way applications. In the absence of such procedures, his legislative remedy is a limited action that leaves the door open to further uncertainty and litigation.

Another glaring shortcoming of the Dingell amendment is the absence of any provisions to protect national park system units against hydropower dams. The Miller amendment would make sure that the dam builders cannot use whatever legal loopholes, that exit to dam or flood, inundating national park system lands. Such protection for the national park system is an essential part of a truly balanced energy bill, but it is missing from the Dingell amendment, and is included in the Miller amendment.

The Dingell amendment also falls far short in protecting State park and conservation areas, while the Miller amendment includes specific protection for those areas and has won the strong support of the Western Governors Association and numerous conservation groups.

The Dingell amendment would severely undercut important protection the Miller amendment gives to rivers that the States have acted to protect against dams and other projects that can destroy their outstanding environmental and recreational values. The Federal Government has encouraged and assisted the States to identify these outstanding river areas—but under current law, another arm of the Federal Government can simply override such State law and policy and therefore prevent States from protecting such resources. This inconsistent national policy needs to be changed, and the Miller amendment does the job, while the Dingell amendment falls way short. The Dingell amendment holds out the hope of due process, pushing the States into tough notice and planning procedures only to hang the States out to dry with a closed mind FERC arbitrator to protect the national park system, and to bring true balance to this energy bill, I urge the House to reject the half-measures of the Dingell amendment, and to adopt the Miller amendment.

Mr. MILLER of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this just is not a complicated issue. This is an issue about, as a number of speakers have said, whether or not we are going to grant essentially unlimited power to one Federal agency to override the concerns not only of other Federal agencies but of the State legislatures, of the people of the States, of the Governors of the States when they make determinations about the protections of the resources within that State, when this Congress makes determinations about the protections of the resources within the Federal Reserve Systems.

We are not talking about a lot of power. We are not talking about great big dams. We are talking about the ability to disrupt, to disrupt water-resource use within a State, land-management use within a State, and impose some kind of Federal zoning over, on the top of, what those determinations that are made.

You know, we hear a lot this year about anti-incumbency, that the people do not believe we are doing their business, that we are not working on their behalf. This amendment is about whether or not the people in our States, the States we represent, the States of the Western Governors' Association, and many other States of this Union that have written us to ask us to oppose the Dingell substitute, because they want their views to prevail, not the view of FERC, not the view of some Federal bureaucrat. They want their view to prevail on the protections of their lands and their rivers.

If you want to amend that, go back to the State legislature and ask them to build the dam on the river. If you want to amend that, come to the Congress.

These bills come out here, and you see them every week, to preserve Federal lands. You are not standing up and asking for the right to build a dam.

But should you like to do that, come to the legislature, come to the people's body. Do not run down to FERC. Do not let some private individual have a Federal franchise to destroy what the people of a given State, the State of Oregon, the State of Connecticut, and others which have confronted this issue head-on have had to spend hundreds of thousands of dollars, millions of dollars fighting this bureaucracy to preserve what: to preserve the will of the people in those States.

That is what this amendment is about. It is about due process. It is about the people's body. It is about whether or not you represent your constituents or whether you represent a Federal bureaucracy.

The Governor of the State of California, not one of my closest allies on these kinds of issues, supports my posi-

tion and opposes that of the gentleman from Michigan [Mr. DINGELL]; the Western Governors' Association opposes the position of the gentleman from Michigan [Mr. DINGELL].

Why? Because they have all been terrorized by this bureaucracy. They have all been terrorized by this bureaucracy, because no matter what their States do, FERC can come in and override that. The Governor of New York supports this effort. The Governor of Kentucky supports this effort. The Governor of Oregon supports this effort. It goes on and on. Trout Unlimited, because they understand these dams are not about generating power; they are about destroying streams.

Why do we not make them do it under due process? The Miller amendment preserves due process. The Dingell amendment simply grants blind authority to an agency already out of control.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from the State of Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, the sad truth is that every way there is of producing electricity has a downside. There is no perfect way to generate electricity.

As we make public policy, time and time again we take an isolated, small portion of all of the ways there are to generate electricity, and we tighten it down because of what the downsides are with it without regard to the broad question of how we are going to provide the electricity necessary to make this Nation run.

Coal has air-emission problems. Natural gas is terribly inefficient. Nuclear is costly and it poses waste problems. Conservation cannot do it all. New technologies are not on line and almost all of them are enormously expensive. Dams inundate land and pose problems for the fish. Every single way there is to generate electricity has some downside.

The question is: Are we going to permit this country to provide the electricity necessary to make it run?

Now, we have two proposals. They are both narrow. This is not all electric generation. This is not even about all hydroelectric dams. It is about dams on public lands, a small section of the overall problem, and taking it in isolation.

The question here is not are we going to tighten those regulations and those strictures. It is how much we are going to tighten them, because both of these amendments tighten them.

The Miller amendment tightens them more. The Dingell substitute tightens those strictures significantly, but it does not go so far that we shut off yet another option in meeting the Nation's energy needs.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York

Mr. LENT. Mr. Chairman, I strongly support the amendment offered by Chairman DINGELL as a substitute to Mr. MILLER's provisions on hydroelectric powerplants. Mr. MILLER's hydroelectric provisions would prevent the construction of new hydroelectric projects and force the removal of some existing projects. It would result in redundant regulatory and environmental reviews, loss of recreational opportunities, unnecessary environmental impacts, and failure to develop and conserve river resources in a comprehensive and beneficial way.

Chairman DINGELL's amendment is an improvement over the Miller language because it would allow the Federal Energy Regulatory Commission to authorize hydro projects located on rivers protected by States if those projects would provide public benefits that outweigh their adverse impacts to the river.

Additionally, the Miller provisions increase the regulatory burden on the building of electrical transmission lines across Federal lands. This flies in the face of our objectives in reforming the Public Utility Holding Company Act and expanding transmission access. Our comprehensive national energy bill seeks to enhance the efficiency of the Nation's electricity sector, not to burden it, as does the Miller amendment.

I urge a "yes" vote on the Dingell substitute.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, May 27, 1992.

Hon. WILLIS GRADISON,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GRADISON: This responds to your May 22nd letter requesting that the Office of Management and Budget (OMB) analyze the budget impacts of the Outer Continental Shelf (OCS) lease buyback provisions in Title XXIV of H.R. 776, the Comprehensive National Energy Policy Act, as recently reported by the House Rules Committee.

OMB believes that if Title XXIV were enacted, it would increase direct spending and/or decrease receipts. It is therefore subject to the pay-as-you-go (PAYGO) requirements of the Omnibus Budget Reconciliation Act (OBRA) of 1990.

OMB's preliminary scoring estimates for the buyback provisions are presented below. Final scoring of this legislation may deviate from these estimates. If H.R. 776 were enacted, final OMB scoring estimates would be published within five days of enactment, as required by OBRA.

Title XXIV, as reported, requires the Secretary of the Interior, within 90 days after the date of enactment of this Title, to cancel active OCS oil and gas leases in the North Aleutian Basin, and in parts of the Mid-Atlantic and Eastern Gulf of Mexico planning areas. Further, 43 U.S.C. 1334, as amended by Title XXIV, would provide that such cancellation shall entitle the lessee to receive compensation (as direct payments or forgiveness of existing or future lessee obligations), as the lessee shows to the Secretary as being the lesser of the fair value of the canceled rights or all direct expenditures made by the lessee in connection with exploration and development. It is the preliminary interpretation of OMB General Counsel that this language would create mandatory compensation to the lessee either through a subsequent court judgment or the Secretary of the Interior's reduction of lessee obligations.

OMB's preliminary estimates at this time for the cost of buying back OCS leases as mandated in Title XXIV (as direct payments or receipt reductions) could be as high as $1.5 billion in FY 1992 and/or FY 1993, depending on the actual enactment date of H.R. 776. This estimate could change based on, among other things, date of enactment, applicable interest rates, lessee royalty obligations, new leases, and the receipt of more exact estimates of lessee sunk costs.

I hope this answers your question on this matter. Please do not hesitate to call on me in the future for further assistance.

Sincerely,

ROBERT E. GRADY,
Associate Director,
Natural Resources, Energy, and Science.

□ 1740

Mr. DINGELL. Mr. Chairman, I yield myself the final 1½ minutes.

My colleagues have heard the comments of the distinguished gentleman from New York, my colleague, the distinguished colleague from California, and others.

We have also heard the comments of the gentleman from Washington [Mr. SWIFT].

What we are supposed to have here is a bill which will enhance the development of energy in nonenvironmentally hostile ways.

It is said that you will prevent by adoption of the Miller amendment faceless bureaucrats overriding State laws. The permitting of dams in this country has always been a responsibility of the Federal Government and has also been a responsibility of the Federal Energy Regulatory Commission.

The amendment of the gentleman from California [Mr. MILLER] would virtually prohibit that.

It would also prohibit the transmission lines which are necessary to move electric power around.

The bill of the Committee on Energy and Commerce does something very important, mentioned by the gentleman from New York. It makes possible more efficient use of energy, better generation, competitive generation of electric power in a way that will increase the ability of this country to be energy self-sufficient.

The amendment of the gentleman from California [Mr. MILLER] would clearly inhibit or prohibit that kind of consequence.

Mr. Chairman, I would urge my colleagues to reject the Miller amendment, adopt the Dingell amendment, and let us move toward energy independence instead of more strangling of this country's opportunity for growth and evolvement.

Mr. GEJDENSON. Mr. Chairman, I would like to take this opportunity to thank Chairman MILLER, Chairman DINGELL, Subcommittee Chairmen SHARP and KOSTMAYER, for all of their hard work in trying to address a serious

problem in the way that the Federal Energy Regulatory Commission [FERC] licenses certain hydroelectric facilities. In particular, those that are proposed to be sited on lands owned by State and local government and which that State or local community has designated as a park or outdoor recreation area.

In recent years, numerous States and local governments throughout the United States have taken steps to establish parks and recreation areas, and to protect important natural resources in their States. In many cases, local governments have spent significant amounts of their own funds and foregone lucrative offers from developers in favor of protecting important aesthetic, recreational, or cultural resources. The citizens of that State or the local community make a conscious decision that protecting a particular parcel of land or a river is important and is a priority.

Despite that, under the current system FERC can and does issue licenses permitting private developers to condemn State or local parkland to build a hydroelectric facility, regardless of the desire of the State or local government to protect that particular site as a park or recreation area.

The language that is proposed by Mr. DINGELL, Mr. MILLER, and myself would simply prevent condemnation of land for hydroelectric development if that land is owned and managed by State or local government for outdoor recreational purposes or natural resource management.

Mr. Chairman, this language is not intended to impair the development of hydroelectric facilities nor would it prevent worthy projects from being undertaken. Under this provision a developer could still acquire the site through a pledge or contract with the State or local government that owns the property. What it would do is make FERC and developers of hydroelectric power more sensitive to the concerns of State and local governments, in particular, recognizing their desire to protect important park or recreation areas and natural resources.

To illustrate the problem being addressed by this provision, let me give two examples of FERC's insensitivity and lack of regard for environmental, cultural, and nondevelopmental economic issues as they relate to the licensing of hydroelectric power plants.

On March 31, 1992, FERC issued a license for a 1-megawatt hydroelectric powerplant at Yantic Falls in Norwich, CT. This property is owned by the city of Norwich, which is managing the falls as a park and recreation area. The city has adamantly opposed the development of this hydroelectric plant since it was first proposed in 1988.

For several years, the city of Norwich has been working to develop Yantic Falls, one of the most beautiful and scenic sites in the area, into a regional park and tourist attraction. As you may know, Mr. Chairman, Connecticut and New England have been experiencing a severe economic downturn, due in part to the decline in defense spending. In response, the city of Norwich has intensified its efforts to promote tourism, which they hope will encourage new economic development and create jobs in eastern Connecticut. A recent study prepared for the Eastern Connecticut Economic Coalition by A.D. Little, Inc. on the region's economy reported that "the tourist industry represents one of the region's brighter opportunities for economic growth." Consequently, steps taken to create this regional park, to diversify and create new nondefense related jobs through tourism, could be severely hurt by construction of the hydroelectric facility.

Let me mention some of those efforts. In conjunction with the State of Connecticut's Heritage Park proposed for Norwich, the city has obtained a grant through the Connecticut Department of Environmental Protection. The city is submitting a grant application through the Transportation Enhancement Act to complete the scenic and recreational improvements of the falls and physically link the linear Heritage Park from Yantic Falls to the Norwich downtown. The Algonquin Gas Co. contributed $13,700 for fencing around the park. The National Park Service is providing technical assistance to the city for the creation of a linear park along the Yantic River and I have prepared a legislative proposal to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor as an affiliated unit of the National Park System.

In many cases Mr. Chairman, battles over the protection of natural resources pit environmentalists against the local business community. That is not the case in Norwich. The Eastern Connecticut Chamber of Commerce, representing the area business community, has actively supported the development of Yantic Falls as a tourist site and strongly opposed the hydroelectric proposal. The chamber adopted a resolution opposing the hydro plant and has created an action committee to assist the city in completing actual improvements to the upper falls area. In making this commitment, the chamber of commerce has recognized the economic development potential of the park and understands that the hydroelectric plant will create few, if any, jobs and produce very little electricity. If built, this plant will degrade the falls, devastating its aesthetic and recreational value, which will lessen the economic value of the park.

In addition to the recreational, aesthetic, and economic importance of Yantic Falls, this site has cultural and historic significance as well. Yantic Falls, also known as Indian Leap, is of particular importance to the Mohegan Indians of Norwich and the Narragansett Indians of Rhode Island, since it was the site of the battle of 1643 between the Mohegans and the Narragansetts. Consequently, these two tribes have joined together to oppose this hydroelectric project due to the significance to both their tribal and cultural histories.

To make matters worse, Mr. Chairman, need for the minimal amount of power expected to be generated—one megawatt only three-quarters of the time—has been seriously questioned by energy experts. When the project was first proposed in 1988, New England and eastern Connecticut faced potential electricity shortages and high energy prices. However, because of the economic situation and conservation measures undertaken, demand has declined considerably. The April 1992 Forecast of Electric Loads and Resources 1992–2011, prepared by the Connecticut Municipal Electricity Energy Cooperative [CMEEC] indicates that:

Cutbacks in the defense industry spending in Connecticut have resulted in a broad-based economic slowdown. The result is a noticeably changed projection of electricity use in affected CMEEC areas. Several years of recovery will be necessary to offset potential losses in the CMEEC territories. In addition to the declines in the manufacturing sector, commercial and residential forecasts are being impacted, particularly in southeastern Connecticut.

In addition, significant new sources of electric power, including the startup of the Seabrook, NH, nuclear powerplant and Hydro-Quebec's transmission line through New England, have allowed Northeast Utilities and other New England utilities to announce retirement of numerous oil-fired steam-generating units by the end of the summer.

Mr. Chairman, as far back as March 1988, when the hydropower plant was first proposed, I made inquiries to FERC to get more information about this project and its potential impacts. Because it made little sense, I continued to work with the city of Norwich in opposition to it. I intervened with FERC numerous times expressing my strong opposition to the project. When FERC was first scheduled to approve the license in 1990, I intervened to get them to delay consideration, as did Senator LIEBERMAN, Senator DODD, and Governor Weicker. In addition, Senator DODD and I invited the FERC Commissioners to view the site and to join us in a town meeting—an invitation they did not accept. As a result, we videotaped the meeting and sent a copy to FERC to demonstrate the level of local opposition to the project. Again and again, when considering this project, FERC ignored the nondevelopmental value of these important resources and dismissed the interests of the people of Norwich and the community.

Mr. Chairman, in addition to working with the city in their efforts to protect Yantic Falls, I have also been involved in alternative approaches to protect these important resources. In 1988, as chairman of the Interior and Insular Oversight and Investigations Subcommittee, I conducted a field hearing in Connecticut to assess current efforts to protect and develop recreation areas and open space in the State. During those hearings, we learned there was overwhelming concern about the need to protect these important resources throughout the community and the State, and about the need to maintain local control of the land and natural resources in Connecticut.

In subsequent months, we looked at various options for preservation and protection of the Yantic River and other important natural resources throughout eastern Connecticut. We discussed them with State and local government officials as well as conservation experts. We looked, particularly, at the Wild and Scenic River Program, but found it was inadequate and too restrictive for our needs. It did not provide the kind of flexibility we need to protect the resources while protecting economic development opportunities near the river due to the quarter mile boundary requirements associated with it. It also restricted water resources activities such as the flood control project begun by the Soil Conservation Service in 1983. Worst of all, it would give significant control of eastern Connecticut's lands to the Federal Government at the expense of the

local community. We needed to find a means to protect important natural resources, while maintaining local authority.

Instead, I initiated an effort to establish the Quinebaug and Shetucket Rivers valley as a national heritage corridor. This would provide significantly more flexibility for economic development and natural resource protection for the local community, while ensuring local community control of the resources they are trying to protect. In 1989, the National Park Service began a study on the feasibility and suitability of establishment of the national heritage corridor. Though the study was supposed to be completed more than a year ago, the Park Service has continued to delay and it does not appear they will release it anytime in the near future. Though it had been my desire to wait for the study to be completed, the Park Service seems to be trying to block release of this study. As a result, I am preparing to introduce legislation to establish the Quinebaug and Shetucket National Heritage Corridor. It seems that FERC has also ignored these activities.

Mr. Chairman, regardless of the aesthetic, cultural, archaeological, recreational, nondevelopmental, economic, and energy reasons to reject this proposal, not to mention the overwhelming opposition of the citizens of the Norwich area, FERC issued a license. The insignificant contribution of 1 megawatt to the region does not warrant degradation of this extremely valuable resource. It is hard for me to imagine how a 1 megawatt hydropowerplant, in an area with surplus energy capacity, at a site as significant as Yantic Falls, with nondevelopmental economic potential of the park, could be in the national interest.

Unfortunately, this disregard is not unique to Yantic Falls. In Putnam, CT, also in my congressional district, a developer has proposed to build a 1.2 megawatt hydroelectric plant at Cargill Falls, in downtown Putnam. Cargill Falls is owned by the town and is part of the town's Rotary park. At every step of the way, the town has adamantly opposed the project and made it extremely clear it has no interest in hydrodevelopment of Cargill Falls. Even after the Connecticut Department of Environmental Protection rejected the water quality permit applications, the developer appealed to the Connecticut Superior Court. So far, the town of Putnam has spent nearly $45,000 in legal fees to fight this project. In these tight budgetary times, while the town may be forced to cut back on essential public and social services, they have been forced to divert scarce resources to fighting a senseless hydroelectric project. As Mayor Daniel Rovero says, "How much do we have to spend to say 'no'?" Based on FERC's attitude and history, there is little incentive for developers not to pursue unnecessary and unwanted hydroprojects like Cargill Falls. Despite overwhelming local opposition, economic factors, the fact that the areas are being protected as park lands, coupled with the apparent lack of demand for electricity, developers know that FERC will issue a license regardless of the site.

Passage of this language will bring greater reasonableness and thoughtfulness to the process of hydroelectric licensing. It will allow worthy projects to go forward if the developer and State or local government can agree, but will prevent situations like Yantic Falls. It will also discourage developers from proposing unnecessary and unwanted projects on State or locally owned park lands. Small towns like Putnam and Norwich should not be required to spend tens of thousands of dollars fighting senseless hydroelectric projects on property that they own and that the community has made a conscious decision to protect.

Mr. Chairman, we should not have to be taking up this issue. Environmental, cultural, recreational, nondevelopmental economic issues, and State and local concerns are all things that FERC should be taking into account when considering license requests. Unfortunately cases like the two I have briefly described illustrate the fact the FERC does not say "no" to hydro.

Mr. Chairman, I support hydroelectric power as a clean and renewable source of energy. But the site selection process must make sense. We must make FERC more responsible. The language that we are proposing will make it clear that FERC can no longer highhandedly disregard all nondevelopmental issues when considering hydroelectric licenses. Neither the city of Norwich nor the town of Putnam should have had to go through the painful and expensive process of fighting unnecessary hydroelectric projects. When the citizens of a community make a clear commitment to protecting a park or natural resource, FERC should not be allowed to disregard it.

In conclusion, I urge the Members of the House to support this language. FERC must be held accountable. They must be made to understand that the rights of States and local governments to establish parks and protect natural resources must be recognized.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. DINGELL] to the amendment offered by the gentleman from California [Mr. MILLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 195, noes 221, not voting 18, as follows:

[Roll No. 142]

AYES—195

Allard	Callahan	Dicks
Anderson	Camp	Dingell
Archer	Campbell (CO)	Doolittle
Armey	Carr	Dornan (CA)
Baker	Chapman	Dreier
Ballenger	Clement	Duncan
Barnard	Clinger	Eckart
Barrett	Coble	Edwards (OK)
Barton	Coleman (MO)	Edwards (TX)
Bateman	Collins (MI)	Emerson
Bevill	Combest	English
Bilirakis	Conyers	Espy
Bliley	Cooper	Ewing
Boehner	Coughlin	Fields
Bonior	Cox (CA)	Ford (MI)
Boucher	Crane	Ford (TN)
Brewster	Cunningham	Gallegly
Broomfield	Davis	Gallo
Brown	DeLay	Gekas
Bunning	Derrick	Geren
Burton	Dickinson	Gibbons
Gillmor	Lipinski	Rostenkowski
Gingrich	Livingston	Roth
Goodling	Lloyd	Roukema
Goss	Lowery (CA)	Rowland
Gradison	Manton	Santorum
Grandy	Markey	Sarpalius
Gunderson	Marlenee	Schaefer
Hall (TX)	Martin	Schulze
Hamilton	McCandless	Sharp
Hammerschmidt	McCloskey	Shaw
Hancock	McCollum	Shuster
Hansen	McCrery	Skelton
Harris	McEwen	Smith (IA)
Hastert	McGrath	Smith (TX)
Hatcher	McMillan (NC)	Spence
Hayes (LA)	McMillen (MD)	Stearns
Hefley	McNulty	Stenholm
Hefner	Miller (OH)	Stump
Herger	Molinari	Sundquist
Hobson	Mollohan	Swett
Holloway	Montgomery	Swift
Hopkins	Moorhead	Tauzin
Houghton	Murtha	Taylor (MS)
Hubbard	Myers	Taylor (NC)
Huckaby	Nichols	Thomas (CA)
Hunter	Nussle	Thomas (GA)
Hutto	Ortiz	Thomas (WY)
Hyde	Orton	Thornton
Inhofe	Oxley	Towns
Ireland	Parker	Traficant
Jacobs	Patterson	Upton
James	Paxon	Valentine
Johnson (TX)	Payne (VA)	Vander Jagt
Jones (NC)	Price	Visclosky
Kasich	Pursell	Volkmer
Kolbe	Ray	Walker
Kopetski	Regula	Weber
Kyl	Rhodes	Whitten
Lancaster	Ritter	Wise
Laughlin	Roberts	Wolf
Lent	Roe	Wylie
Lewis (CA)	Rogers	Young (AK)
Lewis (FL)	Rohrabacher	Young (FL)
Lightfoot	Ros-Lehtinen	Zeliff

NOES—221

Abercrombie	Engel	Lantos
Ackerman	Erdreich	LaRocco
Allen	Evans	Leach
Andrews (ME)	Fascell	Lehman (CA)
Andrews (NJ)	Fawell	Lehman (FL)
Andrews (TX)	Fazio	Levin (MI)
Annunzio	Feighan	Lewis (GA)
Applegate	Fish	Long
Aspin	Flake	Lowey (NY)
Atkins	Foglietta	Luken
AuCoin	Frank (MA)	Machtley
Bacchus	Franks (CT)	Matsui
Beilenson	Frost	Mavroules
Bennett	Gaydos	Mazzoli
Bereuter	Gejdenson	McCurdy
Berman	Gephardt	McDermott
Bilbray	Gilchrest	McHugh
Blackwell	Gilman	Meyers
Boehlert	Glickman	Mfume
Borski	Gonzalez	Miller (CA)
Brooks	Gordon	Miller (WA)
Browder	Green	Mineta
Bryant	Hall (OH)	Mink
Bustamante	Hayes (IL)	Moakley
Byron	Henry	Moody
Cardin	Hertel	Moran
Carper	Hoagland	Morella
Chandler	Hochbrueckner	Morrison
Clay	Horn	Mrazek
Coleman (TX)	Horton	Murphy
Condit	Hoyer	Nagle
Costello	Hughes	Natcher
Cox (IL)	Jefferson	Neal (MA)
Coyne	Jenkins	Neal (NC)
Cramer	Johnson (CT)	Nowak
Darden	Johnson (SD)	Oberstar
de la Garza	Johnston	Obey
DeFazio	Jones (GA)	Olin
DeLauro	Jontz	Olver
Dellums	Kanjorski	Owens (NY)
Dixon	Kaptur	Owens (UT)
Dooley	Kennedy	Pallone
Dorgan (ND)	Kennelly	Panetta
Downey	Kildee	Pastor
Durbin	Kleczka	Payne (NJ)
Dwyer	Klug	Pease
Dymally	Kolter	Pelosi
Early	Kostmayer	Penny
Edwards (CA)	LaFalce	Perkins

Peterson (FL)	Sawyer	Studds
Peterson (MN)	Saxton	Synar
Petri	Scheuer	Tallon
Pickett	Schiff	Tanner
Pickle	Schroeder	Torres
Porter	Schumer	Torricelli
Poshard	Sensenbrenner	Traxler
Quillen	Serrano	Unsoeld
Rahall	Shays	Vento
Ramstad	Sikorski	Vucanovich
Rangel	Sisisky	Walsh
Ravenel	Skaggs	Washington
Reed	Skeen	Waters
Richardson	Slattery	Waxman
Ridge	Slaughter	Weiss
Riggs	Smith (FL)	Weldon
Rinaldo	Smith (NJ)	Wheat
Roemer	Snowe	Williams
Rose	Solarz	Wilson
Roybal	Solomon	Wolpe
Russo	Spratt	Wyden
Sabo	Staggers	Yates
Sanders	Stallings	Yatron
Sangmeister	Stark	Zimmer
Savage	Stokes	

NOT VOTING—18

Alexander	Collins (IL)	Martinez
Anthony	Dannemeyer	McDade
Bentley	Donnelly	Michel
Boxer	Guarini	Oakar
Bruce	Lagomarsino	Packard
Campbell (CA)	Levine (CA)	Smith (OR)

□ 1803

The Clerk announced the following pair:

On this vote:

Mr. Anthony for, with Mr. Guarini against.

Messrs. FROST, HERTEL, BEREUTER, PICKETT, SKEEN, HALL of Ohio, RAVENEL, CRAMER, TANNER, JONES of Georgia, HAYES of Illinois, RUSSO, GAYDOS, WILSON, KOLTER, STAGGERS, ANNUNZIO, MORRISON, COYNE, SISISKY, and JEFFERSON changed their vote from "aye" to "no."

Mr. OXLEY changed his vote from "no" to "aye."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Committee will now resume consideration of the amendment offered by the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I understand that I have 3 minutes left.

The CHAIRMAN. The gentleman is correct.

Mr. MILLER of California. The next vote will be on the Miller amendment; is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. MILLER of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BUNNING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 318, noes 98, not voting 18, as follows:

[Roll No. 143]

AYES—318

Abercrombie	Gibbons	Morrison
Ackerman	Gilchrest	Mrazek
Allen	Gillmor	Murphy
Andrews (ME)	Gilman	Murtha
Andrews (NJ)	Gingrich	Nagle
Andrews (TX)	Glickman	Natcher
Annunzio	Gonzalez	Neal (MA)
Applegate	Goodling	Neal (NC)
Aspin	Gordon	Nowak
Atkins	Goss	Oberstar
AuCoin	Gradison	Obey
Bacchus	Green	Olin
Barnard	Guarini	Olver
Beilenson	Gunderson	Ortiz
Bennett	Hall (OH)	Owens (NY)
Bereuter	Hamilton	Owens (UT)
Berman	Hammerschmidt	Pallone
Bevill	Harris	Panetta
Bilbray	Hatcher	Parker
Bilirakis	Hayes (IL)	Pastor
Blackwell	Hefner	Patterson
Boehlert	Henry	Payne (NJ)
Bonior	Hertel	Payne (VA)
Borski	Hoagland	Pease
Boucher	Hobson	Pelosi
Brewster	Hochbrueckner	Penny
Brooks	Horn	Perkins
Broomfield	Horton	Peterson (FL)
Browder	Hoyer	Peterson (MN)
Bryant	Hubbard	Petri
Bustamante	Huckaby	Pickle
Byron	Hughes	Porter
Callahan	Hutto	Poshard
Campbell (CO)	Jacobs	Price
Cardin	James	Pursell
Carper	Jefferson	Quillen
Chapman	Jenkins	Rahall
Clay	Johnson (CT)	Ramstad
Clement	Johnson (SD)	Rangel
Coleman (MO)	Johnston	Ravenel
Coleman (TX)	Jones (GA)	Ray
Condit	Jones (NC)	Reed
Cooper	Jontz	Regula
Costello	Kanjorski	Richardson
Coughlin	Kaptur	Ridge
Cox (CA)	Kennedy	Riggs
Cox (IL)	Kennelly	Rinaldo
Coyne	Kildee	Roe
Cramer	Kleczka	Roemer
Crane	Klug	Ros-Lehtinen
Darden	Kolter	Rose
de la Garza	Kostmayer	Rostenkowski
DeFazio	LaFalce	Roth
DeLauro	Lancaster	Roukema
Dellums	Lantos	Rowland
Derrick	LaRocco	Roybal
Dickinson	Laughlin	Russo
Dicks	Leach	Sabo
Dixon	Lehman (CA)	Sanders
Dooley	Lehman (FL)	Sangmeister
Dorgan (ND)	Levin (MI)	Santorum
Downey	Lewis (FL)	Savage
Dreier	Lewis (GA)	Sawyer
Duncan	Lipinski	Saxton
Durbin	Lloyd	Scheuer
Dwyer	Long	Schiff
Dymally	Lowey (NY)	Schroeder
Early	Luken	Schumer
Eckart	Machtley	Sensenbrenner
Edwards (CA)	Markey	Serrano
Engel	Martin	Sharp
English	Matsui	Shaw
Erdreich	Mavroules	Shays
Espy	Mazzoli	Sikorski
Evans	McCloskey	Sisisky
Ewing	McCollum	Skaggs
Fascell	McCurdy	Skelton
Fawell	McDermott	Slattery
Fazio	McHugh	Slaughter
Feighan	McMillen (MD)	Smith (FL)
Fish	McNulty	Smith (IA)
Flake	Meyers	Smith (NJ)
Foglietta	Mfume	Smith (TX)
Ford (TN)	Miller (CA)	Snowe
Frank (MA)	Miller (WA)	Solarz
Franks (CT)	Mineta	Solomon
Frost	Mink	Spratt
Gallegly	Moakley	Staggers
Gallo	Mollohan	Stallings
Gaydos	Montgomery	Stark
Gejdenson	Moody	Stokes
Gephardt	Moran	Studds
Geren	Morella	Sundquist
Swett	Upton	Wheat
Synar	Valentine	Whitten
Tallon	Vander Jagt	Williams
Tanner	Vento	Wilson
Taylor (MS)	Visclosky	Wise
Thomas (GA)	Volkmer	Wolf
Thomas (WY)	Walsh	Wolpe
Thornton	Washington	Wyden
Torres	Waters	Wylie
Torricelli	Waxman	Yates
Traficant	Weber	Yatron
Traxler	Weiss	Young (FL)
Unsoeld	Weldon	Zimmer

NOES—98

Allard	Hall (TX)	Moorhead
Anderson	Hancock	Myers
Archer	Hansen	Nichols
Armey	Hastert	Nussle
Baker	Hayes (LA)	Orton
Barrett	Hefley	Oxley
Barton	Herger	Paxon
Bateman	Holloway	Pickett
Bliley	Hopkins	Rhodes
Boehner	Houghton	Ritter
Bunning	Hunter	Roberts
Burton	Hyde	Rogers
Camp	Inhofe	Rohrabacher
Carr	Ireland	Sarpalius
Chandler	Johnson (TX)	Schaefer
Clinger	Kasich	Schulze
Coble	Kolbe	Shuster
Collins (MI)	Kopetski	Skeen
Combest	Kyl	Smith (OR)
Conyers	Lent	Spence
Cunningham	Lewis (CA)	Stearns
Davis	Lightfoot	Stenholm
DeLay	Livingston	Stump
Dingell	Lowery (CA)	Swift
Doolittle	Manton	Tauzin
Dornan (CA)	Marlenee	Taylor (NC)
Edwards (OK)	McCandless	Thomas (CA)
Edwards (TX)	McCrery	Towns
Emerson	McEwen	Vucanovich
Fields	McGrath	Walker
Ford (MI)	McMillan (NC)	Young (AK)
Gekas	Miller (OH)	Zeliff
Grandy	Molinari	

NOT VOTING—18

Alexander	Bruce	Levine (CA)
Anthony	Campbell (CA)	Martinez
Ballenger	Collins (IL)	McDade
Bentley	Dannemeyer	Michel
Boxer	Donnelly	Oakar
Brown	Lagomarsino	Packard

□ 1823

Messrs. DICKS, CALLAHAN, RAY, and HAMMERSCHMIDT changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Chair is advised that the next amendment in order by the gentleman from Connecticut [Mr. GEJDENSON], No. 18, will not be offered.

The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

Mr. AUCOIN. Mr. Chairman, I'd like to call special attention to two important provisions of H.R. 776, the Comprehensive National Energy Policy Act.

First, I'm pleased that H.R. 776 addresses the issue of Oregon and Washington offshore oil and gas leasing. All Oregonians applaud the provision in this bill that protects our prized marine resources.

Some of us in the Northwest have been working for years to keep our coast and our fisheries safe from environmental peril—all for the sake of a few days' worth of oil.

In 1986, the House first passed my OCS leasing moratorium amendment. Our efforts to

protect critical coastal resources culminated 2 years ago in the adoption of the AuCoin-Dicks amendment to the Interior Appropriations bill.

This provision suspended leasing activities off the Oregon and Washington coast for at least a decade. I'm pleased that H.R. 776 would put this provision into law.

Our marine resources are too important to be left at the mercy of risky ventures which may have little or no payoff. We've rolled the dice one too many times with our endangered salmon runs and we are now paying the price.

I hope we've learned from our past mistakes and I urge the adoption of this important legislation. I strongly urge the conferees to consider making this moratorium permanent for the entire Oregon and Washington coast.

Second, I support section 1701(b), which will help to ensure that fishway regulations adequately protect fish as they swim past power-generating dams. This section is a compromise designed to solve a serious problem created by the Federal Energy Regulatory Commission [FERC] last year.

Last May, FERC issued a rule that flew in the face of common sense and congressional intent. FERC decreed that requirements for fishways—passages for fish around hydropower dams—applied only to fish traveling upstream. In other words, adult salmon should be protected on their way upstream to spawn, but young salmon were on their own as they tried to make it past dam turbines on their way down to the sea.

Needless to say, this bizarre ruling shocked the Pacific Northwest. The FERC Commissioners "must have taken leave of their senses," editorialized one newspaper. "Congress should reel in the panel," commented another.

Oregonians were furious because we understand perfectly well that we must protect the entire life cycle of our salmon. Representative UNSOELD and I introduced legislation H.R. 3002 to overturn this ridiculous ruling.

FERC subsequently revised the ruling to provide downstream protection measures but still claimed that the Fish and Wildlife Service and the National Marine Fisheries Service should not have a strong role in ensuring that fishway regulations were adequate.

Section 1701(b) recognizes that an agency capable of ignoring the laws of nature must share the responsibility for protecting fish, including threatened and endangered species, with agencies that have greater expertise in this crucial matter. The section gives FERC a year to revise its regulation and requires it to consult with NMFS and the Fish and Wildlife Service.

I support this provision, and I commend Mr. DINGELL, Mr. STUDDS, and Mrs. UNSOELD for their excellent work on this issue.

Mr. LEVIN of Michigan. Mr. Chairman, a matter of concern relating to the drafting of the language of section 1913 of this bill has come to my attention. This provision, which I sponsored together with my colleague on the Ways and Means Committee, the gentleman from Texas [Mr. ANDREWS], is intended to advance energy security and environmental goals by encouraging the availability of clean fuels and the use of vehicles capable of running on clean fuels.

One of the most promising strategies for encouraging clean fuels is the introduction of fuel-flexible vehicles or FFV's, that can run on clean fuel as well as conventional fuel. The development and introduction of these user-friendly FFV's is strongly endorsed by State and local energy and environmental agencies. When I sponsored section 1913, my understanding was that FFV's would qualify for the section 179A tax deduction equally with other clean-fuel vehicles—in other words, that the deduction would be based on the total cost, and not the incremental cost, of the qualifying engine, exhaust, and fuel systems.

This understanding was based on an agreement that section 1913 would be modeled on S. 1178, a bill introduced in the other body by Senator ROCKEFELLER. S. 1178 provides capped deductions based on the total cost of qualifying components, not incremental cost. Senator ROCKEFELLER's office has assured me that the natural gas industry, as well as other alternative-fuels industries, agreed to the total-cost language when the various parties, after long consideration, reached a compromise agreement on a tax deduction bill for alternative-fuel vehicles and infrastructure development.

Section 1913 was intended to reflect this agreement. However, the reported version of section 1913 contains a provision that would limit the deduction for FFV's to incremental cost. This was not part of my original intention, nor did the summary of the provision to the committee before its adoption reflect such a limitation, and I am concerned that it would undercut the purposes and intended fuel-neutrality of the bill. A fuel-neutral bill would apply the total-cost concept to all clean-fuel vehicles, including FFV's. I am also aware that the recent cost estimate indicates that the cost of adopting this approach might be more than was originally understood.

It is my hope and expectation that during the conference on H.R. 776, an approach can be worked out that will embrace the thrust of the original Rockefeller bill in order to treat FFV's fairly and achieve fuel neutrality.

Mr. WEISS. Mr. Chairman, I rise in support of H.R. 776, the National Energy Policy Act of 1992. Passage of this comprehensive legislation will mark the end of an era of deliberate, calculated inaction—an era which began with the Reagan administration's elimination of conservation and alternative energy programs, and reached its low point last January, with half a million American men and women dug in to the sands of the Saudi Desert.

For 12 years, the Nation's energy security has been held hostage by the special interests of the energy industry. Our self-proclaimed Environmental President, meanwhile, has made tending to big-business-as-usual his top priority.

Time and again, the administration's energy policy has proven itself contrary to the national interest. Recently, my colleague from Michigan [Mr. WOLPE] uncovered a confidential Energy Department analysis of its own $5 billion R&D effort, which ranked the Nation's true energy needs in almost exactly the opposite order of the President's spending priorities. Energy efficiency and conservation programs that were ranked highest by the administration's own staff members received the smallest increases in the President's budget last year, while a recommended cut in costly nuclear programs was overruled in favor of a 22-percent budget increase.

This sort of white-is-black, black-is-white approach is typical of the short-sighted leadership we have experienced in recent years.

With the measure before us today, the country will return once again to a long-term, strategic approach in planning for our future energy needs, taking into explicit account sustainable economic development and preservation of the global environment which we must all share. That such sweeping legislation can maintain its integrity and still enjoy the broad support of industry and environmentalists alike is testimony to the diligent efforts of the nine committees that contributed to the bill.

H.R. 776 recognizes the United States' role as both the world's leading consumer of energy, and its potential as a leader in the field of conservation. If the bill stopped only with its concrete incentives for development of alternative energy sources and the reduction of ozone-threatening greenhouse gases, it would be a bold step in the right direction. Instead, it goes on to assure that technology will quickly be shared with developing nations, where the environmental pinch is most acute.

Under the bill, solar, geothermal, and wind-generated power will once again have the support they deserve from the Department of Energy. It contains measures making it easier for alternative energy producers to obtain private financing, and guaranteeing them the right to sell their product via the existing commercial power grid.

The Energy Act also created important new environmental protections. It imposes a 10-year moratorium on oil and gas drilling along most areas of the U.S. coastline, and will sharply reduce the emission of greenhouse gasses. In a major victory, the commercial nuclear power industry will be forced to share the costs of cleaning up the Federal plants which produced the enriched nuclear fuels to drive their atomic plants.

Finally, H.R. 776 reauthorizes the Department of Energy's research and development programs for the first time in nearly a decade, establishing a formal mandate requiring planners to consider energy security, environmental safety, and least-cost efficiency when allocating Federal research dollars.

We made some mistakes crafting this bill; that is the risk you take in setting out to craft a workable rule of law governing such a wide body of conflicting interests.

By striking provisions which would have required oil companies to set aside 1 percent of their production for inclusion in the Strategic Petroleum Reserve, we missed a unique and innovative opportunity to insulate the U.S. economy from the devastating impact of the next oil price shock, and to do so at minimal cost to producers and consumers alike. Hopefully, that will be corrected by an amendment from the floor.

Similarly, my colleagues voted to rewrite the rules governing the licensing of nuclear powerplants in a manner which I believe will cut off vital avenues of public involvement.

But the broad mandate behind this legislation represents a stunning triumph over the parochial concerns that have held American energy policy in check for 12 years. H.R. 766 offers the bold action we have been waiting

for since 1981. I urge my colleagues to join together and pass the National Energy Policy Act.

Mr. DARDEN. Mr. Chairman, I rise in strong support of H.R. 776, the Comprehensive National Energy Policy Act. I commend the efforts of all nine committees in creating a measure that addresses many critical policy issues including development of renewable energy sources, increased energy and water efficiency in Federal facilities and State building guidelines, expansion of alternative motor fuels programs, nuclear waste disposal and power generation, and increased efficiency and competition in the electricity and natural gas market. This measure will serve as a comprehensive blueprint for future efforts to address national energy policy questions.

Mr. Chairman, I am especially supportive of the moratoria on Outer Continental Shelf [OCS] leasing and preleasing activities included in title XX of this measure. The policy reflected in these provisions represents, I believe, a balanced and reasonable approach to the important issue of responsible development of mineral resources in the OCS. By establishing this 10-year moratoria and creating environmental sciences review panels for the planning areas, this measure provides the necessary time, information, and procedural consistency to give proper weight and consideration to relevant environmental and socioeconomic factors.

This measure is particularly well suited to the needs of States, such as Georgia, in areas that do not currently face the environmental and commercial pressure of OCS development, but would be subject to leasing under the administration's energy development plan. There are important environmental, recreational, and commercial assets in coastal Georgia that are deserving of the protection that would be provided by the thorough evaluation called for in this measure. Georgia's coastal region contains many preserves and scenic areas including the Cumberland Island Wilderness Area and National Seashore, the Wolf Island National Wildlife and Wilderness Area, the Wassaw National Wildlife Refuge, and many other sanctuaries, parks, and refuges.

In the moratoria period, the review panels will have ample time to collect, assess, and develop the information necessary to make intelligent and prudent decisions regarding the costs and benefits of OCS activities. In addition to appointees from the EPA, the U.S. Fish and Wildlife Service, the National Oceanic and Atmospheric Administration [NOAA], and the Minerals Management Service, the Environmental Sciences Review panels will include a representative from each State within the review area which will help assure that the panel's evaluation fully addresses State and local interests.

Finally, I would note that in supporting the provisions of title XX, I do not wish to see OCS development permanently ended, but only delayed until appropriate information and technical advances allow for the extraction of OCS resources in an environmentally and socially responsible fashion.

Mr. Chairman, I urge my colleagues to support H.R. 776 and the moratorium on Outer Continental Shelf mineral exploration.

Mr. LENT. Mr. Chairman, this is a historic day, because 3 years after President Bush took the lead by offering his comprehensive program, Congress is finally on the verge of passing a national energy strategy.

And it's not a moment too soon. Throughout this debate, we've heard how America desperately needs a comprehensive coordinated blueprint to secure her future energy supply. For more than a generation, we've done a lot of talking about reducing our dependency on foreign oil. Today, we are doing something about it.

This bill makes dramatic, necessary steps toward a sound energy policy. It fosters greater reliance on alternative sources of energy, such as solar, geothermal, and nuclear. It streamlines gas pipeline construction, which increases the flow of clean-burning and inexpensive natural gas. It encourages the use of alternative fuels, such as electricity and compressed natural gas, in the vehicles we use. And in doing these things, we will afford greater environmental protections to our precious natural resources.

There are many people who deserve recognition for today's accomplishment. First and foremost, our thanks go to President Bush, who had the foresight and leadership to introduce his energy plan in 1989, long before the Iraqi invasion of Kuwait brought energy back to the front page headlines. I would like to thank my good friend from Michigan, the chairman of the Energy and Commerce Committee [Mr. DINGELL]; the chairman of the Energy and Power Subcommittee [Mr. SHARP]; and my good friend from California [Mr. MOORHEAD], the ranking subcommittee Republican, for their leadership and perseverance in moving this massive piece of legislation to this point.

I would also like to take this time to thank the members of the Energy and Commerce minority staff, who worked 18-hour days and spent many sleepless nights drafting and refining this legislation. Their names won't make the news stories detailing this bill, but were it not for their efforts, we would not have a bill at all. So I offer my thanks to: Jessica Laverty, Cathy Van Way, Margaret Durbin, John Hambel, John Shelk, Darlene McMullen, Freida Depe, Anne-Whitney Powers, and Mimi Paredes, for their dedication and hard work. I would also like to thank Leonard Coburn of the Department of Energy and Michael Rafkey of the Nuclear Regulatory Commission, who were detailed to the minority staff, for their assistance as well.

Now comes the difficult task of reconciling the differences that exist between the House and Senate versions of the bill. I urge my colleagues to adopt the policies of openness and compromise that were displayed thus far so that we may send to the President for his signature a balanced and reasonable energy bill.

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 776, the National Energy Policy Act. For the third time in two decades this country's economy and national interests were seriously jeopardized by our failure to develop a strong energy policy. In previous years the United States failed to adequately respond to these energy crises by failing to take steps to safeguard ourselves from future supply disruptions and curb our appetite for oil. I am pleased that the legislation being considered today moves in the right direction toward achieving these goals.

Energy policy is an issue I feel very strongly about as I believe it will have great impact on the future of this Nation. Last year I introduced a comprehensive energy bill, H.R. 560, to take steps to assure America's energy future over the short and long terms by taking immediate steps to make us significantly less vulnerable to energy supply disruptions, and promoting the use of conservation and alternative fuels to curb our dependence on oil over the long term. H.R. 776 contains a number of provisions either identical or similar to those contained in my bill including: the bill's provision to require more rapid and certain filling of the strategic petroleum reserve to guard against disruptive oil shortage; encourage the development of alternative fuel vehicles by assisting the transition of government and other vehicle fleets; encourage research and development of energy conservation; and require State utilities to conduct least-cost planning.

I am also very supportive of the legislation's provisions to defer sensitive areas of our coastline from Federal offshore oil and gas leasing until environmental studies are conducted to adequately determine the impact of development on these areas.

As my colleagues know, I have led the fight in the Congress in opposition to Outer Continental Shelf [OCS] development in environmentally sensitive areas. For more than a decade we have fought year-to-year battles to protect these areas through annual leasing bans on the Interior Appropriations bill.

It has always been my position that while OCS development has a legitimate role to play in our Nation's energy policy, it should not be our first line of defense. We must pursue conservation measures and alternative sources of energy before we seek the development of sensitive areas of our Nation's coastlines. Moreover, I believe the Congress should set up a process by which we would permanently protect the particularly sensitive areas of our coastline while allowing development to safely proceed in other areas. This effort has been hampered by the Department of the Interior's inadequate data base which has been criticized by the National Academy of Sciences as being inadequate and unreliable as a basis for making decisions concerning the environmental impacts of leasing. For this reason, the Congress has held that the Department should not proceed with leasing in particular areas until we can adequately determine the impacts of offshore development.

The legislation being considered today provides the appropriate deferrals for these areas while joint Federal/State scientific panels obtain the information necessary to make responsible decisions concerning the impacts of development on sensitive regions. While the issues of permanent protection is yet to be addressed, this legislation advances the process by which Congress may consider areas for permanent protection in the future. I urge my colleagues to support these provisions which I believe will lead to a long-term resolution of this contentious issue.

I would also like to note, Mr. Chairman, that these provisions would not have been possible without the leadership of Chairman SID YATES, Chairman GEORGE MILLER, and Chairman

WALTER JONES, and want to commend them for their excellent work on this important issue.

Before I close I want to state for the record that I find it regrettable that important energy issues like fuel economy standards are not being addressed as part of this legislation. Adopting strict fuel economy standards is perhaps the single most important step we can take to help curb our dependency on oil over the long term and lead this Nation to a more positive energy future. I am concerned that until forceful action is taken to promote conservation we have failed to fully address our energy problems and act in the best long-term interest of this Nation. Nonetheless, I believe this bill makes important new gains in energy policy by promoting greater energy efficiency, the development of alternative sources of energy, and protecting the Nation with a large petroleum reserve. I urge my colleagues to support its adoption.

Mr. GILLMOR. Mr. Chairman, I want to express my support for H.R. 776, the Comprehensive National Energy Policy Act, and in particular its provisions to amend the Public Utility Holding Company Act and expand wholesale power competition. Increasing competition in the generation of wholesale electric power will ultimately reduce rates paid by electric customers. I therefore would urge my colleagues to protect provisions for expanded transmission access and Public Utility Holding Company Act reform as they prepare to reconcile differences in the conference committee.

Nevertheless, certain strengthening modifications to the electricity title are essential to fully achieve the intent of the Congress. I suggest the following strengthening modifications:

First, section 723 of the bill would authorize the Federal Energy Regulatory Commission [FERC] to require transmitting utilities to transmit electricity to wholesale power purchasers, but would prohibit any requirement that a transmitting utility transmit electricity directly to an ultimate retail consumer. However, under the bill as presently written, it would be possible for a new wholesale purchaser of electricity to be created solely for the purpose of circumventing the prohibition against mandatory transmission to ultimate consumers.

The prohibition against mandatory transmission service to individual retail consumers, such as large industrial installations, is necessary to protect the right of a utility to serve customers of all classes within its service area. Failure to protect this right would lead to higher rates and charges for electric service provided to residential and small commercial consumers served by a utility, without any offsetting economic benefit to the community. It is my understanding that this issue may be addressed without unduly affecting development of legitimate independent power producers or municipal systems. I would hope that my colleagues in conference will work to close this loophole.

Second, the drafters of the bill recognized that it would be unfair to permit issuance of an order by the FERC requiring mandatory transmission service if the provision of such service is economically disadvantage the customers of the transmitting utility subject to the order.

Utility transmission systems are interconnected to form a multistate transmission grid. Because of a basic law of physics, a mandatory transmission order issued to one utility may affect the reliability of service and costs to consumers of other utilities owning portions of the interstate transmission system. There is no valid reason to protect the consumers of the transmitting utility subject to the mandatory wheeling order without similarly protecting consumers of other utilities which may be affected. It would therefore be consistent with Congress' pro-consumer intentions to expand the existing prohibition against mandatory wheeling orders having an undue adverse impact on transmitting utilities in order to assure that consumers of all utilities which may be affected by the order are properly protected.

Third, the bill requires FERC to establish for mandated transmission service rates and charges sufficient to compensate the service transmitting utility for all prudent costs incurred in connection with transmission and necessary associated services. Although it is my understanding that the necessary associated services include the provision of standby generation by the transmitting utility which may be utilized in the event the delivery of electricity to the transmitting utility is interrupted, the bill does not specifically provide for recovery of the costs of this service. Failure to specify that the costs of this standby generation service may be recovered from the transmission service customer will lead to costly litigation and may result in denying to the transmitting utility the right to recover the costs of standby generation capacity. The bill should therefore be clarified to provide assurance that FERC will be required to consider the cost of standby generation service in establishing rates and charges for transmission service.

Fourth, I am concerned about provisions that require utilities to make a good-faith effort to build additional transmission capacity in order to handle the needs of others. If the utility cannot build due to being unable to obtain the necessary approvals under applicable Federal, State, and local environmental siting laws, they will be relieved from the order to build. My concern is that the conditions of relief are incomplete. What if the utility is unable to acquire the land? What if the State denies a request for a certificate for convenience and necessity? What if there are other zoning restrictions? Also the definition of what constitutes a good-faith effort is critical. Does the utility have to offer 5 or 10 times market value to buy the land? Does the utility have to try for 5 or 10 years before they are relieved of the order? When is enough enough? The conferees should ensure the language is clear and fair so that a good-faith effort is not impossible.

With these changes, the Comprehensive National Energy Policy Act will better achieve the enhanced efficiencies in electric energy production and transmission which the Congress desires.

Mr. DE LUGO. Mr. Chairman, I rise in support of section 1404. This section recognizes the need for special planning to ensure that the U.S. associated insular areas would not be inadvertently cut off from their sole energy source should there be a disruption in the Nation's oil supplies.

It does so by requiring the Secretary of Energy to undertake a study of the unique vulnerabilities of these relatively small and distant islands to oil supply disruption. Consultation with those Federal agencies with responsibilities for these insular areas—the Office of the President in the case of Puerto Rico and the Secretary of the Interior in the case of the other insular areas—is intended so that a thorough, balanced outcome is achieved.

The focal point of this study, Mr. Chairman, would be to plan how these eight Caribbean and Pacific Island groups for which the Committee on Interior and Insular Affairs has special responsibilities, will gain access to oil during times of national emergency.

These insular areas are almost totally dependent upon imported oil, and their only means of obtaining it is through ocean shipping. Complicating their vulnerability further is their distance from any sources of oil in general, and the strategic petroleum reserve in particular. A cut off in any oil supply to them would literally be a cut off in a lifeline to them.

These points illustrate that, although the current system of allocating petroleum from the strategic petroleum reserve may be efficient in the case of the mainland United States, the current system is far from dependable where the insular areas are concerned. Workable adjustments should therefore be made, Mr. Chairman, in light of these areas' unique situations and needs.

One cost-effective and practical solution to this problem might be the creation of regional reserves in the Pacific and the Caribbean. This has been requested by all of the U.S. insular area governments and proposed in the U.S. Senate.

Another possibility supported by the Senate and the Interior and Insular Affairs Committee, is that the insular areas be guaranteed a small percentage of a drawdown from the strategic petroleum reserve if the Secretary agrees that this is needed to avert an insular oil crisis.

Yet another proposal endorsed by the Senate and the Interior and Insular Affairs Committee would permit priority loading of insular area vessels in order to avert an insular energy crisis.

Representatives of the Energy and Commerce Committee were not ready to agree to these proposals. But our distinguished colleagues, Chairman JOHN DINGELL and Subcommittee Chairman PHILIP SHARP, recognized that special provisions may need to be made to ensure insular access to vital oil supplies during an energy crisis.

Thus, they, on behalf of the Energy and Commerce Committee, and Chairman GEORGE MILLER and I, on behalf of the Interior and Insular Affairs Committee, reached agreement on this provision. It substitutes for one in the Interior and Insular Affairs Committee's reported bill.

I have suggested some of the ways in which the emergency oil supply needs of the insular areas may be addressed, Mr. Chairman. Careful thought and analysis will produce others, I am sure.

The key point is that unlike the mainland States, which obtain their oil via rail, highway, pipeline, and tanker, these insular areas can get their oil only via tanker. They simply have no other options.

In view of this, I commend all involved for recognizing the need to address this matter

which is of such serious concern to the insular areas. In particular, as chairman of the Insular and International Affairs Subcommittee, I appreciate the cooperation of Chairmen DINGELL and SHARP; the leadership of Chairman GEORGE MILLER; the support of my fellow Representatives from insular areas, ENI F.H. FALEOMAVAEGA, ANTONIO COLORADO, and BEN BLAZ; and, in the other body, the leadership of DANIEL AKAKA and actions of DANIEL INOUYE and J. BENNETT JOHNSTON.

Mrs. UNSOELD. Mr. Chairman, a sound and balanced national energy strategy is a cornerstone to national security, economic prosperity, and the environment.

H.R. 766, the Comprehensive National Energy Policy Act contains many important provisions. I want to focus my comments on several that are of great importance to the people in the Pacific Northwest.

The first provision suspends all oil and gas preleasing and leasing activities off the coasts of Washington and Oregon until after the year 2000. This measure will ensure interim protection from administration officials who have promoted the Outer Continental Shelf [OCS] as an energy reserve needing only to be explored and tapped, and from officials who have pushed aggressive leasing programs despite conflicts with other resources and desires of coastal areas. I fully support this provision as a way of providing interim protection from oil and gas development until we are able to secure a permanent ban.

Permanent protection is provided by H.R. 766. However, for a discrete area soon to be designated by the National Oceanic and Atmospheric Administration [NOAA] as a national marine sanctuary. This fall, NOAA is expected to issue a final environmental impact statement and regulations to designate the sanctuary on the Olympic coast of Washington State. I offered this provision for permanent protection in the Merchant Marine and Fisheries Committee, because by all accounts this region of the coast provides some of our country's most valued resources and warrants immediate permanent protection from the threat of offshore oil and gas production.

H.R. 766 also contains an important provision to reverse a decision by the Federal Energy Regulatory Commission [FERC] to restrict the authority of the U.S. Fish and Wildlife Service [FWS] and the National Marine Fisheries Service [NMFS] to prescribe fishways for hydropower projects. Last year, through its rulemaking process, FERC tried to limit the authority of the FWS and the NMFS by defining fishways as facilities for upstream fish passage, but not for downstream passage. This action was not only a roadblock to efforts to rebuild our fisheries, but also a clear infringement upon the authorities of the Federal agencies charged with protecting and enhancing these resources.

In light of public outrage, and legislation I introduced, FERC modified its fishway definition to recognize the downstream passage needs of some fish. However, this revised definition still limits the role of the Federal fisheries agencies. For the first time in some 70 years, FERC would be in the position of deciding which fishway prescriptions were required and which were not.

Title 17 of H.R. 766 would repeal this improper FERC rule and clarify that the authority for establishing fishway prescriptions belongs to the FWS and the NMFS, and not FERC. I urge my colleagues to support this provision.

Finally, while I am pleased with aspects of H.R. 776 that suspend oil and gas leasing activity and ensure adequate fish passage at hydroelectric projects, I am disappointed that this bill does not address the problem of global warming.

Scientists have concluded that continued emissions of carbon dioxide and other greenhouse gases will lead to global warming. While the full consequences of this are difficult to gauge, experts fear they may be catastrophic. Some of the possible results are: severe droughts, hurricanes and floods; increased spread of infectious disease; devastation of many of our planets ecosystems; and drastic declines in agricultural productivity.

Given the seriousness of these threats, our Government cannot delay any longer. It is essential that we join the other industrialized nations and act now to stabilize the emission of carbon dioxide. The European Community, Canada, Japan, and Australia have already agreed to support stabilization of carbon dioxide emissions at 1990 levels by the year 2000. According to studies by the Environmental Protection Agency, the National Academy of Sciences, and other organizations, this can be achieved with little cost. Some studies even predict net savings.

This is a critical turning point in human history. The actions we take now—or fail to take now—could well determine the fate of our species and our planet. We will have an opportunity to vote on an amendment to stabilize U.S. emissions at 1990 levels by the year 2000 and I support it.

Mr. UPTON. Mr. Chairman, I want to take this opportunity to express my concern about portions of the transmission access provisions in title VII of this bill. I am referring to the potential for so-called sham wholesale transactions that could result in mandatory wheeling of electricity to retail customers.

The current provisions of H.R. 776 prohibit the Federal Energy Regulatory Commission [FERC] from directly ordering utilities to wheel power for third parties to retail customers. However, the language as written could result in FERC issuing wheeling orders for transactions that appear to be wholesale but actually are retail in nature—a sham wholesale transaction. For example, FERC could order a utility to wheel power to a broker who would simply resell the power directly to the utility's retail customers. Another example is a large shopping center that tries to purchase electricity at wholesale rates and resells it to the building's tenants.

If these types of transactions are allowed to occur, the result will be higher electric bills for small businesses and residential customers. Utilities are obligated to provide electricity to all of the customers in their service territories. They must plan for enough generating, distribution, and transmission capacity to meet the projected demands from their customers. If some of a utility's more significant customers are able to switch to other electricity suppliers, the fixed costs of the utility's system will be paid for by the smaller pool of small commercial and residential customers.

I also would like to point out that one of the major objectives of the bill before us is to encourage utilities to expand their energy efficiency efforts. However, retail wheeling will penalize those utilities which have aggressive demand side management [DSM] programs—that I support.

Because energy efficiency programs result in lower electricity demand, near-term electricity rates increase in order for a utility to recover its costs. If large customers are allowed to shop among electric generators for the cheapest power, it is likely that the most attractive candidates will be those generators which do not have extensive DSM program. Requiring utilities to compete for large customers would discourage utilities from engaging in DSM program, as well as public service programs, such as low-income home energy assistance.

Mr. Chairman, I urge my colleagues who will serve on the conference committee on this bill to address these concerns. Otherwise, this country's small businesses and residential customers will inevitably see their utility bills increase.

Mr. PENNY. Mr. Chairman, although I strongly endorse the concept of a national energy policy in this country, I am going to vote today in opposition to H.R. 776, the National Energy Policy Act. I am disappointed that this bill does little to promote alternative fuels, but rather continues the policy of relaying primarily on nuclear power and foreign energy sources for our Nation's energy requirements. Congress should be advocating a long-term energy policy which emphasizes the development of domestically produced, renewable, and non-petroleum sources of energy.

Last week, the House rejected the Jontz/Ewing amendment which would have directed the Department of Energy to establish an octane replacement program using domestically produced, renewable, nonpetroleum sources. This octane replacement program would have provided an incentive for oil companies to shift from the use of aromatic hydrocarbons, which cause toxic emissions, to the cleaner burning ethanol which reduces these emissions in exhaust fumes. Also, the amendment would have reduced imports of foreign oil by 80 million barrels in the first year and by 300 millions barrels by 2006.

While the bill does contain some tax incentives for renewable energy and alternative fuels, it is unlikely that these provisions will survive conference committee because the Senate's version of this legislation did not contain incentives for renewable and alternative fuels.

The United States needs to move away from our dependence on foreign energy and begin to promote domestic alternatives. H.R. 776 falls short on these priorities. For that reason, I intent to vote no on the National Energy Policy Act.

Mr. PAYNE of Virginia. Mr. Chairman, I rise in support of the energy package before us today.

I believe we must encourage our Nation's energy independence and help secure economic growth. I believe this bill addresses these needs in a responsible and workable fashion.

I have long held the view that we must invest in our future if we are going to be competitive in today's world market.

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One important provision of this bill would require the Secretary of Energy to disregard certain costs in evaluating bids to perform nuclear hot cell services.

There is only one commercially available hot cell laboratory located in the United States that can perform post-irradiation examination on full size pressurized water reactor fuel assemblies. This facility, Babcock and Wilcox, Inc., in Lynchburg, VA, has undergone frequent expansions and continuous upgrades to rank as one of the most versatile commercial facilities available for irradiated materials research today.

The Department of Energy has been awarding contracts and subcontracts for these services to foreign competitors. Less stringent environmental regulations and government subsidies abroad enable these competitors to make lower bids.

Most importantly, U.S. bidders have to include a 27-percent decommissioning charge in their bids, while foreign competitors do not.

This legislation will restore a level playing field to this area of research and development by requiring the Secretary of Energy to review bids for hot cell services with the same regulatory add-ons applied to foreign bids as to U.S. bids.

The United States cannot allow this vital research and yet another industrial capability to move offshore. I believe we must stem this troubling trend for many of our small and services industries across America and keep Americans working.

I commend Chairmen DINGELL, Chairman SHARP, Mr. LENT, Mr. MOORHEAD, and all other committees and subcommittees with jurisdiction for their hard work in producing such a comprehensive energy package. I urge my colleagues to support the bill.

Mr. GALLO. Mr. Chairman, today, I rise in support of the Comprehensive Energy Policy Act, H.R. 776. I believe the eight committees involved have done an excellent job in crafting an energy bill that has taken a balanced approach.

Last year, I praised the President for his leadership when he sent to Congress a national energy strategy that addressed his priorities and highlighted the importance of this issue as part of his domestic agenda. I commend him for making energy policy a national issue.

H.R. 776 puts forth many provisions that promote energy efficiency, energy conservation, and the use of alternative fuels. I was very pleased to see that the Ways and Means Committee included Representative ANDREWS' provision for alternative fuels refueling stations in the bill.

The bill provides for a $100,000 tax deduction for refueling equipment. I have always believed that it is very important for the United States to provide incentives for individuals to use clean alternative fuels and am happy to support this provision.

Last month, I introduced similar legislation to promote the use of alternative fuels. My bill, H.R. 5016, would provide grants to States and individuals to develop clean fuels distribution outlets in areas with severe ozone problems.

Under the Clean Air Act passed last year, Congress required States to meet tough clean air standards. States like New Jersey are going to have a tough time meeting these requirements unless we take aggressive action now to promote cleaner fuels. We cannot afford to do nothing.

I believe the comprehensive energy strategy, H.R. 776, takes an important step in the right direction. However, I still believe we can do more. That is why I will continue to urge the Energy and Commerce Committee to pass my legislation so that we build upon the incentives in H.R. 776 and provide for the expanded use of alternative fuels.

As the author of H.R. 193, a bill to provide a mass transit incentive up to $75 a month, I am pleased to see that H.R. 776 includes a provision that provides for a realistic fringe benefit in the amount of $60 for those who use mass transit.

With this critical energy-saving program in place, we can promote the use of mass transit by offering realistic alternatives to individual commuters. It has become very clear that reducing the amount of traffic on our highways must be a top priority if we are committed to reducing energy consumption as well as to meeting Clear Air Act standards.

The best way to reduce traffic is through improvements in mass transit and a greater emphasis on car pooling in areas where mass transit could not meet the needs of commuters.

Even though my original legislation would have set a ceiling at $75, I was especially pleased to see that compromise language could be reached. H.R. 776 sets the monthly incentive at $60, but allows the rate to rise in future years to adjust for inflation. I am please with the strong bipartisan support for this energy-saving measure, and am happy to support this monumental piece of legislation.

Also contained in H.R. 776 is a bipartisan effort by members of the northeast-midwest congressional coalition to encourage utilities to assist industries in achieving greater energy efficiency.

The provision provides grants to States which encourage utilities to provide energy efficiency and technology assistance to industries within their service areas. Programs such as this one contribute greatly to our national goal of energy efficiency and I believe the manufacturing sector can be an important player in meeting that goal.

This is a positive program that will create a partnership between Government and the private sector to make our industries more energy efficient and cleaner. These grants will fund projects to conserve energy, cut waste, operate more efficiently, and remain competitive. The best way to preserve our industrial base is to prepare for future needs and this provision encourages just that.

As cochair of the coalition, I am proud of this bipartisan effort to promote conservation and competitive policies as critical components of our Nation's energy policy. This is exactly the reason why the northwest-midwest coalition exists—to provide effective leadership on issues of great importance to our region.

In addition, this bipartisan support allowed us to be successful in beating back efforts to limit supplies of both oil and gas to our region. Specifically, we were able to pass an amendment which makes it illegal for States to restrict the production of natural gas for the purpose of raising oil prices. We were also successful in not allowing an amendment which would have established an oil import fee by setting a floor price for crude oil. This amendment alone could have cost American consumers billions of dollars in higher energy bills.

Overall, Mr. Chairman, H.R. 776 goes a long way in providing important measures and policies to meet our Nation's energy needs and I enthusiastically support this bill.

Mr. DE LUGO. Mr. Chairman, title 27 would be the Insular Areas Energy Security Act. It includes most of the provisions reported by the Interior and Insular Affairs Committee to address the unique energy-related problems of the insular areas for which the United States has special responsibilities.

The energy situations of these eight Caribbean and Pacific Island groups are different from those of the States. For example, in some cases insular power systems—like insular infrastructure in general—are so underdeveloped that the quality of life is less than that which most Americans enjoy, the health of individuals is imperiled, and the economic development that the areas need is impeded.

Insular areas often cannot benefit from economies of scale, are distant from supplies, and cannot link into other power systems. They are almost totally dependent upon imported oil as well as ocean shipping of it and are extremely vulnerable to increases in oil prices.

Our islands have an abundance of potential energy created by the sun, the wind, and the ocean. But they lack the resources needed to tap this potential.

They also lack political and economic power, and are treated inequitably under some programs. Yet, they have relatively greater social needs than the States.

Insular areas face different environmental circumstances and pollution problems than the U.S. mainland. Federal actions have left a legacy of lingering problems of nuclear contamination and toxic wastes in some islands.

Section 2702 would update the existing authorization for projects to reduce insular dependence upon imported oil and maximize use of indigenous renewable resources. It would expand the authorization—which relates to projects identified in a 1982 report by the Energy Department—to include any projects that meet the law's objectives.

Section 2703 would expand the ban on consideration of the Marshall Islands as a site for nuclear waste disposal to all of the insular areas, consistent with the law that requires specific congressional approval for the storage of nuclear waste in the United States and U.S.-administered insular areas.

Section 2704 would require the Interior Department to plan how to develop the electrical system of Palau, including meeting any related obligations, in consultation with the government of the islands. It is consistent with our Nation's responsibility to develop this trust territory.

Although the United States has had this obligation for 45 years, some people in the islands do not have electricity at all and others only have it for part of the day. Further, Palau faces substantial claims related to its primary power facilities acquired in a bad and corrupt

deal made possible by the actions of some Federal officials.

Section 2705 would reinstate the eligibility of the Marshall Islands and Micronesia for cleanup of PCB's brought into the islands in power equipment installed during the United States trusteeship.

An issue that would have been addressed by another one of the provisions reported by the Interior and Insular Affairs Committee—insular access to oil during shortages—is addressed, as I explained earlier, by section 1404 of the bill under a compromise between the Interior and Insular Affairs and Energy and Commerce Committees.

The intent and background of the insular provisions of this bill are further explained in the report of the Interior and Insular Affairs Committee.

As chairman of the Insular and International Affairs Subcommittee, I want to express my appreciation for the leadership of the chairman of the full committee, GEORGE MILLER, and not the support of my fellow Representatives of the insular areas, ENI F.H. FALEOMAVAEGA, ANTONIO COLORADO, and BEN BLAZ, on them.

Finally, I urge my colleagues to accept this title and the House to approve this bill.

Mr. ECKART. Mr. Chairman, today I rise in support of H.R. 776, the Comprehensive National Energy Policy Act. I want to commend the chairmen and ranking members who have worked so diligently to resolve the many differences that confronted us in crafting this legislation.

Our Nation has lacked a comprehensive energy policy for far too long. This bill is an important step in that direction. However, there are a few provisions which I remain concerned over and which merit our attention as we prepare to move this bill toward conference with the Senate.

The electricity title of the bill authorizes the Federal Energy Regulatory Commission to require transmitting utilities to transmit electricity to wholesale power purchasers, but would prohibit any transmission to an ultimate consumer. The Energy and Commerce Committee clearly intended this provision to be a complete ban on retail wheeling. The purpose of transmission access has been to increase competition in the wholesale and not retail power markets.

Nevertheless, I am concerned that reform may be construed to circumvent this ban. It is possible that a new wholesale purchaser of electricity may be created solely for the purpose of skirting the prohibition against mandatory transmission to retail customers.

Eliminating this loophole is important to Ohio's ratepayers. The prohibition against mandatory transmission service to individual retail customers is necessary to protect the right of a utility to serve customers of all classes within its service area. Failure to protect this right, and the loss of large retail customers because of sham transactions, could lead to higher rates and charges for electric service provided to ratepayers in Ohio and across the Nation.

For example, if a larger retail customer were to purchase power from a sham entity who served only that customer, those residential ratepayers who remain would have to bear the costs of a system which was built to handle all customers. Additionally, because the entity is a sham, the community would not receive an economic benefit that would normally be associated with legitimate wholesale competition. It is therefore necessary to close the existing loophole in the bill in order to preserve the intent of Congress to preclude mandatory retail wheeling and to ensure that large industrials do not subsidize the costs of greater wholesale power competition through those ratepayers who remain.

Finally, as I stated during full Energy and Commerce Committee markup, transactions between an affiliate and its parent should be allowed in terms of power and nonpower sales, as long as States are granted jurisdiction over all facets of the transactions and the transactions benefit consumers. In order to increase wholesale power competition, all suppliers, including affiliates, should be given the opportunity to compete. Therefore, I urge my colleagues to work in conference to craft provisions which counter the abuses associated with self-dealing while still allowing for affiliate transactions to occur.

Mr. MCEWEN. Mr. Chairman, H.R. 776, the Comprehensive National Energy Policy Act, broadens the authority of the Federal Energy Regulatory Commission [FERC] to order utilities to wheel power for others. In addition, under this broader authority, the FERC will be able to require utilities to build new transmission lines for use by others. This increased authority raises two serious concerns.

First, it is not clear that merely having the FERC require a utility to build will result in lines being built. There are permits and land rights to acquire that are largely at the dictates of the States. The States can certainly frustrate the process of adding new lines.

The second issue deals with the matter of who pays for lines. Again, requiring a utility to build new transmission lines will not necessarily result in the costs being placed upon the right parties. There is a great deal of risk involved with construction and clearly the beneficiaries should bear them. Any orders to build must fully resolve any cost allocation issues before construction begins.

Mr. Chairman, the issues involved in the construction of new lines are serious and their resolution is critical to the expansion of our Nation's transmission capacity. At the very least, the States should have a say in determining if new construction is required or who will pay. I urge our conferees on the energy bill to include a role for the States in this process.

Mr. KLECZKA. Mr. Chairman, I appreciate this opportunity to express my strong support for passage of H.R. 776, the National Energy Policy Act.

Two years ago, the Iraqi dictator, Saddam Hussein, invaded Kuwait, and by so doing threw the oil-consuming world into economic turmoil as he wantonly destroyed large oil supplies in that occupied nation.

The stirring and painful memories of American men and women fighting a war last year in the Persian Gulf—and dying—reminds us of the absolute necessity to wean ourselves from a dangerous dependence on foreign oil. Another madman could once again plunge us into bloody battle over oil. We owe it to those who never came home from the Persian Gulf to avoid being forced again into war over oil.

It is for this reason that I became a cosponsor of the National Energy Policy Act. Our involvement in the Persian Gulf conflict demonstrated that our national energy policy is a piecemeal affair. Without establishing well-defined goals and commitment, our economy and quality of life remain exposed to the upheavals stemming from a dependence upon foreign oil. We must become better stewards of our energy resources and the planet—and I believe H.R. 776 accomplishes these goals.

The cornerstone of the bill are the energy efficiency provisions. The legislation promotes energy efficiency in several key ways. First, by mandating improved efficiency in buildings. Second, by requiring the Federal Government to use energy more wisely. Third, by encouraging public utilities to reduce the demand for energy. Fourth, by establishing stringent minimum efficiency standards for lights, electric motors, showerheads, and commercial heating and cooling equipment. Finally, by requiring overall improvements in energy efficiency in the manufacturing sector. These provisions represent a sound response to the global warming threat, for through these improvements, we will conserve the energy equivalent of 800,000 barrels of dirty-burning oil per day by the year 2000. The direct benefit of these provisions is greater energy security and heightened protection of the environment.

It is especially rewarding to me that the energy bill contains provisions of H.R. 4422, a measure I and other members of the Wisconsin delegation, along with Representative SYNAR of Oklahoma, introduced earlier this year. H.R. 4422 requires the Federal Government to establish a fund from which agencies can make withdrawals to finance energy efficiency improvements at their respective facilities. The Federal energy efficiency bank represents responsible government, and deserves support.

Complementing the bill's emphasis on efficiency and conservation are its provisions to promote the development of alternative, nonoil fuels. These fuels include, but are not limited to, ethanol, natural gas, propane, methanol, ethers, and electricity. If we can turn increasingly to these safer, cleaner burning fuels, as H.R. 776 would help us do, then we can strike directly at our Nation's dependence upon imported oil.

In addition to providing much needed financing for the research and development of alternative fuels, this bill establishes goals and programs to ensure that the new fuels and vehicles powered by them are widely used by the beginning of the 21st century. For example, H.R. 776 sets a goal of 10-percent alternative fuel use by the year 2000, and 30-percent use by the year 2010. Under terms of the legislation, one-half of the Federal fleet of vehicles must be fueled by alternative fuels by 1998. Privately owned fleets of vehicles must gradually switch to cars, vans, and trucks capable of operating on alternative fuels. A commercial demonstration program for electric vehicles is created by the bill. Moreover, the legislation establishes a low-interest loan program to assist small business with acquiring alternative fuel vehicles for their fleets. Together, these far-reaching incentives and goals reinforce the Clean Air Act amendments of 1990, and help our society lessen its dependence upon foreign oil and petroleum in general.

Finally, turning to the issue of nuclear power, H.R. 776 takes a crucial step toward resolving the looming crisis with spent nuclear fuel. Studies of Yucca Mountain in Nevada, the probable location for disposal of spent nuclear fuel, have progressed slowly. Procrastination is no longer in our national best interest. Further delays to construction of the Yucca Mountain facility will endanger dozens of communities where onsite storage capacity for spent fuel is quickly disappearing. To avoid this ecological and public health catastrophe, the bill provides that State and local permits are no longer needed for the Department of Energy [DOE] to conduct feasibility studies at Yucca Mountain. It should be noted that the bill is sensitive to States' rights. The standing of the State of Nevada to sue in Federal court over Government breaches of State environmental standards is preserved in H.R. 776.

Bringing resolution to the question of where nuclear waste ultimately will be stored is important to Wisconsinites. In the southeastern part of my State, the Wisconsin Electric Power Co.'s [WEPCO] Point Beach nuclear facility is expected to run out of onsite storage space by the turn of the century. Yet, it never was the intent of our national nuclear policy to create dozens of storage facilities nationwide such as that at Point Beach. Instead, to avoid this situation, Congress agreed upon the least onerous and safest option: One large site which would be continuously monitored by the Federal Government. Spurring on site characterization and construction of the disposal facility at Yucca Mountain improves the safety of nuclear programs and communities throughout Wisconsin.

Overall, the National Energy Policy Act represents a comprehensive and responsible response to the manifold energy shortcomings in our society today. Through its emphasis on conservation and efficiency, the bill safeguards the environment while extending our energy resources. Likewise, the development of alternative, clean-burning fuels which will follow from the bill also will protect the environment while increasing our energy security.

Most importantly, however, this legislation will substantially lessen the probability that our Nation ever again would enter a war over oil. Accordingly, I plan to vote for passage of H.R. 776, and encourage my colleagues on both sides of the aisle to do likewise. This bill deserves our support.

Mr. MARKEY. Mr. Chairman, as we conclude our deliberations on the Comprehensive National Energy Policy Act, I raise a note of caution with respect to the electricity transmission access provisions of title VII. Some have proposed that electric utilities in one State be exempted from the otherwise nationwide authority of the Federal Energy Regulatory Commission to order the wheeling of power. Although this proposal was not considered by the House, it was suggested that this one-State exemption might be addressed in conference.

I sincerely hope that is not the case and that we have heard the last of proposals to carve out a State-line exemption from this legislation's transmission access provisions. That is my hope because such efforts to Balkanize the rules of transmitting electric energy would do extreme violence to the bill's goal of replacing Holding Company Act regulation of electricity generators with the market discipline of vigorous competition in wholesale electricity markets.

Over the past decade, competition has grown tremendously in the generation of electricity, providing lower rates for many consumers. Notwithstanding that increased competition, too often generators of competitive power were prevented from getting their low-cost electricity to market by transmission monopolists that routinely refuse to transmit competitive power on fair and reasonable terms. Recognizing that transmission is the highway—the railline, the pipeline—of electric flows and competitive opportunities, my colleagues, Mr. MOORHEAD, Mr. BOUCHER, Mr. STUDDS, and Mr. DANNEMEYER joined me last May in introducing the Electric Power Fair Access Act of 1991, H.R. 2224, to authorize the FERC to order procompetitive transmission access where to do so would be in the public interest and would not lessen the reliability of electric service.

In the Energy and Commerce Committee, H.R. 2224 was coupled with proposals to relax certain of the regulations that the Holding Company Act imposed on competitive generators of wholesale power. Relaxation of those consumer and investor protections was believed appropriate since the market discipline of competition would supplant the need for certain of the Holding Company Act's regulatory protections.

Transmission access, however, has always been central to that tradeoff. Competition will emerge and inject market discipline only if uniform transmission access rules permit all competing power generators and willing purchasers to come together in all markets and in every State. Whether it be in Massachusetts, Texas, or California, the transmission access provisions lay at the heart of the vigorous competition that must emerge to protect consumers and investors once we relax the regulatory burdens of the Holding Company Act. State-by-State transmission rules simply will not do the job and may actually stymie competition.

We are setting forth an energy strategy for the Nation intended to produce a secure and competitive energy future for all of our citizens. We must resist efforts to Balkanize wholesale power markets along State lines. Exemption of any State or region from the transmission access provisions of the energy bill will destroy the balance—the quid pro quo—between less Holding Company Act regulation and the emergence of real competition. We simply cannot lessen the nationwide consumer and investor protections contained in the Holding Company Act unless we make sure that we have a nationwide system of vigorous wholesale power competition, ensured by uniform rules of nondiscriminatory transmission access.

Mr. OLVER. Mr. Chairman, I rise today in strong support of H.R. 776, the National Energy Policy Act.

This long overdue legislation will take significant steps toward improving and encouraging energy efficiency, reducing our reliance on foreign oil, broadening the use of renewable sources of energy, encouraging alternative motor fuels, and limiting the use of ozone-depleting gases.

This bill offers a long-term, forward thinking approach to energy policy. Not since the late 1970's has Congress mobilized to address our Nation's energy needs, and energy future. Today, we will do just that.

With today's bill, we will begin to turn back the tankers that carry oil from the Middle East. We will reassert our independence, and reduce the overseas reliance which has hurt our economy, and dragged us into war and conflict. We must end the high price—in lives and dollars—that has been placed on foreign oil.

With the bill before us, we recognize our Nation's reliance on nonrenewable energy sources cannot solve our long-term energy needs. In this rare occasion, Congress will look to the future and break with the mistakes of the past. We will take action which will protect our children, and our children's children. Through renewed research and development, and Federal incentives, renewable energy sources will become a larger and more important part of our Nation's energy picture.

Finally, this bill recognizes the urgent needs of our environment. Through reducing CFC's providing tax incentives for energy efficiency and use of nonpolluting energy sources, and increasing research and development on conservation and renewable energy, H.R. 776 finally brings environmental protection to the forefront of a national energy policy.

I am proud of the work this Congress has done to craft a comprehensive energy bill, and bring it to the floor. And I am pleased that two portions of the bill which I sponsored have been included in the final version.

In the Environment Subcommittee, I offered an amendment to study the factors that inhibit or promote the use of energy efficiency technology. In this time of tight budgets, this study will ensure that our ever limited energy dollars are spent wisely and not wasted. The investment we make in this small provision will much more than pay for itself, and greatly expand our base of knowledge regarding energy efficiency.

I am proud to be an original cosponsor of this legislation, now part of the energy bill, which will help the paper industry become more energy efficient and therefore more cost effective. The paper industry in western Massachusetts, and throughout New England like many other businesses, is facing difficult economic times. By improving energy efficiency, they will be able to save money, save energy, and incorporate environmental protection into their work and therefore save jobs.

Mr. SYNAR. Mr. Chairman, the House today takes a significant step toward enactment of a national energy strategy to guide America through the 1990's. I have been proud to play an active role in the development of this long-overdue legislation and am very gratified that so many of my own proposals were adopted by the Energy and Commerce Committee or by other committees with jurisdiction over energy-related areas. As a result of these achievements, I had looked forward to enthusiastic endorsement of the bill on final passage. Regrettably, adoption last week of the Markey-Scheuer amendment, limiting the legitimate and longstanding rights of my State and others to protect their natural resources, constitutes such an affront to the sovereignty of my State, that I am compelled for this rea-

son alone to vote against the bill on final passage.

This vote, however, in no way diminishes my support for numerous other aspects of the bill. H.R. 776 is not a perfect bill. It is not everything I personally would have written if the decision was left only to me. To be sure, each and every Member of the House undoubtedly feels the same. But individual Members do not write legislation—it is formulated by compromise and conciliation undertaken in an effort to achieve common goals. In this case the overriding goal of all Members, I believe, was to craft for our Nation—for all of our constituents—a meaningful energy strategy to enhance our domestic security, a bill to move us away from the disastrous laissez-faire energy policy of the 1980's, a "non-policy" which many of us repeatedly warned against. H.R. 776 embodies many, many months of hard work and includes many essential programs and provisions which I worked to include and wholeheartedly endorse. I want to address those now.

As a result of the policy failures of the 1980's, we watched our domestic oil and gas industry be devastated, losing 400,000 jobs over the last decade. We saw our Nation become more and more dependent on unstable sources of foreign oil, especially from the volatile Middle East. Indeed, we fought a war in the Persian Gulf that many believe would not have been fought were we and other nations not so heavily dependent on Persian Gulf oil. In short, the decade of the '80s is notable for the opportunities we lost for a significant change in the direction of America's energy policy. In this regard, the lack of leadership by Presidents Reagan and Bush has been a particular disappointment to me. Today, however, the House reverses that destructive trend.

As a member of the Energy and Commerce Subcommittee on Energy and Power, which developed the primary bill, I went into our early work last year with some very specific goals I believe any national energy strategy should achieve.

First, I said an energy strategy must be comprehensive and deal with our entire energy mix, addressing both existing and future energy sources. By and large, H.R. 776 accomplishes that goal by covering a broad spectrum of fuels, including development of new fuels for the future.

Second, I said that any energy strategy must make substantial strides toward increased energy efficiency for the United States. H.R. 776 does that, with important efficiency goals set for the Federal Government as well as the private sector.

Third, I said any strategy should result in overall improvements in our environmental quality. By placing greater emphasis on efficiency gains and cleaner-burning fuels, H.R. 776 accomplishes that goal.

Fourth, I said our new energy strategy must make sense economically, and enhance competitiveness wherever possible and, to the greatest extent, direct scarce public and private resources to areas where we can get the biggest bang for our buck, that is, energy security gains plus environmental, economic and/or competitiveness gains. While I would have liked to see some further provisions in this respect in H.R. 776, I am very gratified by its clear thrust in this direction.

Fifth, I said the strategy should be flexible and should rely on or encourage market-based responses wherever possible. Where regulation is essential, I believed it should strive for the most practical and least intrusive form of regulation. H.R. 776 makes great strides in this respect.

Sixth, I said any strategy must result in reduced U.S. dependence on unstable foreign energy supplies. Again, H.R. 776 make significant progress in this respect. Key in this regard are two elements: alternative minimum tax relief for domestic independent oil and gas producers, which is essential to the health and viability of that industry, and new provisions designed to encourage a significantly greater role for domestically produced alternative fuels.

Last, I noted that our new strategy should attempt to strengthen the energy security of our own hemisphere, in particular the United States, Canada, Mexico, and Venezuela, by encouraging the free and fair flow of energy resources between our nations. I am disappointed the final bill includes only some Western Hemisphere provisions, but hope it will be further enhanced in conference.

While not as much as we could do, or as much as I would like to do, H.R. 776 as a whole is a giant step for a more secure America.

Mr. Chairman, the dimensions of our energy problems are extraordinarily complex and, as a practical matter, Congress simply is not able to address each and every problem confronting us. It is not possible for us to look into a crystal ball and know precisely what our energy future holds. Like energy markets, energy problems are dynamic and we must not attempt to construct an inflexible course for the future. I think H.R. 776 incorporates that needed measure of flexibility to permit us to plan sensibly and respond wisely to developing energy needs.

In this regard, I want to turn now to some of the particular provisions of H.R. 776, including many which I personally worked to include in the final bill.

One of the most important parts of this legislation for the future of Oklahoma's economy is its programs to stimulate the development of alternative transportation fuels including Oklahoma natural gas. The transportation sector consumes almost two-thirds of all oil consumed in the United States and its share continues to increase. Without a strong effort to develop alternative fuels, such as domestically produced natural gas, the Nation will be forced to continue its dependence on imported oil.

This legislation takes a number of critical steps to ensure that widespread use of alternative fuels becomes a reality and sets a target of replacing half of our transportation fuels with alternative fuels. I am especially pleased that the Energy and Commerce Committee and the Government Operations Committee reported these provisions agreed that the Federal Government should take a leadership role by expanding the Government's research program and by requiring the purchase and use of AFV's in the Federal vehicle fleet. Beginning in fiscal year 1993, the bill requires the Federal Government to purchase 5,000 such vehicles increasing to a requirement that 50 percent of all new light-duty vehicles be alternative-fueled by 1998.

The bill will also remove from Federal regulation the natural gas sold for vehicle fuels and establishes incentives for State and local government and private purchases of AFV's. These incentives include Federal grant, loan and bus programs totaling over $200 million and, along with increased Federal and private purchases of AFV's mandated in the bill, will help create the market necessary to encourage vehicle manufacturers to produce these vehicles and allow economies of scale which will reduce production costs. In addition, the legislation greatly expands the Federal commercial demonstration program for alternative-fueled vehicles to include such technologies such as natural gas fuel cells and electric technologies and expands the Government's vehicle R&D programs.

I want to thank both the chairman of the Energy and Commerce Committee, Mr. DINGELL, and the chairman of the Energy and Power Subcommittee, Mr. SHARP, for their willingness to work with me and my staff on crafting these alternative fuel provisions. The expanded use of domestically produced alternative fuels, such as natural gas, offers the promise of increased energy security, reduced environmental pollution, and an improved balance of trade.

I also want to thank Mr. SHARP for his help in making a number of improvements in the bill's coal programs. As the gentleman knows, I have had a longstanding concern over the Department of Energy's clean coal technology program. I am not against research on the use of coal, which is one of this country's most abundant energy resources, but I am deeply concerned about the use of billions of taxpayer dollars for the construction of demonstration projects. These projects often benefit individual electric utility companies or coal technology companies with little return to the U.S. Treasury.

I also note that the clean coal program was created by the Appropriations Committees without approval of the authorizing committees with more than $2.7 billion already appropriated to construct commercial demonstration projects. At my request, the U.S. General Accounting Office [GAO] analyzed the first three rounds of clean coal projects selected by the Department and made a number of suggestions concerning how the program could be improved. I think that the changes that were made by the Energy and Commerce Committee to this program respond to many of GAO's suggestions and are important improvements which ensure that taxpayer funds are not wasted on unproductive projects. These changes establish minimum project criteria, repayment requirements, and oversight procedures which will help reduce taxpayer risk and increase the likelihood of success. I am also pleased that, at long last, the authorizing committees have taken the initiative to provide specific authority for these projects and that taxpayers in Oklahoma and across the country will be protected.

I am less enthusiastic about provisions in the bill concerning nuclear energy and nuclear waste. I am particularly concerned about a number of provisions which were never considered in the Energy and Commerce Commit-

tee, but were adopted on the floor, to speed up the licensing process for nuclear powerplants. The nuclear industry has finally succeeded in convincing a majority of both Houses of Congress effectively to eliminate the operating license review that occurs before a nuclear powerplant is allowed to begin operation and to prevent local citizens and State and local governments from raising questions about the safety of the plant at this final stage. The industry has also succeeded in obtaining changes to allow it to standardize plant design which will allow the use of an approved design for many years regardless of improvement in technology or safety.

The licensing process is not to blame for the fact that no new nuclear plants have been ordered in this country for almost 2 decades. The public confidence that the industry seeks will not be increased by lowering the regulatory hurdles, nor will utility companies embrace a technology that cannot compete in the marketplace against less expensive, more flexible alternatives. Likewise, I regret the action taken by the House to overturn the rights of the State of Nevada to issue environmental permits under Federal environmental laws for the exploration of the Yucca Mountain as a site for geologic disposal of high-level radioactive waste. Nevada has, in fact, issued all requested environmental permits and to further politicize the process of selecting a site for the permanent disposal of high-level waste can only threaten what little public confidence remains in the Department of Energy's high-level waste program.

I also have serious reservations concerning the provisions creating a new Federal uranium enrichment corporation. There is little doubt that the current program has been the victim of poor management decisions costing billions of dollars. There is also little doubt that the program has billions of dollars of unfunded liabilities consisting of unrecovered costs, environmental costs, and decommissioning and decontamination costs. The theory behind the creation of the corporation is that by writing-off or deferring these debts and by providing the corporation with additional flexibility to enter into contracts we can make the enterprise self-sustaining and create a cash flow to pay for decommissioning.

I remain concerned that the underlying problems of the uranium enrichment industry, in general, and in the United States in particular, remain unaddressed. Existing U.S. plants will still utilize outdated technology. Substantial excess capacity exists both in the United States and worldwide. New laser isotope technology has yet to be proven commercially competitive. Environmental and decommissioning liabilities are enormous and the taxpayers will never recover billions of dollars in ill-conceived investments in plant expansions. Consequently, neither the Congress nor the public should be lulled into thinking that the creation of a new Government enrichment corporation will solve all of the problems facing this enterprise.

The bill includes significant new initiatives and tax changes that benefit our region. Perhaps the most important of these are changes in the Tax Code which alter the way that independent producers of oil and gas make their calculations under the alternative minimum tax program. These producers often pay tax on their businesses as if they were individuals, limiting the kinds of deductions they otherwise would be permitted to take.

The changes in alternative minimum tax treatment should go a long way toward restoring financial health to the independent oil and gas industry which is responsible for finding and producing much of our Nation's oil and gas. They will also spur the increased used and enhanced oil recovery techniques which unlock the 300 billion barrels of oil reserves which remain in the ground after initial drilling is completed. The Energy Department estimates that enhanced oil recovery could contribute 1.4 million barrels per day to U.S. supplies by 2005 or 3 million barrels per day by 2010.

Other important tax changes in H.R. 776 affecting our region include provisions encouraging the use of alternative vehicle fuels such as those fueled by compressed natural gas. They allow deductions for the cost of a vehicle's alternative fuel equipment as well as for the cost of fuel storage and delivery systems. In 1991, the General Accounting Office identified these kinds of upfront costs as significant impediments to increased alternative fuel use in a hearing held by the Environment, Energy and Natural Resources Subcommittee which I chair.

These tax provisions were originally included in a bill by my colleague, Congressman MIKE ANDREWS of Texas which I cosponsored, as well as in my own bill, H.R. 2960, the Clean Domestic Fuels Enhancement Act. Without them, the goals of the voluntary and mandatory alternative fuel sections of the Comprehensive National Energy Policy Act would be difficult to achieve.

H.R. 776 also contains other provisions originally found in H.R. 2960. These include an extensive research funding package for the oil and gas industries with money allocated for: enhanced oil recovery research and cost-shared grants; unconventional gas extraction; natural gas heating and cooling; higher efficiency heat engines; research, development and demonstration for fuel cells; and, alternative fuel vehicle research, development, and demonstration.

If the United States is serious about becoming less dependent on insecure foreign sources of energy supply we must fund research into developing and using the resources we have here at home. Otherwise we may discover in 10 years that we have no domestic energy industry left.

H.R. 776 also mandates a new program for State energy conservation initiatives for updating building codes and encouraging changes in State regulatory programs governing utility investments in conservation. It also sets up new energy efficiency standards for a wide range of products.

But the most significant part of the efficiency title deals with energy conservation efforts undertaken by the Federal Government. The Federal Government is our Nation's biggest energy user and our biggest energy waster. The bill requires a major new push to get agencies to install technologies that would reduce Federal energy consumption.

I was disappointed that at this time the Energy and Commerce and Public Works Committees rejected the energy conservation revolving fund which I authored with my good friend Congressman BILL CLINGER and which was reported out unanimously by the Government Operations Committee. Instead, we jointly agreed to provide for a study of funding alternatives for Federal energy efficiency investments. The bill also includes language I coauthored with Congressman CLINGER to ease the administrative burdens on companies which contract with the Federal Government for energy management services so that more of these money-saving agreements can be executed. These industry-financed contracts provide the best means of funding Federal energy-saving investments. I will work to strengthen both of these amendments in conference.

Another title of great importance to my region and the Nation deals with electricity, including reform of the Public Utility Holding Company Act [PUHCA], and access to electricity transmission services. The independent power producers who are expected to spring up in response to PUHCA reform are a large new market for natural gas, our cleanest fuel.

The title also contains language mandating access to transmission so that the new independent power producers will have a way to move and market their power. I had planned to offer a consensus amendment to this section which has been the subject of months of intense debate among all segments of the utility industry, from rural coops to investor-owned utilities. The amendment offers a new, alternative approach to transmission—voluntary, regional groups of utilities would jointly plan the location and utilization of transmission facilities. This method should make for a more efficient, environmentally sensitive and cheaper transmission system.

The bill breaks entirely new ground with the inclusion for the first time of a greenhouse warming section. The title requires the Department of Energy to set up an accounting system for voluntary reductions made by industry in the gases which contribute to global climate change. Industry could be credited with reductions due to actions such as tree-planting, switching to cleaner burning fuels like natural gas, production of more energy-efficient products and other relatively lost-cost activities. I am pleased that the Energy Committee included this amendment which was a modification of the Carbon Dioxide Offsets Policy Efficiency Act, H.R. 2663, which I cosponsored with Congressman COOPER.

In title XVIII of the bill we have, for the first time, adopted some essential reforms in FERC's regulation of oil pipelines. I have worked to gain enactment of such reforms for more than a decade and authored several bills during that period to mandate oil pipeline regulatory changes. I was pleased to have the full Energy and Commerce Committee unanimously adopt a bill I authored last fall to streamline and simplify FERC's regulation of oil pipelines, which historically has been plagued by inefficiency, unnecessary costs and unacceptable regulatory uncertainty affecting both shippers and pipelines. I especially appreciate the assistance of Chairman DINGELL and Chairman SHARP in encouraging both pipelines and shippers to come to agreement on this matter, so that Congress might

enact these much needed reforms after a decade of debate.

This particular part of the bill was sequentially referred to the House Public Works Committee, which adopted a revised version of title XVIII. With the cooperation and assistance of the pipeline industry and certain shipper groups, a modified version of title XVIII was developed which retains many essential elements of my original proposal. While the final version is not everything I had hoped for, it nevertheless constitutes a significant step forward in reforming FERC's monstrously inefficient and costly regulatory process. First, it requires FERC to develop a simplified ratemaking methodology generally applicable to all oil pipelines. The purpose of this provision is to end the uncertainty we have experienced in the past, where major rate cases resulted in different approaches to ratemaking regulation, leaving every pipeline and its shippers uncertain as to what the future would hold for them. Second, the provision incorporates a transition mechanism for existing base rates, so that we can avoid thousands of unchallenged rates being unnecessarily subject to question under a new methodology. Finally, the provision includes mandated procedural reforms designed to simply and streamline the regulatory process and to insure that proceedings are not needlessly instituted or continued. An important aspect of these procedural reforms is a requirement that, to the maximum extent practicable, FERC employ negotiation or dispute resolution as an alternative to costly adjudication.

The Energy and Commerce version of H.R. 776 included provisions to stabilize and enhance funding to fill the Strategic Petroleum Reserve and reach our ultimate goal of a 1—billion-barrel reserve—a goal supported both by Congress and the administration. While a 1—billion-barrel SPR is now widely advocated as the cornerstone of our emergency response program, the administration refuses to request funds to support the fill rate necessary to achieve this goal, or even to spend funds currently available to it to resume SPR oil purchases. Because of the lax support for this important program by both the current administration as well as the previous administration, Congress has not been able to garner sufficient support for full funding for the reserve. The consequent uncertainty over the availability of funds has caused serious disruption in this program, especially troublesome at times when crude oil prices are low and purchases would therefore be most beneficial for the taxpayers. Additionally, the administration has not been successful in negotiating appropriate alternative leasing arrangements for SPR oil, and many are pessimistic such arrangements will ever be consummated.

To stabilize funding for SPR purchases and ensure we are capable of meeting our goal of 1 billion barrels, the committee adopted a measure which provides a funding mechanism of "last resort"—a small fee, or set-aside, imposed on oil refiners and importers. Admittedly, I was not an early proponent of this alternative funding mechanism. My primary concerns centered on possible administrative complications connected with delivery of actual barrels of oil by refiners and importers, and my concern over a possible adverse effect on domestic independent producers. I very much appreciate Chairman SHARP agreeing to my proposal to permit importers and refiners to submit fees in lieu of actual barrels, which will vastly ease the administrative burden of the new mechanism. Additionally, I am now confident the new fee would have had no adverse impact on independent producers, because the fee is almost certain to be passed on to consumers of oil products not netted-back to producers. Finally, I was concerned that if a fee must be imposed at all that it be imposed uniformly on importers and refiners in order to avoid any competitive disadvantage to one group versus the other. That was done.

Mr. Chairman, as I made clear during my remarks on the motion to strike the SPR provisions, this new funding mechanism is not my preference. My preference would be, first, that the administration aggressively pursue appropriate leasing arrangements to reduce the burden on American taxpayers and, barring that, that Congress have the money available from general revenues to fund this critical energy security program. But Mr. Chairman, those may not be realistic expectations. That being the case, we cannot continue to support our goal of a 1-billion-barrel reserve while ignoring the funding required to meet that goal. If we want a meaningful reserve, then we must be willing to pay for it. It's as simple as that. The provisions adopted by the Energy and Commerce Committee did recognize that responsibility by including this new funding mechanism which would kick in only if leasing arrangements are not consummated or full funds are not appropriated by Congress. Having taken this important step to protect America's economy from the devastation of another disruption, I especially regret that the full House opted to delete these provisions.

Last, title II of H.R. 776 incorporates numerous provisions to broaden and streamline the regulatory review process at FERC to expedite construction of new natural gas pipelines. My oversight subcommittee held a hearing on FERC's natural gas pipeline certificate process in June of 1990, during which we identified and examined a number of delays and other administrative problems with this process. Because of the need to ensure that pipelines can be constructed in a timely way to meet new market demands which will result in large part from enactment of the Clean Air Act and this new energy strategy, I am an enthusiastic supporter of the gas pipeline procedural reforms included in title II. Many of these reforms are a direct response to problems we identified during my subcommittee's investigation of this program, and they will go a long way toward ensuring that FERC's natural gas certificate process—and especially its cumbersome environmental review process—are revised in ways which can significantly reduce costs, unnecessary duplication and overall delay.

Unfortunately, when the House considered the title II provisions on natural gas pipelines last week, it adopted an amendment by Congressmen MARKEY of Massachusetts and SCHEUER of New York which would limit the rights of Oklahoma and other States to implement necessary—and historically legitimate—natural gas conservation measures to prevent waste of this resource and protect the correlative rights of producers and royalty owners. Despite the fact that the Markey-Scheuer amendment involves complex issues of constitutional law with serious implications for 39 States with existing natural gas conservation authority, the amendment was given only 20 minutes of debate in the full House—10 minutes to each side.

This ill-conceived and misguided amendment, adopted by a vote of 238 to 169, represents such an unwarranted intrusion upon the sovereignty of my State, that I am compelled to vote against H.R. 776 on this basis alone.

I am especially disappointed that a few Members chose to use this energy strategy as a vehicle for action on a parochial and regionally divisive measure, when our goal had been to develop a strategy for the whole Nation and the benefit of all Americans. I am further disappointed by the unwillingness of many Members to give this complex issue the scrutiny it deserves, so that the House might have a fuller and better understanding of the nature of, and reasons for, State natural gas conservation measures. Indeed, the Markey-Scheuer prorationing amendment had not been the subject of any hearing by any committee of Congress, and it was clear from the limited debate permitted on the floor that our State natural gas conservation rules are widely misunderstood. Despite the absurd contention by sponsors of the amendment, these rules are not designed to constrain production below demand in order to artificially drive gas prices up, nor will they have that effect.

I am also deeply disappointed by the administration's lack of involvement in this issue and in our efforts to defeat this divisive and destructive amendment. Indeed, when the House acted on this critical amendment on May 20, the Department of Energy circulated a position paper which stated that DOE had no position on the amendment at that time. Only today, long after its adoption by the House, did the Department indicate that it opposed the Markey-Scheuer amendment. In light of the administration's ostensible support for States rights and the President's personal background in the industry and understanding of State conservation authorities, I am especially disturbed by the administration's belated and meaningless response on this important issue.

While I have every expectation that this provision will be deleted in the House-Senate conference on H.R. 776, and anticipate being a House conferee on the bill, I am still unable to support the bill on final passage if it includes the Markey-Scheuer amendment. I sincerely regret that I am forced to take this action, but wish to make clear my support for many, many other provisions of the legislation and my plan to work toward enactment of a bill without the Markey-Scheuer amendment.

I hope we will soon be able to present the President with a sound and viable comprehensive national energy strategy, so that we may begin to move the Nation toward a cleaner and more secure energy future.

Mrs. BOXER. Mr. Chairman, this bill, H.R. 776, the National Energy Policy Act, contains some good measures that will help the Nation achieve a sound national energy policy, but it also contains some bad points that do not further this goal. Although it does not go far

enough, I am supporting this important legislation because of the provisions which would promote energy efficiency in homes, businesses, and the Federal Government. Residential and commercial building energy efficiency codes and standards along with a technical assistance program will help consumers save money by reducing energy expenditures. The bill also contains provisions which specify goals for energy reduction and management within Federal agencies, which will reduce the Federal budget.

In addition to energy conservation programs, this legislation would encourage further development of renewable energy sources and the production and use of alternative fuels. The use of alternative fuels such as alcohols, electricity, hydrogen and natural gas, will result in substantial energy security and environmental benefits. H.R. 776 will provide these benefits through an increased Federal fleet requirement for vehicles which use alternative energy and low-interest loans for small businesses to convert their fleets. These proposals are strongly supported by such groups as Sierra Club, U.S. Public Interest Research Group, Natural Resources Defense Council, National Audubon Society, Citizen Action and others.

I want to point out some priorities that are not reflected in this legislation. Increased fuel economy is an integral part of any truly comprehensive and meaningful national energy package. The energy savings from a modest increase in fuel efficiency would amount to 3.1 million barrels per day, more than half the oil the U.S. imports daily from the entire Persian Gulf.

Although the bill's extension of the gas and oil leasing moratoria is a step in the right direction, it is not enough. The risks presented by offshore oil and gas exploration far outweigh the 5 percent of the Nations' undiscovered oil and gas reserves that could be recovered. The environmental consequences of offshore drilling are enormous. Permanent protection of our fragile ocean and coastal resources is another key component of a responsible and environmentally sound strategy for managing the Nation's energy needs.

On the whole, this legislation, because it will reduce our dependence on foreign oil and nonrenewable energy sources generally, will yield benefits for our economy, our balance of trade, and our quality of life. Therefore, depsite my misgivings, I support final passage of the National Energy Policy Act.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise today to support passage of a long-awaited national energy policy, H.R. 776. I am pleased to see that after going through 10 congressional committees, this bill has remained as strong and comprehensive as it is. The gulf war illustrated this country's need for a comprehensive energy program. While there are provisions which need to be added and some deleted, this bill brings the United States much closer to having a national energy strategy than was thought possible just a few months ago.

This legislation has left no area of energy policy untouched. The natural energy policy addresses solar, wind, renewable, nuclear, and alternative sources of energy. Its comprehensive packaging focuses on the production of energy sources, the transition away from fossil fuels, and the conservation and efficient use of all energy sources. I believe that this bill will increase U.S. energy security without imposing anticompetitive and expensive regulations on American businesses.

This bill increases incentives to manufacture and use alternative energy sources, through the use of tax credits and incentive programs. It also includes measures to improve the energy efficiency of appliances and residential and commercial buildings through the use of product-specific standards and energy assessments.

Through the use of conservation measures and increased use of alternative fuels, this bill will help this country reduce its dependence on foreign oil imports. Using less oil will also benefit the environment by reducing the amount of harmful emissions released into the air.

I would like to briefly mention one amendment which is especially important. The natural gas production amendment is an important one. I believe that this amendment is a balanced one which preserves the right of States' and individual producers' resource conservation efforts which limits their ability to artificially increase the price of natural gas. In addition, the national energy policy promotes the use of natural gas as an alternative to other fuels. The ability to restrict the supply of natural gas will impede the transition to the increased use of natural gas.

Mr. Chairman, I look forward to passing this legislation today. I hope that the House and Senate can work out differences quickly and final passage of this bill can occur shortly thereafter.

Ms. LONG. Mr. Chairman, I rise to clarify my position regarding this bill, the Comprehensive National Energy Policy Act (H.R. 776). I commend my colleague from Indiana and the chairman of the Subcommittee on Energy and Power, Mr. SHARP, and the chairman of the full Committee on Energy and Commerce, Mr. DINGELL, for their diligence in bringing to the forefront of our national agenda this thoughtful and carefully crafted piece of legislation. Some of this body's most energetic and tireless Members took on the monumental task of piecing together an energy policy of this magnitude for America.

As we all can remember in the summer of 1990, we experienced a dramatic and immediate increase in the price of oil and gas, which was brought on in response to the surprise invasion of Kuwait by Iraq. This sharp increase in prices directly resulted in increased costs to consumers and businesses, less consumer spending, less money flowing through the economy, culminating in a deep recession from which we are only now slowly emerging.

As I said then, and maintain today, it is unconscionable that since the oil crisis of the 1970's and early 1980's, this Nation has been without a thoughtful energy policy to strengthen U.S. energy independence and reduce our Nation's rate of energy consumption. I also believed then—as I do now—that this Nation needed to become more energy independent if it wished to remain a strong and stable Nation by further developing our Nation's abundant natural resources. I also believed, however, that our first priority should have been to institute energy efficiency and conservation methods to offset this Nation's increasing rate of energy consumption. For these reasons, I joined as an original cosponsor of H.R. 776 in its original form in February 1991.

As a result of 2 years of legislative activity, weeks of hearings, and a determined Energy and Commerce Committee, we now have the opportunity to institute an effective policy to do many of the things that I believed in 1990 were needed and which are contained in H.R. 776. Among many other things, the Comprehensive National Energy Policy Act would promote more efficient uses of energy in homes, Federal buildings, and businesses to reduce energy use and costs; further develop the use of renewable energy, such as solar, geothermal, and wind energy, providing for an increased number of jobs; phase in an increased use of alternative motor fuels for our automobiles; and encourage investments in further development and use of energy efficient technologies. This legislation thoughtfully responds to the need for a long-term solution to our Nation's growing rate of energy consumption and dependence on foreign sources of fossil fuels.

It is unfortunate, however, and I sincerely regret, that I will be unable to cast my vote in favor of this legislation. I made a promise to the people of the Fourth Congressional District of Indiana who elected me that I would not support an increase in any tax. Although this entire bill is revenue neutral, H.R. 776 includes an increase in the excise tax on the production of chemicals which contribute to the depletion of our Earth's ozone layer. This provision would further protect our environment and quicken the phaseout of these chemicals, many of which are already scheduled to be completely phased out by the year 2000 under the Clean Air Act Amendments of 1990. Also included in the bill are tax incentives to offset potential revenue losses resulting from this provision. Although this is thoughtful policy, I made a promise to the people of Indiana's Fourth Congressional District which I have not broken and intend to keep today.

Mr. OXLEY. Mr. Chairman, I want to express my support for the gentleman from Illinois' amendment to strike section 1401 of the legislation before us. This provision would essentially impose a tax on refiners and importers of oil.

The strategic petroleum reserve was created in 1975 to serve as an insurance policy against future oil supply disruptions. Filling the strategic petroleum reserve to the authorized level of 1 billion barrels is an important defense against economic shocks resulting from supply disruptions. This program, historically funded from general revenues, will provide protection for all Americans in this event of another energy crisis.

Unfortunately, the bill before us shifts the burden of paying for that protection from all sectors of society to energy consumers. H.R. 776 would impose an in-kind tax on petroleum refiners and importers totaling nearly $15 billion. While supporters of this funding mechanism argue that it is a user fee, it is really a regressive tax which falls most heavily on low income people who pay a larger portion of

their income for energy, and on rural areas where energy consumption is high. It would also place an enormous burden on industries with high energy costs, such as automobiles, petrochemicals, and agriculture. It would increase agriculture production expenses alone by $25 to $50 million annually.

Mr. Chairman, this economic impact is unacceptable, particularly because it will undoubtedly slow the economy, make our industries less competitive, increase our trade deficit, and ultimately costs jobs.

The amendment to strike the set-aside provisions is supported by farm groups, industries, senior citizens, and consumer groups and I am happy to lend my support for it as well.

Ms. PELOSI. Mr. Speaker, I rise today in support of H.R. 776, the National Energy Policy Act [NEPA]. Our Nation has been adrift for too long without a national strategy for the conservation of our existing energy resources and the development of alternative energy sources.

The consequences of this lack of direction became disturbingly apparent when we found ourselves at war with Iraq when the world's oil supplies were threatened. Despite the war with Iraq, the United States' dependence on foreign oil has been increasing at dramatic rates. It is estimated that we will import 70 percent of our oil from foreign sources by the year 2000. Clearly, if we seek to protect our national security, we must wean ourselves from our reliance on foreign oil.

Mr. Speaker, through its array of energy conservation and energy development provisions, H.R. 776 takes important steps toward making the United States self sufficient in its energy consumption. While working to protect our national security, NEPA also provides improved protection for our environment through its goals for energy conservation and utilization of less polluting energy sources.

It is unfortunate, however, that the United States remains isolated among industrialized nations in its refusal to agree to reduce CO_2 emissions to 1990 levels by the year 2000. The Bush administration's inflexible stand on this issue has resulted in our losing an unprecedented opportunity at the UNCED Conference in Rio De Janeiro next month. Instead of an international conference that aggressively seeks to address global environmental concerns, the Bush administration has reduced the Earth Summit to a photo opportunity. I would like to commend Chairman WAXMAN for his valiant attempts to include strict CO_2 emission goals in this legislation.

Mr. Speaker, one of the important goals of NEPA is the opening of new markets and the establishment of new industries in the energy field. No national energy strategy can be effective unless concrete efforts are made to instill a wholesale change in the way businesses and consumers view opportunities for energy conservation and alternative energy sources. While polls show an overwhelming majority of Americans support NEPA's goals, in fact, 70 percent of American auto buyers say they would be willing to pay more money for more fuel-efficient cars, the high costs of establishing markets to achieve these goals has resulted in an energy policy based on increased energy consumption.

The so-called green package of NEPA provides the farsighted approach that is needed to develop new alternative energy production and conservation markets. Tax incentives and fleet requirements will go far toward the development of demand and markets for these energy sources. Once these markets have been established, the financial and environmental savings achieved from them will undoubtedly justify the investment we are asked to make today.

Mr. Speaker, we must not let the entrenched policies and economics of the past forestall energy investment opportunities that are certain to have high rewards in the future. I urge my colleagues to vote yes on H.R. 776.

Mr. COLEMAN of Texas. Mr. Chairman, I rise today in support of my colleague's amendment to establish new requirements governing low level, radioactive waste storage. The most importment part of this amendment would remove class C radioactive waste from the low-level waste disposal program.

This amendment is critical because of the possible siting of a low-level radiation waste storage site in Sierra Blanca, TX, of questionable geological safety. It was decided by the State of Texas to put it there for political, not scientific, reasons. This amendment would remove at least class C wastes from State responsibility, ensuring that such State storage facilities, as the one proposed for Sierra Blanca, would not be recipients of the more dangerous radioactive wastes like plutonium. The siting of class C radioactive wastes in low-level sites are detrimental to the safety of the surrounding communities and rivers where they may be located.

It is imperative that we hold the Federal Government accountable for the disposal of class C wastes, as well as high-level wastes. As we know, class C wastes are generated mostly by nuclear power plants; they constitute about 1 percent of all low-level waste by volume, and about 60 percent in terms of radioactivity. This amendment correctly would provide for the disposal of class C wastes in the facilities being developed by the Federal Government for high-level radioactive waste disposal. In addition, this amendment would require the Nuclear Regulatory Commission to issue new regulations for the siting of these facilities.

Mr. Chairman, I believe that we should endorse this amendment to ensure that the Federal Government remain actively involved in the regulation of radioactive wastes and to protect the lives and lands of our children and grandchildren.

Mr. RIGGS. Mr. Chairman, I rise in support of the language included in the comprehensive energy legislation, H.R. 776, which calls for a moratorium on offshore oil drilling off the north coast of California.

The north coast, which is only a small part of the overall area protected under the moratorium, is an environmentally sensitive area that is home to some of the most beautiful and pristine coastline in this country. The mountains that abut the Pacific Ocean along much of the north coast make the area inaccessible to much more than foot traffic. As a result, the area has been able to keep the excessive development seen elsewhere in California at bay.

I realize that this country's oil imports constitute a strategic risk, and also make up a large part of our trade deficit, but the tapping of our valuable coastline does not need to occur. The energy needs of this country would not be best served by allowing oil drilling in this sensitive area. Certain industries have expressed to me their views that 80 percent of the increase in energy demands can be met by greater energy efficiency. In addition, we need to maintain the current domestic production capabilities in both oil and natural gas. This bill accomplishes both.

The Green Package reported out by the Committee on Ways and Means will stimulate conservation and efficiency, not by overburdening this Nation with regulations, but by providing incentives to conserve. Also, by lowering the alternative minimum tax on independent oil producers, it allows more small businesses to survive and produce oil instead of forcing us to import our oil.

Mr. Chairman, I stand in support of this legislation because it is good legislation and will address the underlying energy needs of this country.

Mr. PETERSON of Minnesota. Mr. Chairman, let me just say one thing about this provision of the energy bill, section 1401, which is now before the House. We should follow the lead of the Ways and Means Committee and vote to throw it out.

Mr. Chairman, I represent a predominantly rural district in the northwestern portion of Minnesota. Most of my constituents are farmers struggling to make ends meet, or their livelihoods are closely related to the health of agriculture. The counties along the Red River of the north, between Moorhead and East Grand Forks, are most famous for their sugar beet production, but the farmers of my district also produce a fair amount of wheat and dairy products.

I'm not a farmer, but I grew up on a farm, and I know what tough times can be like on a farm. I know the sacrifices farmers must make when the rains come at the wrong time, or not at all. When my constituents tell me they're hurting, I'm able to share their hurt. While a member of the Minnesota Senate, I always looked out for farmer's interests. Since I came to Washington 2 years ago and became a member of the Agriculture Committee, I've continued to stand up for those interests, because I'm convinced that the Nation's economic strength derives in no small part from the strength of American agriculture.

Mr. Chairman, this Energy and Commerce Committee proposal for funding a rapid expansion of the strategic petroleum reserve [SPR] by requiring the oil industry to provide oil or dollars is unfair to farmers. it does absolutely nothing to reduce this country's growing dependence on oil from the Persian Gulf because it hits importers and domestic refiners alike. Sure, it would raise the cost of gasoline, diesel, and propane a couple of percentage points, which its authors claim is no big deal. I really doubt that a cost increase of this size will encourage many people to change the way they operate. So fuel switching or fuel conservation isn't going to happen as a result of this proposal. No, Mr. Chairman, all this SPR provision would accomplish is increase farm operating expenses.

Why has the Commerce Committee put this proposal before us? Nobody has explained to me why the United States suddenly needs to increase the SPR from the size it's been for the past year—some 570 barrels—to 1 billion—one thousand million—barrels of crude oil and refined products. Where in the world is the Department of Energy even going to put it? What ever happened to the peace dividend we were supposed to get at the end of the cold war? Does somebody know something I don't know? Are Kuwait and Saudi Arabia about to call for another oil embargo? Give me a break.

I'm glad that a month ago the Ways and Means Committee voted to throw it out. That's what I believe this House should do right now—strike section 1401.

Ms. OAKAR. Mr. Chairman, I rise in strong support of H.R. 776, the Comprehensive National Energy Policy Act. It is the first broad energy policy legislation to come before the House in more than a decade, and deserves the support of every Member.

I heartily commend the distinguished chair of the Energy and Commerce Committee, Representative DINGELL, and the chair of the Subcommittee on Energy and Power, Mr. SHARP, for their achievement in developing and assembling this complex and important legislation and guiding it to the point of floor consideration.

My compliments, also, to all of the 10 committees which considered the legislation for their cooperation in producing this landmark bill. Witnesses at hearings I have conducted on energy security matters over the years have despaired of ever seeing agreement on a significant energy policy in this country. But, the extraordinary efforts and skill of Representatives DINGELL and SHARP, and the comity of the other committees involved have shown that, where leadership is present, such policies are possible.

SCOPE OF THE BILL

The breadth of H.R. 776 is indicated by its 25 titles, affecting all major U.S. energy sources—traditional fossil fuels, nuclear, renewable and alternative fuels, energy efficiency, and energy related tax provisions.

The bill also provides a 5-year authorization for Energy Department research. This scope is an indication of the broad significance of this legislation.

THE ISSUE OF HAVING AN ENERGY POLICY

For the past 4 years, I have been urging that the President fulfill the responsibilities under the Energy Department Organization Act of 1977 to develop and transmit to the Congress a 5- and 10-year energy policy plan. The statute requires that the plan balance the interests of energy producers, consumers, motorists, business, industry, and the environment.

I have made this case in a dozen hearings since 1988, at which many of the most prominent energy experts in this country, such as former Secretary of Energy and Secretary of Defense James Schlesinger, dramatized the risks of America's national security that result from the lack of such a plan to reduce U.S. dependence on oil imports from unstable parts of the world.

These witnesses cataloged the six crises since the Suez Canal was closed in 1956 that interrupted, or threatened to interrupt, the flow of oil to the world's industrialized nations.

These problems, and their regularity, argue powerfully for an energy policy with identifiable 5- and 10-year goals for such matters as oil import levels, energy efficiency, and the security of electricity supply, so that all concerned could make their investments with a clear national policy as a foundation.

However, the President has not lived up to his responsibilities in the 1977 law. The energy strategy which the President submitted in February 1991, did not set national goals and therefore shortcutted the process envisioned by Congress. Further, the President's strategy emphasized energy production and did not deal adequately with energy savings through efficiency and conservation. Thus, in my opinion, it amounted to perhaps one-third of an energy policy.

Evidence of these shortcomings are found in the President's Department of Energy budget for fiscal year 1993. Representative WOLPE has done a useful service by revealing that, while the Department of Energy "spring planning process" recommended increased funding for national energy security programs because of concerns about the Persian Gulf war, the President's Energy Department budget reduced the oil vulnerability programs by $185 million or 14 percent—hearings of the Subcommittee on Investigations and Oversight, House Science Committee, April 30, 1992.

CONGRESSIONAL EFFORTS TO FORGE AN ENERGY POLICY

As one effort to encourage an adequate long-term energy policy for this country, I have introduced a bill (H. Con. Res. 53) that calls for specific goals for U.S. energy policy for the year 2000 against which performance can be measured from year to year.

The Energy Policy Act now before the House is further evidence of how much has been left undone. Although there are some Presidential recommendations incorporated into the bill—as modified by the legislative process—the major thrust of the bill is a congressional initiative.

CLEAN COAL TECHNOLOGY ADVANCED

Another aspect of this legislation that I would like to applaud is the combined work of several committees on title XIII, to provide for further development of clean coal technology.

This is important, not only for our own country, but for many other nations, because coal is more widely distributed globally than oil as a source of energy for development. The use of coal also supports the independence of these nations by reducing their import bills and international debt.

The United States is the Saudi Arabia of coal. We have approximately 270 years worth of coal. We should be able to take advantage of these resources.

However, there are, of course, environmental factors associated with coal use, as the Rio Summit Conference on the Environment is currently discussing. I feel strongly that American ingenuity can help the world overcome the side effects to the extent that these abundant supplies of energy can be used for base load, main line electricity generation in an environmentally sustainable manner.

OHIO AS LEADER IN CLEAN COAL TECHNOLOGY

Actually, my own State of Ohio leads in experimental projects to advance clean coal technologies that hold enormous potential for controlling emissions of sulfur dioxide, nitrogen oxide, and other gases and solids. Ohio and other Federal-State projects place the United States at the threshold of perfecting the technologies that can lead to the integrated clean coal refineries of the future. These facilities may be able to cut emissions by more than 90 percent and increase energy efficiency from the current 30 to 35 percent range up to 45 or 55 percent.

This bill advances clean coal as a logical and vital element of our national energy policy mix, and I hope that the Department of Energy works diligently to further implement this program. We are not alone in this quest. European nations are also pursuing clean coal solutions, and are active competitors for the world markets that could mean billions in profits to American businesses and thousands of jobs for American workers.

COMPETITION IN ELECTRIC POWER GENERATION

I also want to commend the work of the Energy Committee on title VII of the bill, which deals with promoting competition and efficiency within the utility industry by fostering additional sources of electricity supply. This is being done through amendments to the Public Utility Holding Company Act of 1978, which I believe has been generally rated a success so far in lowering costs for electricity consumers. I very much favor this trend.

However, some utilities in my State have raised concerns about certain provisions of this title, such as section 723. The utilities point out that the Federal Energy Regulation Commission currently prohibits transmission of wholesale power to retail customers, which H.R. 776 upholds. Many utilities fear that, in the future, the complex interplay of Federal and State law and regulation may permit entities to be created that would be able to purchase wholesale power for retail customers in a way that violates the intent of the law.

I support greater competition in the wholesale power market, but I also want to assure that competition is administered so that no loopholes are created that undermine a fair balance between independent power producers, municipal utility systems, and investor-owned utilities that also serve the public.

The utilities are also concerned about the reliability of the common electricity grid and the apparent absence in title VII of a specific provision for transmitting utilities to recover the costs of standby generation capacity.

It would thus be in order, I believe, for the conferees to review the various provisions of title VII concerned, so that utilities will be able to provide the best and lowest cost energy to their customers without having the reliability of their service impaired, and so business, industry, independent power producers, utilities, municipal power authorities, and electricity consumers will all benefit from the bill.

Mr. APPLEGATE. Mr. Speaker, while I do have some strong reservations with regard to certain provisions in H.R 776, the Comprehensive National Energy Policy Act, there are other provisions that will, if enacted, lead to enhanced efficiency in the energy sector of our economy, and produce increased competi-

tion and reduced regulation where it can be achieved in the public interest.

Title VII of the proposed bill is designed to increase competition in the electric utility industry so that electric utilities providing retail electric service will have more bulk power supply alternatives available. This title will, among other things, permit the Federal Energy Regulatory Commission to require utilities which own and operate facilities forming the Nation's interconnected transmission system to transmit power generated by another utility over those facilities and to establish the rates and charges to be paid to the transmitting utility for rendering this service.

I support the policies reflected in the bill, and commend the members and staff of the Committee on Energy and Commerce for their diligence in crafting a bill designed to implement these policies. Nevertheless, there are certain modifications to title VII which I believe are essential if we are to fully achieve the intent of the Congress. These modifications are necessary from our situation as a major coal producing region where we anticipate more competitive energy markets based on healthy competition from legitimate wholesale power developers providing tangible economic gains through jobs and construction as distinguished from possible sham transactions conferring special windfalls on selected, privileged market segments. In this way we can support our domestic markets and remain a viable option for other markets dependent on foreign oil imports. Thus, I suggest the following modifications:

First, section 723 of the bill would authorize the FERC to require transmitting utilities to transmit electricity to wholesale power purchasers, but would prohibit any requirements that a transmitting utility transmit electricity directly to an ultimate retail consumer. However, under the bill as presently written, it would be possible for a new wholesale purchaser of electricity to be created solely for the purpose of circumventing the prohibition against mandatory transmission to retail users.

The prohibition against mandatory transmission service to individual retail consumers, such as large industrial installations, is necessary to protect the right of a utility to serve customers of all classes within its service area. Failure to protect this right would lead to higher rates and charges for electric service provided to small commercial and residential consumers served by a utility, including low-income consumers without any offsetting economic benefit to the community. It is, therefore, necessary to close the existing gap in the bill in order to preserve the intent of Congress to preclude mandatory retail wheeling.

Second, the drafter of the bill recognized that it would be unfair to permit issuance of an order by the FERC requiring mandatory transmission service if the provision of such service would unduly impair the reliability of service or economically disadvantage the customers of the transmitting utility subject to the order.

Utility transmission systems are interconnected to form a multistate transmission grid. Because of a basic law of physics, a mandatory transmission order issued to one utility may affect the reliability of service and costs to consumers of other utilities owning portions of the interstate transmission system. There is no valid reason to protect the consumers of the transmitting utility subject to the mandatory wheeling order without similarly protecting consumers of other utilities which may be affected. It would therefore be consistent with the intent of Congress to expand the existing prohibition against mandatory wheeling orders having an undue adverse impact on transmitting utilities in order to assure that consumers of all utilities which may be affected by the order are properly protected.

Third, the bill requires the FERC to establish rates and charges for transmission service required to be provided which are sufficient to compensate the service transmitting utility for all prudent costs incurred in connections with the transmission services and necessary associated services. Although it is my understanding that the necessary associated services include the provision of standby generation by the transmitting utility which may be utilized in the event the delivery of electricity to the transmitting utility is interrupted, the bill does not specifically provide for recovery of the costs of this service. Failure to specify that the costs of this standby generation service may be recovered from the transmission service customer will lead to costly litigation and may result in denying to the transmitting utility the right to recover the costs of standby generation capacity. The bill should therefore be clarified to avoid any uncertainty over whether the FERC is required to consider the cost of standby generation service in establishing rates and charges for transmission service.

I believe that with these changes, the Comprehensive National Energy Policy Act will be better able to achieve the enhanced efficiencies in the production and transmission of electric energy which the Congress desires.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mr. SKAGGS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 776) to provide for improved energy efficiency, pursuant to House Resolution 464, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. GEPHARDT). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FIELDS

Mr. FIELDS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. FIELDS. In its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FIELDS moves to recommit the bill, H.R. 776, to the Committee on Energy and Commerce.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LENT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 381, noes 37, not voting 16, as follows:

[Roll No. 144]

AYES—381

Abercrombie	Costello	Gilman
Ackerman	Coughlin	Gingrich
Alexander	Cox (CA)	Glickman
Allard	Cox (IL)	Goodling
Allen	Coyne	Gordon
Anderson	Cramer	Goss
Andrews (ME)	Cunningham	Gradison
Andrews (NJ)	Darden	Grandy
Annunzio	Davis	Green
Applegate	DeFazio	Guarini
Aspin	DeLauro	Gunderson
Atkins	Dellums	Hall (OH)
AuCoin	Derrick	Hamilton
Bacchus	Dickinson	Hansen
Barnard	Dicks	Harris
Barrett	Dingell	Hastert
Barton	Dixon	Hatcher
Bateman	Dooley	Hayes (IL)
Beilenson	Dorgan (ND)	Hayes (LA)
Bennett	Dornan (CA)	Hefley
Bereuter	Downey	Hefner
Berman	Dreier	Henry
Bevill	Durbin	Hertel
Bilbray	Dwyer	Hoagland
Bilirakis	Dymally	Hobson
Blackwell	Early	Hochbrueckner
Bliley	Eckart	Holloway
Boehlert	Edwards (CA)	Hopkins
Boehner	Edwards (TX)	Horn
Bonior	Emerson	Horton
Borski	Engel	Houghton
Boucher	Erdreich	Hoyer
Brewster	Espy	Hubbard
Brooks	Evans	Huckaby
Broomfield	Ewing	Hughes
Browder	Fascell	Hutto
Brown	Fawell	Hyde
Bryant	Fazio	Ireland
Bunning	Feighan	Jacobs
Burton	Fish	James
Byron	Flake	Jefferson
Callahan	Foglietta	Jenkins
Camp	Ford (MI)	Johnson (CT)
Campbell (CO)	Ford (TN)	Johnson (SD)
Cardin	Frank (MA)	Johnston
Carper	Franks (CT)	Jones (GA)
Carr	Frost	Jones (NC)
Chandler	Gallegly	Jontz
Clay	Gallo	Kanjorski
Clement	Gaydos	Kaptur
Coble	Gejdenson	Kasich
Coleman (MO)	Gekas	Kennedy
Coleman (TX)	Gephardt	Kennelly
Collins (MI)	Geren	Kildee
Condit	Gibbons	Kleczka
Conyers	Gilchrest	Klug
Cooper	Gillmor	Kolbe

Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oberstar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Sundquist
Swett
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—37

Andrews (TX)
Archer
Armey
Baker
Bustamante
Chapman
Clinger
Combest
Crane
de la Garza
DeLay
Doolittle
Duncan
Edwards (OK)
English
Fields
Gonzalez
Hall (TX)
Hammerschmidt
Hancock
Herger
Hunter
Inhofe
Johnson (TX)
Livingston
Long
Marlenee
Montgomery
Ortiz
Penny
Sarpalius
Smith (OR)
Smith (TX)
Stenholm
Stump
Synar
Vucanovich

NOT VOTING—16

Anthony
Ballenger
Bentley
Boxer
Bruce
Campbell (CA)
Collins (IL)
Dannemeyer
Donnelly
Lagomarsino
Levine (CA)
Martinez
McDade
Michel
Oakar
Packard

□ 1844

The Clerk announced the following pairs:

On this vote:

Mr. Lagomarsino for, with Mr. Ballenger against.

Mrs. Collins of Illinois for, with Mr. Packard against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. CRANE. Mr. Speaker, earlier today the House voted on an amendment offered by Mr. ROSTENKOWSKI to H.R. 776, the National Energy Policy Act. The amendment struck those provisions in the bill which required the Energy Department to fill the strategic petroleum reserve [SPR] at a rate of 150,000 barrels per day and which required oil companies to contribute oil to fill the reserve.

Unfortunately, I was unable to be present for this vote. For the record I do not support the SPR provisions in H.R. 776. Had I been present I would have voted in favor of the Rostenkowski amendment as I did when the Ways and Means Committee, on which I serve, considered this very issue last month.

Mr. OXLEY. Mr. Speaker, I was unavoidably absent from the House Chamber during rollcall vote No. 140 on the amendment to strike section 1401 of H.R. 776. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. BRUCE. Mr. Speaker, on Wednesday, May 27, and Thursday, May 28, 1992, I was granted a leave of absence on account of the death of my father. I was not able to vote on the following rollcall votes: Rollcall Nos. 140, 141, 142, 143, and 144.

Had I been present, on May 27 I would have voted "aye" on rollcall 140, "aye" on rollcall 141, "aye" on rollcall 142, "aye" on rollcall 143, and "aye" on rollcall 144.

EXPRESSION OF APPRECIATION TO STAFF FOR WORK ON H.R. 776, COMPREHENSIVE NATIONAL ENERGY POLICY ACT

(Mr. SHARP asked and was given permission to address the House for 1 minute.)

Mr. SHARP. Madam Speaker, I just want to recognize the enormous work done by members of the staff, and I want to mention those people. Sue Sheridan, Wesley Warren, Judi Greenwald, John Berner, Tom Runge, Shelley Fidler, Rick Counihan, Paul Downs, and our staff director on our subcommittee, Jack Riggs, who did superior work in bringing us together.

Also I want to recognize the great work of the full committee staff, Michael Woo, David Finnegan, Lisa Kountoupes, and also the minority staff, particularly Jessica Laverty. These folks did yeoman work for months and months and have helped the Members of the House reach the decisions that we have reached.

Mr. LENT. Madam Speaker, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from New York.

Mr. LENT. Madam Speaker, I thank the gentleman for yielding. I want to commend the gentleman for the arduous work, good work that he did on his energy bill and would like to join the gentleman from Indiana in taking this time to thank the members of the Energy and Commerce minority staff who worked 18-hour days and spent many sleepless nights drafting and refining this legislation. Their names, of course, will not make the news stories tomorrow detailing this bill, but were it not for their efforts we would not have a bill at all.

So I offer my thanks to Jessica Laverty, Cathy Van Way, Margaret Durbin, John Hambel, John Shelk, Darlene McMullen, Freida Depe, Anne-Whitney Powers, and Mimi Paredes for their dedication and hard work.

I also would like to thank Leonard Coburn of the Department of Energy and Michael Rafkey of the Nuclear Regulatory Commission who were detailed to the minority staff for their assistance as well. And I thank the gentleman for yielding.

Mr. SHARP. I thank the gentleman. I want to indicate also that there were support staff on the Energy and Commerce Committee that made contributions as well as I might say staff from some other committees and other members of the staff that deserve commendation.

AUTHORIZING CORRECTIONS IN ENGROSSMENT OF H.R. 776, COMPREHENSIVE NATIONAL ENERGY POLICY ACT

Mr. SHARP. Madam Speaker, I ask unanimous consent that, in the engrossment of the bill H.R. 776, the Clerk be authorized to correct section numbers, cross references, punctuation, and indentation, and to make any other technical and conforming changes necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore (Ms. SLAUGHTER). Is there objection to the request of the gentleman from Indiana?

There was no objection.

GENERAL LEAVE

Mr. SHARP. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 776, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5253 AND HOUSE JOINT RESOLUTION 490

Mr. ROEMER. Madam Speaker, I ask unanimous consent to remove my name as a cosponsor from H.R. 5253 and House Joint Resolution 490. My name was added inadvertently.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

□ 1850

COMMUNICATION FROM THE HONORABLE DAN BURTON, MEMBER OF CONGRESS

The SPEAKER pro tempore (Ms. SLAUGHTER) laid before the House the following communication from the Honorable DAN BURTON, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, May 27, 1992.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L (50) of the Rules of the House, that I have been served with a subpoena issued by the Superior Court, Marion County, Indiana.

Sincerely,

DAN BURTON,
Member of Congress.

COURT VACANCIES LOSE FAITH IN JUDICIAL PROCESS

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DE LUGO. Mr. Speaker, I have taken the floor a number of times to decry the deplorable situation that continues to plague the people of the Virgin Islands because of the vacancies in the District Court of the Virgin Islands.

Since the second vacancy in this special two-judge territorial court was created in 1989, we have been faced with a system of visiting judges which, as a recent article published in the Georgetown Journal of Legal Ethics correctly says, has caused many Virgin Islanders to lose faith in the judicial process.

This article by Diane Russell, who was formerly an intern in my office, explains many of the problems with this system.

The vacancies have created: A sense that justice is being imposed from the outside; problems because temporary judges are unfamiliar with the local laws they must rule on and apply inconsistent procedures; problems because temporary judges are assigned to sentence individuals when they were not present for the trial; and problems of scheduling, transportation, and cost.

I am including Ms. Russell's article in the RECORD with this statement to help Members better understand this problem and in the continuing hope that it will encourage the President to fulfill the requirement of the law that organized the territory and established this court to nominate two judges so that the court can function as it was intended to and justice will be served.

Mr. President, please do your duty and send forward your nomination for the second vacancy so that justice can be done in this U.S. territory.

SOME ETHICAL CONSIDERATIONS OF JUDICIAL VACANCIES: A CASE STUDY OF THE FEDERAL COURT SYSTEM IN THE UNITED STATES VIRGIN ISLANDS

(By Diane Russell*)

As of January 1, 1992, there were twenty-one judicial vacancies on the U.S. courts of appeals and 108 in the U.S. district courts across the country.[1] The Administrative Office of the U.S. Courts has called eleven courts "judicial emergencies"—seats that have been empty for more than eighteen months.[2] But the longest standing vacancy is in the district court for the United States Virgin Islands,[3] where a seat has effectively been empty since December 31, 1986.[4]

This Note explores the ethical implications of vacant federal judgeships in the U.S. Virgin Islands. First, the Note provides a helpful background of the Virgin Islands including the political and legal climate. Second, the Note examines the federal judicial appointment process—how the process works in the U.S. and how it works in the Virgin Islands. Part III of the Note is dedicated to exploring the ethical conflicts that results when federal judgeships are vacant. This section examines inevitable ethical conflicts that arise for attorneys and judges in the U.S. Virgin Islands. The Note demonstrates that the federal judicial appointment process functions so that attorneys and judges in the Virgin Islands are susceptible to ethics violations, even if these officers want to comply with the provisions of the *Model Rules of Professional Conduct*[5] and the *Code of Judicial Conduct*.[6] Part IV suggests that the U.S. Senate has a higher responsibility to communities that have no voting Congressional representative. In this light, the Senate must act quickly to fill the vacant judicial seats in the U.S. Virgin Islands. Filling the seats quickly would eliminate the inherent bias against judges and attorneys in the U.S. Virgin Islands, while reducing community discontent with the judiciary.

I. BACKGROUND

The U.S. Virgin Islands are indicative of the complete breakdown in the judicial appointment process—the territory's two federal judgeships[7] have been vacant for years. On December 31, 1986, Chief Judge Almeric Christian assumed senior status at the district court of the Virgin Islands.[8] On October 31, 1988, Judge Christian retired from the St. Thomas post, leaving vacant a federal judicial seat.[9] President Reagan nominated attorney Adriane Dudley for the post, but "her nomination got caught in the national political wringer and died a lingering death."[10] With the death of Judge David V. O'Brien, the St. Croix post has been vacant since December 22, 1989."

Since 1988, the U.S. Court of Appeals for the Third Circuit[12] has been forced to shuttle judges to the Virgin Islands from all over the country to handle the court load in the territory.[13] The judicial caseload has grown to monstrous proportions.[14] Because of the number of criminal cases which require disposition under the Speedy Trial Act,[15] there is a significant backlog of civil cases.[16] There are two new judges[17] an average of every four weeks.[18] Naturally, this high turnover of judges, coupled with an incredible backlog of civil cases, has caused severe problems in the Virgin Islands legal community.

The federal government is spending thousands of dollars every month for hotels, travel and support staff for the judges.[19] The unstable nature of the judiciary makes for inefficient trials, no continuity and scheduling nightmares.[20] Attorneys complain of inconsistent judicial styles, temperaments and procedures.[21] The public is in an uproar because cases are being tried by off-island judges who are unfamiliar with the Virgin Islands lifestyle and culture.[22] Virgin Islands demand native judges or at the very least, judges who are familiar with the Virgin Islands culture.[23] Finally, attorneys complain that after years of waiting for a trial date, many of the native witnesses and litigants have left the islands, forgotten important facts, decided to drop their case out of frustration or died. This is not an exhaustive list of the problems caused by the high turnover of visiting judges and the backlog of civil cases in Virgin Islands. Ethical considerations resulting from the judicial vacancies, the focus of this Note, are discussed in Part III.

II. JUDICIAL APPOINTMENT PROCESS

The judicial appointment process begins with interested parties who suggest names and support individual candidates to fill vacant judicial seats. The primary constitutional actor in the process is the President of the United States.[24] However, since presidents may not have time to review and select candidates, the Department of Justice has the primary executive role in selecting the great majority of federal judges.[25] The attorney general's formal letter of recommendation usually results in the nomination of a candidate chosen largely by the Department of Justice.[26]

In most recent administrations, except in highly visible cases where the attorney general or the president himself may be involved, it is the deputy attorney general's office that plays the major role in recruitment and selection.[27] The deputy's staff makes a list of possible nominees in conjunction with or after negotiations with other powerful interests, including party officials, bar leaders and especially senators from the state where the vacancy exists.[28] The senators from the president's party play a leading role in the selection and appointment process.

The key to this powerful role lies in the practice of "senatorial courtesy": the propensity of the Senate to support an individual senator, especially of the president's party, who opposes a nominee from his state.[29] When both senators being to the president's party, agreements are usually worked out in which they jointly recommend either candidates or alternates when vacancies occur.[30] When one senator is from the opposite party, he or she usually has less power.[31] When neither senator is from the president's party, congressional delegation or the state party organization plays a significant role.[32]

Often times, party officials, interest group representatives, attorneys and private citizens make recommendations for judgeships. Usually, these recommendations are directed to the senators concerned in an attempt to persuade them to endorse an individual, but sometimes they are addressed to the Department of Justice or to the White House.[33]

Once a candidate is nominated or seriously considered, the Senate Judiciary Committee conducts a screening process in an attempt to avoid an unsuitable appointment.[34] A subcommittee reviews the qualification of candidates for federal judgeships; the Senate Judiciary Committee receives the subcommittee's reports and makes them a part of the formal hearings.[35]

It is clear that the political process plays an important role in the selection of judges.

Footnotes at end of article

The principal actors are senators and lobbying groups that apply pressure on the Senate to act swiftly. In a sense, the selection of a judge succumbs to party politics. Where there is no senatorial representation, however, or congressional representation, the people are at a disadvantage because they lack the necessary bargaining chip—a vote—to effect speedy change.

Virgin Islanders are in the unique position of having no voting representative in the Senate or House of Representatives who can apply pressure on the Senate to act speedily.[36] In a nation where powerful senators essentially select federal judicial candidates, the Virgin Islands, without a voting member in Congress, are at an inherent disadvantage.

III. ETHICAL CONSIDERATIONS

A. Attorneys

The current judicial appointment process as it applies to the U.S. Virgin Islands is structured so that all attorneys in the Virgin Islands are always vulnerable to charges of violating the ABA *Model Rules of Professional Conduct*.[37] This inherent structural deficiency holds a special danger for Virgin Islands attorneys and judges who, as the most visible actors in the client's eyes, are susceptible to charges of ethics violations.

According to Rule 1.3, a lawyer shall act with reasonable diligence and promptness in representing a client.[38] The comment states that a client's interests can be adversely affected by the passage of time or a change of conditions. Even when the client's interests are not affected in substance however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. Many courts have upheld bar association findings, sanctioning attorneys for violating Rule 1.3.[39]

Like courts in other jurisdictions, courts in the Virgin Islands can sanction attorneys for violating Rule 1.3. In fact, the Virgin Islands civil attorney is more susceptible to charges of Rule 1.3 violations than in other jurisdictions because the attorney, under present conditions, is unable to act diligently and promptly in representing his or her client. Due to the unfilled judicial vacancies, all civil cases are susceptible to unreasonable delay.[40] A client may have to wait years in order to get a court date; attorneys have to wait months to get a ruling on a motion; different judicial temperaments needlessly delay the trials. Constant delay in the civil trial process causes anxiety in clients and necessarily undermines a lawyer's trustworthiness. The present structure makes it impossible for an attorney to work diligently and promptly in representing a client.

A necessary companion to Rule 1.3 is Rule 3.2, which states that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.[41] The comment makes clear that dilatory practices bring the administration of justice into disrepute. The comment further states that delay should not be indulged merely for the convenience of the advocates, nor for the purpose of frustrating an opposing party's attempt to obtain rightful redress for repose. Courts in various jurisdictions have sanctioned attorneys for violating Rule 3.2.[42]

Like courts in other jurisdictions, a Virgin Islands court could find an attorney guilty of violating Rule 3.2. Since it could take years for a trial date to be set, a defense counsel in the Virgin Islands could sit back, using the inevitable delays to her advantage. A plaintiff, almost always at a disadvantage because of built-in delays, will either settle for a much lower value of the case or withdraw the case out of frustration. Furthermore, because a motion can take weeks to be decided, an attorney could file motions simply for the purpose of delaying the prosecution of a case and frustrate the purpose of the judiciary.[43] If the system is not structured efficiently, attorneys as well as clients suffer in the process. Attorneys are charged with not performing their work diligently, though in reality it is not their fault.

Another rule that an attorney in the Virgin Islands could be charged with violating is Rule 1.1.[44] The comment states that competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. Courts in other jurisdictions have sanctioned attorneys for violating this rule.[45]

A Virgin Islands attorney could fulfill all of the factors enumerated in Rule 1.1 and still be charged with incompetence. Because attorneys are subjected to so many judicial styles and nuances of visiting judges every month, it becomes an extremely difficult task to adapt to these different styles over a period of time. If an attorney has difficulty adjusting, he or she may appear incompetent in the eyes of his or her client. If an attorney is chastised in court for not following "proper procedures" when the proper procedure is a judicial nuance, the attorney does seem incompetent in the eyes of the client.[46] Moreover, many of the visiting judges are subjected to overloaded court calendars which can often lead to short-notice cancellation of scheduled cases. This short-notice cancellation adversely affects an attorney's scheduling.[47] This may lead a client to believe an attorney is disorganized and cannot properly manage his or her workload. Because of the judicial vacancies, attorneys are placed in difficult positions above and beyond other jurisdictions. Attorneys practicing in the Virgin Islands must weigh additional factors when deciding to settle a case or not, including the cost of built-in delays, instability and unpredictability in this jurisdiction. An attorney can be viewed as incompetent because he or she is unable to negotiate a favorable settlement for the client. A client questions an attorney's ability when the attorney suggests settling a case for a fraction of the value the client requested or expects. In the eyes of a client, the attorney wants to settle her case for a fraction of the value in order to receive a quick fee.

Attorneys in the Virgin Islands can also be charged with violating Rule 1.5.[48] Courts in other jurisdictions have sanctioned attorneys for violating this rule.[49] What may be reasonable to an attorney given all of the legal constraints in the Virgin Islands may not be reasonable to a client. For example, if expert witnesses must be flown back and forth from the mainland for on again-off again trials, attorneys must charge the client for this amount. This is an unnecessary burden on the client and the law firms which are generally run by sole practitioners.[50] Furthermore, the hassles associated with reacquainting oneself with a new judge, the judges' courtroom procedures and the inherent delays are all factors which will necessarily affect court costs. In this small legal community, attorneys are caught in a dilemma: charging what is perceived as an exorbitant fee on islands where goodwill goes a long way versus losing money on a case.

It is the lack of stability and predictability created by judicial vacancies in the district court of the Virgin Islands that is the culprit in this jurisdiction. Representing different clients in different matters places attorneys in the situation of choosing whether to represent the very wealthy client who can pay fixed fees or the contingency fee client. At best, sole practitioners can sit and wait for wealthy clients to appear at the office, requesting assistance; at worst, they can go bankrupt, trying to fund contingency cases for the clients who are unable to pay. Where attorneys used to accept torts cases on a contingency basis before the vacancies existed, attorneys now shy away from contingency suits since they are unable to project how long it will take for a case to be heard and the costs associated with its prosecution. This situation not only strains the relationship between a client and an attorney, but also between attorneys and the judicial branch.

Rule 1.16 suggests that a lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client.[51] However, because of the steady influx of visiting judges, withdrawal from cases pending in the district court of the Virgin Islands will cause a material adverse effect on the client's interest, since the system is so unpredictable and unstable. This material adverse effect may pose difficulties for the client seeking to retain substitute counsel since attorneys shy away from contingency cases. No attorney wants to accept a contingency case that will take an unknown length of time to complete. An attorney is necessarily in violation of the comment to Rule 1.16 which states that a lawyer should not accept representation in a matter unless it can be performed competently, promptly, without improper conflict of interest and to completion.[52] A Virgin Islands attorney is always unsure if he is able to comply with these guidelines.

Even though a lawyer can withdraw if representation will result in an unreasonable financial burden on the lawyer, any case, especially contingency-based cases, can have an unreasonable financial burden on a lawyer in the Virgin Islands, leaving people who need help in a compromising situation. This means a large number of people are not being represented because the system inherently places financial burdens on attorneys. Justice is not served when a system that is charged with administering justice makes it so difficult for justice to exist.

B. Judges

The basic rule of the *Code of Judicial Conduct* reflects the concern that judges avoid not only impropriety, but also the appearance of impropriety in all things relating to their office.[53] The *Code of Judicial Conduct* also reflects a concern that judges perform the duties of office impartially and diligently.[54] Courts in various jurisdictions have disciplined judges for violating Canons 2 and 3.[55]

Like judges in other jurisdictions, a temporary judge sitting in the federal district court of the Virgin Islands could be charged with violating Canons 2 and 3 of the *Code of Judicial Conduct*. A major conflict stems from the fact that many of the judges appointed to the Virgin Islands are unfamiliar with the court system in the islands and with the culture as a whole.[56]

Many of the visiting judges have performed their duties satisfactorily.[57] The issue lies with public perception of the judiciary. The public as a whole is frustrated with the backlog of cases, the seemingly incompetent nature of their attorneys in the courtroom, and the parade of judges every two weeks. The public is especially concerned with the dif-

ferent faces on the bench who have little or no familiarity with the culture of the Virgin Islands.[58] Consequently, there is a growing public sentiment that the judges are impartial or biased.[59]

For any court system to work, the public must have faith that the system is in place to serve or help them; that the courts are a place where issues are resolved and clients can see results.[60] Because of the constant barrage of judges from the mainland, their unfamiliarity with Virgin Islands culture, the lack of stability in sentencing and inconsistent court-room procedures, the public perceives the visiting judges as being inherently biased or impartial.[61]

According to Canons 2 and 3, the appearance of bias or impartiality is a ground for disqualification. Judicial disqualification goes to the heart of the judicial process.[62] However, Virgin Islands attorneys who practice in the federal district court rarely utilize the provisions in the *Code of Judicial Conduct* since they know very little about the rotating judges' background and since the attorneys are unsure of when a new judge will hear their case.[63]

IV. CONCLUSION

The legal system has a responsibility to provide trials to those who want them. Public confidence is essential to the effective functioning of the legal system because the system depends primarily on the willingness of members of society to follow its mandates and participate as jurors. The legal system could not function as a viable institution in a democracy if the public lost faith in the impartiality and integrity of attorneys and judges.[64]

Unfortunately, many Virgin Islanders have lost faith in the federal judicial process. The community, lacking two permanent federal judges for years, is frustrated with the lack of stability had predictability the U.S. legal system provides. This problem is compounded by the incredible backlog of civil cases and the parade of judges who are unfamiliar with the Virgin Islands people and culture. Consequently, there is little public confidence that justice is being served.

Even if attorneys and judges want to comply with the provisions of the *Model Rules* and the *Code of Judicial Conduct*, they are vulnerable to charges of ethics violations. Incredible delays and the adjustment to visiting judges approximately every two weeks make attorneys seem incompetent.[65] To Virgin Islanders, the parade of unfamiliar judges appears both uncaring about the community and racist.[66] Appearances count because one responsibility of judges is to the citizenry at large.[67] Judges owe responsibilities to a wider circle than just the parties and their counsel in the particular case being decided.[68] The public is concerned that every case is fairly decided.

The fact that Virgin Islanders have no Congressional representative plays a major role In the inattentiveness of the Senate. There are no "power" Senators to lobby the Senate to act speedily. Even tough other states have unfilled federal seats,[69] the Virgin Islands have had the longest standing vacancy in the United States.[70]

Where there is no Congressional representative with the power of a vote, the Senate should have a higher responsibility to the people of a community. Communities that do not vote do not have the necessary "check" that is necessary for a democracy to function effectively.

People in the Virgin Islands believe that the United States President and Congress have abandoned the Virgin Islands community. This perception of the community could reduce the level of confidence in the federal system even further, perhaps to the level of lawlessness and chaos. Before the community totally rejects the federal judiciary, including the federal laws of this nation, the Senate must act to fill the judicial seats as quickly as possible.

FOOTNOTES

*I.D. 1992, Georgetown University Law Center.

1. Telephone Interview with David Sellers, Public Information Officer for the Administrative Office of U.S. Courts (Jan. 15, 1992). There are 179 authorized judicial seats on the U.S. courts of appeals and 649 authorized seats in the U.S. district courts across the country. *Id.* This figure represents a slight increase in vacant judicial seats from last year's figure. *See* Marcia Coyle et al., *Vacant Seats*, NAT'L L.J. Feb. 4, 1991, at 18 (citing 18 judicial vacancies on the U.S. courts of appeals and 106 judicial vacancies on the U.S. district courts across the country).

2. Coyle, *supra* note 1, at 18.

3. *Id. See also* Judi Hasson, *Two Proposed for Judgeships*, Gannett News Service, May 7, 1991 (Virgin Islands judicial seats have had the longest vacancies in the country).

The U.S. Virgin Islands are made up of hundreds of tiny islands in the Caribbean. Originally part of the Danish West Indies, the United States purchased St. Croix, St. Thomas and St. John from Denmark for $25 million in 1917. The islands were purchased to block German plans to acquire them for a submarine base. Presently, 110,000 people live in the Virgin Islands. *See generally* PEARL, VARLACK & NORWELL HARRIGAN, THE VIRGINS: A DESCRIPTIVE AND HISTORICAL PROFILE (1977); MARIO MOORHEAD, MAMMON VS. HISTORY: AMERICAN PARADISE OR VIRGIN ISLANDS HOME (1973); EDWIN POTTER, THE HISTORY OF THE PENAL SYSTEM IN THE VIRGIN ISLANDS (1980); EULALIE RIVERA, GROWING UP IN ST. CROIX: A RECOLLECTION ON A CRUCIAN GIRLHOOD (1982).

4. Judge Almeric Christian assumed senior status in 1986, Judi Hasson, *Dudley Nomination Sent Back to White House*, Gannett News Service, August 30, 1990. Assuming senior status means that the Judge announces plans to reduce his caseload, notifying the Justice Department and the White House that he will soon retire. Judge Christian retired from the bench in 1988. Letter from Ron deLugo, Virgin Islands, Congressional Delegate, to Richard Thornburgh, Attorney General of the United States (Feb. 2, 1990) [hereinafter Letter from Ron deLugo] (on file with Delegate deLugo's office).

5. MODEL RULES OF PROFESSIONAL CONDUCT (1983).

6. CODE OF JUDICIAL CONDUCT (1990).

7. There are two types of courts of general jurisdiction in the Virgin Islands: the territorial court and the federal district court. There are nine territorial court judges: four on St. Croix and five on St. Thomas. One district court judge presides in St. Croix and one in St. Thomas-St. John. Under the Virgin Islands system that existed until October 1, 1990, jurisdictional statutes required that any crime where the maximum sentence did not exceed imprisonment for five years and any civil case not exceeding the sum of $200,000 was heard in the territorial court. V.I. CODE ANN. tit. 4, §76 (1981).

On October 1, 1990, the territorial court expanded its jurisdiction to handle criminal cases with a maximum penalty of 15 years, reducing the caseload in the district court, V.I. CODE ANN. tit. 4, §76 (1991). On October 1, 1991 the territorial court further extended its original jurisdiction to include all civil cases, regardless of the amount involved, which are not subject to federal jurisdiction. *Id.*

The legislature envisioned expanding the criminal jurisdiction of the territorial court on October 1, 1991. *See* Government of the Virgin Islands v. Bryan, 738 F. Supp. 946 (D.V.I. 1990) (Act 5050 gave territorial court original jurisdiction in criminal actions wherein maximum sentence did not exceed imprisonment for 15 years and, one year later, jurisdiction in all criminal actions). However, the expansion of jurisdiction in criminal cases was delayed. *See* John Shaw, *Territorial Court Ready to Handle Bigger Caseload*, DAILY NEWS OF THE V.I., July 23, 1990, at 3 (Judge Verne Hodge, Presiding Judge of the Territorial Court said his court cannot handle unlimited jurisdiction, due to begin October 1, 1991, until the new territorial courthouse is built).

The jurisdiction of the Virgin Islands district court is far broader than that of the district courts in the states. Letter from Ron deLugo, *supra* note 4. Even when the existing judgeships were filled, it became apparent that, because of an overwhelming caseload, a third judge would be needed. *Id.*

On June 1, 1990, the Judicial Conference of the United States recommended a third judge for the Virgin Islands, based on a detailed study of the workload in the courts. Report of the Proceedings of the Judicial Conference of the United States 58 (1990). "But considering [the Department of] Justice's inexcusable failure to fill the two longstanding judicial vacancies in the Virgin Islands, the House Judiciary Committee put the third judgeship on hold." Ron deLugo, Virgin Islands Congressional Delegate, Remarks to House of Representatives (September 25, 1990) (on file with Delegate de Lugo's office).

8. Hasson, *supra* note 4.

9. Letter from Ron deLugo, *supra* note 4.

10. *Courting a Backlog*, DAILY NEWS OF THE V.I., Dec. 15, 1989, at 11. *See also* Lynda Lohr, *Reservations on Adriane Dudley's Federal Judgeship*, ST. CROIX AVIS, Sept. 1, 1990, at 3: Fredreka Schouten, *Justice Officials 'Desperately' Looking for Judges*, DAILY NEWS OF THE VI, Jan. 7, 1991, at 3: Hasson, *supra* note 4.

11. Actually, the post could have been considered vacant as early as June 1989, when Judge O'Brien was diagnosed with Hodgkin's disease and reduced his workload and the amount of time spent on the bench. Telephone Interview with Ronald Russell, former law clerk of Judge O'Brien (January 1992).

12. The Third Circuit includes the federal districts of Delaware, New Jersey, eastern, middle and western Pennsylvania and the Virgin Islands. An appeal from the district court of the Virgin Islands goes directly to the Third Circuit.

13. Judi Hasson, *DeLugo Criticizes Bush Over Court Vacancies*, Gannett News Service, February 26, 1991.

14. COURTING A BACKLOG, *supra* note 10, at 11. *See infra* notes 15 and 16.

15. 18 U.S.C.A. §§3161–3174 (West Supp. 1991). The Speedy Trial Act requires that criminal defendants have the right to be tried within 70 days of their first court appearance. 18 U.S.C.A. §3161(c)(1). *See* Letter from Joel Holt, Former President of the Virgin Islands Bar Association to Barbara Drake, Special Assistant to the Attorney General of the United States (June 8, 1989) (noting that the situation is one of extreme urgency for consideration by your office because of the number of criminal cases which require disposition under the Speedy Trial Act as well as the significant back log of civil cases) (on file with the Virgin Islands Bar Association). Unfortunately, there is an overwhelming number of criminal cases in the jurisdiction that federal judges are required to try under the Speedy Trial Act. Letter from R. Eric Moore, Member of the Third Circuit Laywers Advisory Committee to Richard Thornburgh, Attorney General of the United States (Sept. 6, 1989) (on file with the Virgin Islands Bar Association). Moreover, newspapers have reported that an increasing involvement of the Colombian drug connection through the Virgin Islands to the mainland has increased the burden of federal district court judges. *Id.*

Federal judges in the U.S. Virgin Islands hear major felony cases and had the highest criminal caseload per judge among all the federal courts in 1990. Saundra Torry, *For Some Federal Judges, Long Days in Paradise*, WASH. POST, July 1, 1991, at 5. *See also* Telephone Interview with John Heyman, Circuit Executive of the Administrative Office of the Third Circuit (January 15, 1992) (stating that Virgin Islands Courts have the highest number of criminal filings per judgeships in the nation).

In 1990, there were 211 criminal filings per judgeship, JUSTICE RESEARCH INSTITUTE, REPORT AND PLAN OF THE ADVISORY GROUP OF THE DISTRICT COURT OF THE VIRGIN ISLANDS (1991) (*See infra* table 1). In 1991, there were 126 criminal filings per judgeship. *Id.* For projected trends in criminal filings, see table 2. *Id.*

Five-year trends indicate that the total number of civil and criminal cases filed in the Virgin Islands is increasing by approximately one percent annually. JUSTICE RESEARCH INSTITUTE, *District Court of the V.I. Adopts Plan to Reduce Court Cost and Delay in Civil Cases*, Dec. 23, 1991, at 2 [hereinafter V.I. *Adopts Plan*]. This is a marked difference from the three percent rate of decline nationally. *Id.*

16. *See* William Steif, *Overworked Federal Courts in V.I. Need Immediate Help*, DAILY NEWS OF THE V.I. June 20, 1989 at 10 (reporting that the median time for disposition of civil cases was twice as long as any other district in the Third Circuit). *See also* Letter from Joel Holt, former President of the Virgin Islands Bar Association, to Barbara Drake, Special

Assistant to the Attorney General of the United States (April 21, 1989) (on file with the Virgin Islands Bar Association) (noting that civil litigants have to wait four years from the date of filing before they can expect a trial date).

In 1990, there were a total of 1,714 cases pending. JUSTICE RESEARCH INSTITUTE, *supra* note 15 (*see infra* table 3). This figure represents pending civil and criminal cases. In 1991, there were a total of 1,696 cases pending. *Id.*

In 1990, there were 283 civil filings per judgeship. *Id.* (*see infra* table 4). In 1991, this figure rose to 393 civil filings per judgeship. *Id.* For projected trends in civil filings, see table 5. There were a total of 988 filings in 1990. *Id.* (*see infra* table 6). This figure represents filings for civil and criminal cases. In 1991, there were a total of 1,038 filings. *Id.* For projected trends in total filings, see table 7.

Even if the civil caseload of the District Court is substantially reduced, it will still, in all likelihood, be handling cases far in excess of the national average for federal judges. *V.I. Adopts Plan*, *supra* note 15, at 2. In 1991 the Virgin Islands judgeships were asked to handle 519 filings per judge. *Id.* This number is far higher than the national average of 372 filings per judge. *Id.*

17. Presently, the Acting Chief Judge of the District Court of the Virgin Islands (sitting by designation) is U.S. District Court Judge Stanley S. Brotman from Camden, New Jersey. Judge Brotman administers the system that essentially brings judges to St. Croix and St. Thomas every month.

18. Larry Davis, *White House Allows V.I. Judgeships to Go Vacant*, Gannett News Service, October 24, 1990.

19. *Id.* The typical judges comes with a law clerk—sometimes a secretary, sometimes a court reporter. Torry, *supra* note 15, at 5 (quoting Julio Brady, former Lieutenant Governor of the Virgin Islands). The maximum a judge can spend daily for hotel and meals in the Virgin Islands is $291 during the peak of tourist travel to the Virgin Islands and $237 during the low season. *Id.* This allocation is the highest per diem in the nation. *Id.* The allowance for staff is 50% less. *Id.*

The Justice Department sends down two different judges, each with a law clerk, every month. Memorandum from Bruce Bishop to Cathy Ball, Administrative Office of U.S. Courts (June 19, 1990) (on file with Delegate deLugo's office). The annual bill for transporting, housing and feeding these 48 people is estimated at $250,000. *Id.* Salary requirements for the 24 judges and their 24 law clerks raises the figure to well over $500,000 per year. *Id.* The cost of two permanent Virgin Island district court judges, at $125,100 annually per judge, is $250,000. Telephone Interview with John Heyman, Circuit Executive of the Administrative Office of the Third Circuit (January 15, 1992). It is cheaper to have resident judges appointed, no question about it. Torry, *supra* note 5, at 5 (quoting Judge Stanley Brotman, Acting Chief Judge of the District Court of the Virgin Islands).

20. Torry, *supra* note 15, at 5. *See also* Remarks by Ron deLugo, Virgin Islands Congressional Delegate to the House of Representatives (September 5, 1990) (on file with Delegate deLugo's office) (The backlog of cases is growing enormously. And public confidence in the courts is suffering, as the people of the Virgin Islands see long delays, and watch a procession of new judges file through our courts, with one judge handling the trial and another judge handling the sentencing, and no continuity); Hasson, *supra* note 4 ("you can't run a court system with interim judges who are there from two to four weeks and still get the continuity and stability which is inherently required" (quoting A. Leon Higginbotham, Jr., former Chief Judge of the Third Circuit)).

One attorney had four judges in one criminal case. Torry, *supra* note 15 at 5. In a civil case lawyers and witnesses flew to New Jersey for a trial, after a visiting judge was forced by his schedule to head back home. *Id.* At times, a defendant gets one judge at trial, another at sentencing. *Id.* When that happens, the judge [who may be sentencing] is looking at a cold record and he will not have the same flavor or feel for it. *Id.* (quoting Thurston McKelvin, Public Defender in the Virgin Islands).

21. For example, an attorney recalls the unusual style of a visiting judge. When the jury was leaving for deliberations, all of the attorneys stood, which is the usual practice in the Virgin Islands. However, the judge demanded that the attorneys sit in "her court." Shortly after her visit, a new visiting judge presided over the court and the attorneys sat when the jury left for deliberations. The new judge chastised the attorneys for sitting while the jury left. Virgin Islands Attorney Joel Holt states, "We don't know when to sit or stand." Interview with Joel Holt in St. Croix, March 31, 1991. *See also* Letter from Joel Holt, Former President of the Virgin Islands Bar Association to Barbara Drake, Special Assistant to the Attorney General of United States (April 21, 1989) (on file with the Virgin Islands Bar Association) (noting that because of the continual delays in nominating a new judge, the backlog of civil cases has reached emergency levels which is of great concern to the Bar Association and the litigants the Bar represents); Letter from Ron deLugo, Virgin Islands Congressional Delegate, to President George Bush (January 11, 1989) (on file with Delegate deLugo's office) (writing that local attorneys must, with considerable risk to the interests of their clients, attempt to adjust to the differing methods and judicial styles of an ever-changing cast of judges).

22. *See* Remarks by Ron deLugo, Virgin Islands Congressional Delegate, to the House of Representatives (July 10, 1991) ("We have seen in some instances justice miscarried and we have seen frustration in the legal community and the community at large because of [judicial vacancies.]"); Torry, *supra* note 15, at 5 (stating that "with each passing week the district continues without a single resident judge, Virgin Islanders become more convinced that they have a third class status in our federal judicial system. The long-term consequences are . . . tragic to contemplate" (quoting Letter from Leon Higginbotham, Jr., Chief Judge of the Third Circuit, to Richard Thornburgh, Attorney General of the United States)); *Courting a Backlog*, *supra* note 10, at 11 (observing that "the president's inaction on this matter is puzzling, bordering on insulting. It suggests that a judgeship in this American territory is not a matter of import to the White House. That is a sad commentary on our relationship with the U.S. government, reinforcing the suspicion that we remain second-class citizens on too many fronts"): Letter from Joel Holt, Former President of the Virgin Islands Bar Association, to Barbara Drake. Special Assistant to the Attorney General (April 21, 1989) (on file with the Virgin Islands Bar Association) ("Third Circuit Court of Appeals has attempted to alleviate the situation by sending down several visiting judges whose assistance is greatly appreciated but whose help has done very little to restore an orderly processing of cases, particularly on the civil docket").

23. *See* Telephone Interview with Sen. Lilliana Belardo de O'Neil, 19 Legislature of the Virgin Islands (February 28, 1991) (We need native judges who are sensitive to our unique Virgin Islands culture and values); Telephone Interview with Angel Suarez, former Chief of Staff of Sen. Holland Redfield, 19 Legislature of the Virgin Islands (28 February 1991) (It is not necessary to understand someone's culture to judge him, however, it is necessary for constituents to feel that the court can address their needs. People in the Virgin Islands do not believe the court is a place they can turn to seek redress). *See also* Letter from R. Eric Moore, Member of the Third Circuit Lawyers Advisory Committee, to Honorable Richard Thornburgh (September 6, 1989) (on file with the Virgin Islands Bar Association) (I have been authorized by the President of the [V.I.] Bar and the Board of Governors to state that we feel there are qualified resident lawyers capable of filing the unfilled needed judicial position): Letter from Ron deLugo, Virgin Islands Congressional Delegate, to Richard Thornburgh, Attorney General of the United States (February 2, 1990) (on file with Delegate deLugo's office) (writing that "we believe there are a number of local attorneys who could serve with distinction on this court and that there has been ample time to review the qualifications of potential appointees").

24. Neil McFeeley, Appointment of Judges 13, (1987). Through the use of delay, a president can apply pressure to "Difficult" senators who may be placed in compromising positions with over worked sitting judges and local lawyers to go along with the president's candidate. *Id.* at 14. *See generally* Harold W. Chase, Federal Judges: The Appointing Process (1972); Nancy Chinn and Larry Berkson, Literature on Judicial Selection (1980); Allan Neff, the United States District Judge: Nominating Commissions: Their Members, Procedures and Candidates (1981).

25. McFeeley, *supra* note 24, at 14.

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.* at 18.

30. *Id.*

31. *Id.* at 19.

32. *Id.* at 18.

33. *Id.*

34. *Id.* at 19.

35. *Id.* at 22.

36. Ron deLugo, the Virgin Islands Delegate to Congress, has no voting power. Puerto Rico, American Samoa, Guam and Washington, D.C., also have no voting representative in the Senate or House of Representatives.

37. Attorneys in the Virgin Islands are governed by the ethical rules adopted by the American Bar Association Rule 57(e)(2) of 5 Virgin Islands Code App. V. *See, e.g.*, Isadora Paiewonski Assoc., Inc. v. Sharp Properties, Inc., Civ. No 1987-44 (D.V.I. April 3, 1991); Brice v. Hess Oil of the V.I., Inc., Civ. No. 1989-214 (D.V.I. Nov. 16, 1990).

38. MODEL RULES Rule 1.3.

39. *See In re* Cardenas, 791 P.2d 1032 (Ariz. 1990) (finding that lawyer did not use due diligence in representing his client's affairs and failed to control his workload so that the matter could be properly handled); Louisiana State Bar Ass'n v. James 570 So. 2d 1161 (La. 1990) (suspending for six months an attorney who violated Rule 1.3); Louisiana State Bar Ass'n v. Martin, 559 So. 2d 483 (La. 1990) (suspending for three years an attorney who violated Rule 1.3); *In re* Barr, 796 S.W.2d 617 (Mo. 1990) (suspending indefinitely, with leave to reapply after six months, an attorney who violated Rule 1.3); *In re* Nicolini, 814 P.2d 1385 (Ariz. 1991) (suspending an attorney who violated Rule 1.3); *In re* Stewart, 782 S.W.2d 390 (Mo. 1990) (disbarring an attorney who neglected legal matters and failed to act with reasonable diligence and promptness in representing his clients); Oklahoma v. Phillips, 786 P.2d 1242 (Okla. 1990) (suspending for three years an attorney who failed to act with reasonable diligence and promptness in representing his client).

40. *See supra* notes 16 and 20.

41. MODEL RULES Rule 3.2.

42. *See* Oklahoma v. Phillips, 786 P.2d 1242 (Okla. 1990) (suspending for three years an attorney who violated Rule 3.2); *In re* Stewart, 782 S.W.2d 390 (Mo. 1990) (disbarring attorney who violated Rule 3.2); Louisiana State Bar Ass'n v. Jones, 570 So. 2d 1161 (La. 1990) (suspending for six months an attorney who violated Rule 3.2).

43. According to FED. R. CIV. P. I:

These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty, with the exceptions stated in Rule 81. They shall be construed to secure the *just, speedy, and inexpensive determination of every action.* (emphasis added).

44. According to Rule 1.1:

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

45. *See* Attorney Grievance Comm'n v. Montgomery, 460 A.2d 597 (Md. Ct. App. 1983) (holding attorney guilty of violating Rule 1.1 for a single failure to appear in court); State *ex. rel* Oklahoma Bar Ass'n v. Hensley, 661 P.2d 527 (Okla. 1983) (disbarring attorney who handled estate incompetently); Attorney Grievance Comm'n v. Brown, 517 A.2d 1111 (Md. 1986) (reprimanding attorney who acted incompetently in certain matters relating to estate administration and federal estate taxation).

46. *See supra* note 21.

47. *See supra* note 20.

48. Rule 1.5 states in relevant part:

a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal services properly;

. . . .

5) the time limitations imposed by the client or by the circumstances;

6) the nature and length of the professional relationship with the client;

. . . .

8) Whether the fee is fixed or contingent.

49. *See* Attorney Grievance Comm'n v. Kerpelman, 591 (Md. 1991) (ordering attorney who violated Rule 1.5 to pay all costs, including costs of transcripts); Virginia State Bar v. Gallaher, 376 S.E.2d 346 (W.Va. 1988) (issuing a public reprimand to attorney who violated Rule 1.5 and ordering client restitution); *In re* Berl. 540 A.2d 410 (Del. 1988) (finding attorney guilty of violating Rule 1.5); Jackson Parish Bank v. Durbin, 535 So. 2d 1074 (La. App. 1988) (ordering attorney who violated Rule 1.5 to repay client); *In re*

Schuldt, 428 N.W.2d 251 (S.D. 1988) (reducing fees for attorney who violated Rule 1.5); 7 Am. Jur. 2d, *Attorneys* §55.5 (1991); Dale R. Agthe, Annotation, *Attorney's Charging Excessive Fee As Ground for Disciplinary Action*, 11 A.L.R.4th 133 (1982).

Many courts have held a contingent fee is clearly excessive if the skill and labor required of the lawyer are grossly disproportionate to the fee. *See, e.g., In re* Schwartz, 686 P.2d 1236 (Ariz. 1984) (*en banc*); Anderson v. Kenelly, 547 P.2d 260 (Colo. App. 1984); Florida Bar V. Moriber, 314 So. 2d 145 (Fla. 1975); Horton v. Butler, 387 So. 2d 1315 (La. App. 1980).

50. Of the 381 attorneys in the Virgin Islands, approximately three-fourth work in firms of five or fewer lawyers. Telephone Interview with Executive Director, Virgin Islands Bar Association. (Jan. 28, 1992).

51. MODEL RULES Rule 1.16.

52. MODEL RULES Rule 1.16 cmt.

53. CODE OF JUDICIAL CONDUCT Canon 2 states in part:

A judge should avoid impropriety and the appearance of impropriety in all his activities.

A. A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

54. CODE OF JUDICIAL CONDUCT Canon 3.

55. *See In re* Blackman, 591 A.2d 1339 (N.J. 1991) (finding judge guilty of violating Canon 2); *In re* Wilkes, 403 So. 2d 35 (La. 1981) (suspending for 90 days without compensation a judge who violated Canons 1, 2 and 5(c)(1)); *In re* Rasmussen, 734 P.2d 988 (Cal. 1987) (censuring publicly a judge who violated Canons 1, 2 and 3); *In re* Lockwood, 804 P.2d 738 (Ariz. 1990) (censuring publicly a judge who violated Canons 1 and 2); *In re* Sheffield, 412 So. 2d 743 (Miss. 1982) (suspending for two months, without pay, a judge who violated Canons 2 and 3).

56. *See supra* note 23.

57. They start early, work late and sometimes even hold court on Saturdays. Torry, *supra* note 15, at 5. Senior Judge Frank Kaufman of Baltimore stated he would go to work at 8 or 8:30 [a.m.] and it was usually 6 or 7 p.m. before he left work. *Id.* Many Virgin Islands lawyers admit visiting judges work long and hard as they juggle caseloads at home and handle the huge court dockets on St. Croix and St. Thomas. *Id. But see* Lynda Lohr, *Hassles in the Court*, ST. CROIX AVIS, Sept. 4, 1990, at 4 (U.S. Attorney Terry Halpern said that a robbery case that had been heard by a jury was dismissed because the judge who heard the case refused to return for the sentencing). At times a defendant gets one judge at trial, another at sentencing. Torry, *supra* note 15, at 5. A judge looking at a cold record will not have the same flavor or feel for it. Torry, *supra* note 15, at 5 (quoting Thurston McKelvin, Public Defender in the Virgin Islands).

58. *See supra* note 23 and accompanying text.

59. *See Racial Justice*, ST. CROIX AVIS, June 5, 1990 at 6 (Within days of arriving on St. Croix Judge Robert R. Mehrige has widened the split along racial lines on this once tranquil community); *Zilch for the Killing*, DAILY NEWS OF THE V.I., May 30, 1990 at 11 ("A sentence handed down by a visiting judge recently has left the Virgin Islands community surprised and somewhat concerned about the way justice was meted out in the killing of a young man. Whatever the reasoning behind the sentencing, this part-time dispensing of justice in the territory by visiting jurists is forcing residents to draw certain conclusions—and they are not complimentary to the judicial system"). *See also* Tory *supra* note 15, at 5 (two visiting judges asserted in a letter to former Third Circuit Judge A. Leon Higginbotham, Jr., that there is a "sense that justice is being imposed from the outside" in a territory that is predominantly black).

60. *See* Seth E. Bloom, *Judicial Bias and Financial Interest as Grounds for Disqualification of Federal Judges*, 35 CASE W. RES. L. REV. 662, 663 (1985) (public confidence is essential to the effective functioning of the judiciary).

61. *See supra* note 59 and accompanying text.

62. Karen N. Moore, *Appellate Review of Judicial Disqualification Decisions in the Federal Courts*, 35 CASE W. L. REV. 829, 829 (1984).

63. Telephone Interview with Andrew Capdeville, president of the Virgin Islands Bar Association (February 28, 1991) (The court calendar can change every day; attorneys are frequently called to the courtroom at the last minute or have had cases canceled without notice); Letter from Ron deLugo, Virgin Islands Delegate to Congress, to President George Bush (Jan. 11, 1991) (on file with Delegate deLugo's office) ("The most urgent criminal cases are rushed through and sentencing is often delayed until the trial judge is once again available on his next hurried visit"). One attorney had four judges for one criminal case. Torry, *supra* note 15 at 5. In a civil case, lawyers and witnesses flew to New Jersey for a trial, after a visiting judge was forced by his schedule to head back home. *Id.*

64. Bloom, *supra* note 60, at 663. *See Ex parte* Balogun, 516 So. 2d 606, 610 (Ala. 1987) (it is of paramount importance that the absolute integrity and the absolute appearance of integrity of the court system be maintained at all times).

65. *See supra* note 21.

66. *See supra* note 59.

67. *See Code of Judicial Conduct* Canon 1 (an independent and honorable judiciary is indispensable to justice in our society).

68. Andrew L. Kaufman, *Judicial Ethics: The Less-Often Asked Questions*, 64 WASH. L. REV. 851, 854 (1989).

69. *See supra* note 1 and accompanying text.

70. *See* Coyle, *supra* note 3 and accompanying text.

GENERAL LEAVE

Mr. ABERCROMBIE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

H.R. 5270, THE FOREIGN INCOME TAX RATIONALIZATION AND SIMPLIFICATION ACT OF 1992

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Madam Speaker, today, along with the Honorable BILL GRADISON, I am introducing H.R. 5270, the Foreign Income Tax Rationalization and Simplification Act of 1992. This legislation would significantly improve and simplify the tax rules governing both U.S.-based companies conducting business abroad and foreign persons doing business in the United States.

Madam Speaker, for a significant period of time, the Committee on Ways and Means has been considering issues relating to international competitiveness and the proper taxation of U.S.-based multinational corporations. Last year, the committee held 10 days of public hearings on issues related to international competitiveness, receiving testimony on a wide range of topics, including tax, trade, education, technology and other important issues affecting our ability to compete internationally. In addition, the committee recently concluded its annual issue retreat dedicated to an in-depth discussion of issues relating to our Nation's competitiveness.

As the result of this extensive study, BILL GRADISON and I feel it is important to take the next step and introduce this bill to further the debate on the critically important issue of international competitiveness. The bill we are introducing today is a balanced package designed to bring rationality to the tax rules applicable to the foreign income of U.S.-based multinational companies. Additionally, this legislation would ensure that foreign persons doing business in the United States or deriving income from domestic sources pay their fair share of tax to our Government.

Madam Speaker, the first part of this legislation corrects several problems in the current tax law that could result in overtaxation of income earned by U.S. companies conducting business abroad. The most significant provision in this section of the bill would correct anomalies in the apportionment of interest expense of U.S. multinational companies between domestic and foreign source income. This is a critical component in the calculation of the foreign tax credit for a significant number of U.S. multinational corporations.

Madam Speaker, several members of the business community have told me that this issue relating to the proper apportionment of interest expense may be the No. 1 tax problem for U.S. multinational corporations attempting to conduct business effectively abroad. The correction of these anomalies and the rationalization of these rules would promote the significant policy objective that U.S.-based multinational corporations should be taxed fairly on income generated from overseas operations, and should not be subject to double taxation on such earnings.

Further, the bill would repeal the current law 90-percent limitation on the use of the foreign tax credit against the minimum tax. This current limitation contradicts the principle that no U.S. tax should be due on foreign income which is fully taxed abroad.

In addition, the legislation contains several other provisions aimed at ensuring that income earned by U.S. multinational companies, and currently taxed by the United States, is taxed fairly. In this regard, the carryover period of foreign tax credits would be lengthened from 5 to 15 years, and the carryback period lengthened from 2 to 3 years. This modification would allow additional time for companies to obtain credit for taxes paid to other jurisdictions.

The legislation also includes a modification to the calculation of the foreign tax credit in a year following a domestic loss, regulatory authority to provide appropriate relief from complex calculations required under the uniform capitalization rules, and an election to eliminate numerous separate foreign tax credit limitation baskets and thereby simplify tax compliance related to foreign-based joint ventures.

Moreover, the legislation contains the foreign tax simplification provisions that were passed by Congress as part of the Tax Fairness and Economic Growth Act of 1992, but vetoed by the President. These simplification provisions would provide U.S.-based multinational corporations significant relief from compliance burdens and uneconomic restrictions, by substantially simplifying rules governing the translation of foreign tax payments into U.S.-dollar amounts, and by allowing the indirect foreign tax credit for taxes paid by certain foreign subsidiaries.

Madam Speaker, I also want to bring to the public's attention that the permanent modification of the rules governing the allocation of foreign research and development expenses—the so-called 861 issue—is not included in this bill, although it is a significant competitiveness issue affecting many U.S. multinational cor-

porations. Senator BENTSEN and I wrote to Secretary Brady at the Treasury Department on March 20, 1992, urging him, in the strongest possible terms, to issue permanent 861 regulations in conformance with the policies and proposals set forth in the President's budget for fiscal year 1993. I recently wrote Secretary Brady again on May 11, 1992, restating the position taken by Senator BENTSEN and myself, and inquiring why Senator BENTSEN and I have not even had the courtesy of a reply. I also regret that permanent resolution of these long-contested regulations was not even mentioned in the Treasury Department's recently announced, so-called regulatory business plan. If the President and his advisors at the Treasury Department are truly interested in promoting international competition, they'll stop stonewalling this issue, and issue permanent 861 regulations as Congress has urged.

Mr. Speaker, according to estimates provided by the staff of the Joint Committee on Taxation, the tax relief contained in H.R. 5270 would approximate $11 billion over the next 5 years. In order to make this legislation revenue-neutral, consistent with the pay-as-you-go requirements enacted in 1990, BILL GRADISON and I have advanced several provisions to finance this bill. While we know that many of the proposals will be controversial, these revenue offsets represent a good-faith effort to begin the discussion of how to pay for the bill. Both BILL GRADISON and I are open to alternative suggestions. But compliance with the pay-as-you-go requirements will have to be achieved for this, or any similar bill, to advance legislatively.

In addition, I want to emphasize that I do not intend that the revenue offsets contained in the bill be used for deficit reduction or any purpose other than funding this bill. I invite the Treasury Department and any members of the public who believe that the revenue offsets may raise revenues in excess of the amounts estimated by the staff of the Joint Committee on Taxation to submit data or other evidence that might assist in the preparation of more accurate revenue estimates.

Madam Speaker, H.R. 5270 contains several controversial offsets including the proposed end to deferral on a prospective basis, supplemented by an election that would allow an affiliated U.S.-based multinational group to treat foreign affiliates as domestic corporations for all purposes, including the consolidation of losses. Thus, U.S.-multinational corporations with losses on foreign operations or in other appropriate circumstances may benefit from making such an election. Another controversial revenue offset would reduce by 15 percent the so-called 936 credit provided for certain operations in Puerto Rico or other U.S. possessions. However, certain current-law provisions enhancing industry's ability to earn tax-favored income from exports, including the Foreign Sales Corp. rules and the title passage rule, would be retained under the legislation.

H.R. 5270 also includes other revenue-raising provisions, including modification of the rules relating to the source of gain from sales of inventory property in order to stop manipulations of those rules involving related party transactions and U.S. imports. The bill would also modify the foreign tax credit treatment of passive-type income derived in connection with foreign shipping and oil and gas extraction operations, thereby placing these industries on the same standard as every other industry.

Madam Speaker, H.R. 5270 also contains several reforms of the taxation of foreign persons conducting business in the United States. Many Members of Congress and American taxpayers feel that certain foreign persons doing business in the United States or holding investments in the United States do not pay their fair share of U.S. taxes. Chairman PICKLE and other members of the Oversight Subcommittee of the Committee on Ways and Means have conducted extensive oversight over the last several years pointing out that very large companies in certain profitable industries headquartered abroad are paying little or no taxes to the U.S. Treasury, even though sales of their products in this country are extremely successful and profitable.

Madam Speaker, our country has invested enormous sums of money to provide reliable credit markets, infrastructure, roads, ports, communications networks, and other avenues of interstate commerce that allow companies, foreign and domestic, the ability to sell and compete in our markets. Everyone doing business here must pay a fair share of the governmental costs involved in providing ready and available access to American markets.

In the Omnibus Budget Reconciliation Acts of 1989 and 1990, Congress enacted provisions, based on the recommendations of Chairman PICKLE's Oversight Subcommittee, that required additional tax compliance by foreign persons. It appears, however, that the underlying issue of nonpayment of taxes from profitable United States operations and investments of foreign persons seems not to have been solved. Accordingly, the bill we are introducing today would make substantive revisions to the tax law to ensure that foreign persons earning income in the United States pay an appropriate and fair share of tax.

First, the legislation would revise the current law rules relating to so-called transfer pricing, to ensure that foreign-owned companies conducting business in the United States and selling goods here pay a fair share of taxes on such operations.

Specifically, the bill would retain the current law arms-length rules relating to transfer pricing to determine the clear reflection of taxable income for business activities. Taxpayers, however, who have not negotiated a prior agreement setting forth an appropriate transfer pricing method with the Internal Revenue Service must determine taxable income based on the average profit of similar domestic corporations. The applicable profit percentages for various lines of business would be computed by the Secretary of the Treasury.

This provision would ensure that foreign persons pay a minimum level of tax to the United States based on existing arms-length transfer pricing principles. The IRS could determine upon audit, as under current law, that more taxable income should be allocated to the U.S. operations of these corporations. Madam Speaker, this revision to the transfer pricing rules is necessary because of the apparently low levels of compliance of certain foreign corporations under current law.

Madam Speaker, the bill also ensures that foreign persons pay taxes on U.S.-related earnings. While respecting our treaty obligations, the bill would require foreign persons to pay a capital gains tax on their profits earned in the United States. The bill would also prevent foreign persons from avoiding tax on their profits from U.S. investments through so-called treaty shopping tax avoidance techniques. The bill would also increase the current law excise tax on property and casualty reinsurance policies provided by foreign insurance companies located in tax haven countries.

Finally, the bill modifies rules relating to the source of income received in the form of education and training grants and awards, the allowance of deductions against that income when earned by visiting scholars, and the estate tax marital deduction in cases of certain foreign individuals who come to this country as employees of international organizations.

In conclusion, Madam Speaker, the legislation that BILL GRADISON and I are introducing today will undoubtedly stimulate many comments and points of view. In order to allow a full discussion of this important legislation, I am today announcing public hearings on H.R. 5270 by the full Ways and Means Committee. The hearings will be held on July 21 and 22. These hearings will provide an opportunity for all interested persons to provide their perspectives on the introduced bill, as well as constructive suggestions for its improvement.

SUMMARY OF H.R. 5270—FOREIGN INCOME TAX RATIONALIZATION AND SIMPLIFICATION ACT OF 1992

1. *Revise application of interest allocation rules (sec. 101).*—The bill provides that taxpayers may take into account the interest expenses and assets of foreign subsidiaries for purposes of allocating and apportioning interest expenses between gross income from U.S. and foreign sources. In addition, the bill expands the types of corporations that are treated as financial institutions for purposes of applying the one-taxpayer rule separately to financial institutions in a related group.

2. *Repeal of limitation on alternative minimum tax foreign tax credit (sec. 111).*—The bill repeals the 90-percent limitation on the utilization of the alternative minimum tax foreign tax credit.

3. *Recharacterization of overall domestic loss (sec. 112).*—The bill applies a resourcing rule to U.S. income where the taxpayer has suffered a reduction in the amount of its foreign tax credit limitation due to a domestic loss. Under the bill, in the case of a taxpayer that has incurred an overall domestic loss, that portion of the taxpayer's U.S. source taxable income for each succeeding taxable year which is equal to the lesser of (1) the amount of the unrecaptured overall domestic loss, or (2) 50 percent of the taxpayer's U.S. source taxable income for such succeeding taxable year, is recharacterized as foreign source taxable income. Any U.S. source income that is resourced under the bill is allocated among and increases the various foreign tax credit separate limitation categories in the same proportion that those categories were reduced by the domestic losses which are responsible for the resourcing.

4. *Extension of period to which excess foreign taxes may be carried (sec. 113).*—The bill extends the excess foreign tax credit carryback period from 2 to 3 years and extends the carryforward period from 5 to 15 years. Similar extensions are provided for excess oil and gas extraction taxes.

5. *Election to treat certain companies as controlled foreign corporations (sec. 114).*—The bill permits a domestic corporation that normally would treat a foreign company as a noncontrolled section 902 corporation to elect to treat that company, for foreign tax credit limitation and subpart F purposes, as a controlled foreign corporation of which the electing domestic corporation is a U.S. shareholder. In order to make the election, a U.S. corporation is required to treat as controlled foreign corporations all foreign corporations that would, absent the election, be noncontrolled section 902 corporations with respect to it.

6. *Regulatory authority to exempt foreign persons from uniform capitalization rules (sec. 121).*—The bill provides that to the extent provided in regulations, the uniform capitalization rules shall apply to any taxpayer who is not a U.S. person only to the extent necessary for purposes of determining the amount of tax imposed on subpart F income or on U.S. effectively connected income. Thus, for example, the bill grants the Treasury authority to waive the application of the uniform capitalization rules in the case of a noncontrolled section 902 corporation (the income of which is not subject to current U.S. taxation), for the purpose of measuring the corporation's multiyear earnings "pools" under section 902.

7. *Modification of certain look-through rules (sec. 122).*—The bill modifies the look-through rules that apply under the passive foreign corporation regime (which replaces the PFIC regime under the bill's simplification provisions), by reducing the ownership thresholds from 25 percent to 20 percent in both the general look-through rule and the special domestic-subsidiary look-though rule.

8. *Repeal of deferral for controlled foreign corporations (sec. 201).*—The bill generally repeals deferral on controlled foreign corporations by treating as subpart F income generally all of a controlled foreign corporation's earnings and profits for the taxable year. Under the bill, the Code retains much of present law solely to preserve the tax treatment applicable to earnings and profits (and deficits in earnings and profits) attributable to years beginning prior to the effective date of the bill.

9. *Election to treat controlled foreign corporations as domestic corporations (sec. 202).*—The bill provides an opportunity to operate businesses through controlled foreign corporations yet have those corporations be treated as domestic for U.S. tax purposes (such as sharing losses with affiliated U.S. companies). In the case of certain commonly controlled foreign corporations, domestic company treatment must be elected on a consistent group-wide basis.

10. *Source of income from certain sales of inventory property (sec. 203).*—The bill makes two changes to the method by which income from the sale of inventory property is sourced. First, where the property is produced by the taxpayer and sold to a related person, and the income is derived partly within and without the United States, the amount allocated to production activities under the production/marketing split can be no less than the amount that would be so allocated by applying the production/marketing split to the relevant combined income of the taxpayer and any related person. Second, where inventory property sold abroad is sold by a U.S. resident directly or indirectly to another U.S. resident, the property sold is used, consumed, or disposed of in the United States, and the sale is not attributable to an office or other fixed place of business maintained by the first U.S. resident outside the United States, the gross income of the seller from the sale will be sourced domestically.

11. *Taxation of certain stock gains of foreign persons (sec. 301).*—The bill provides that, unless a treaty provides otherwise, where a foreign corporation or nonresident alien individual owns or has owned, at any time during the previous 5 years, 10 percent or more of the stock in a U.S. corporation, gain or loss from the disposition of the stock is treated as income effectively connected with the conduct of a U.S. trade or business and attributable to a U.S. permanent establishment.

12. *Limitation on treaty benefits (sec. 302).*—The bill imposes a qualified resident requirement, similar to that now in the branch tax provisions, as a prerequisite for reducing U.S. tax on any foreign entity under any treaty. In addition, the bill would prevent any person from obtaining U.S. tax benefits under a treaty with respect to any income that bears a significantly lower tax under the laws of the other treaty country than similar income arising from sources within such foreign country derived by residents of such foreign country.

13. *Excise tax on certain insurance premiums paid to certain foreign persons (sec. 303).*—The bill raises from 1 percent to 4 percent the excise tax on certain premiums paid to foreign persons in low-tax countries for reinsurance covering casualty insurance and indemnity bonds. The bill includes provisions to assist the IRS in collecting tax in connection with reinsurance of a U.S. risk provided by a reinsurer not eligible for relief with respect to the 4 percent tax on reinsurance.

14. *Special section 482 rules for certain foreign and foreign-owned corporations (sec. 304).*—The bill sets a minimum amount of taxable income to be reported (absent IRS agreement to accept a different amount) by 25-percent foreign-owned domestic corporations that engage in more than a threshold level of transactions with foreign related parties. (A similar rule also applies to U.S. branches of foreign corporations.) Generally the taxpayer's taxable income from any category of business would be no less than 75 percent of the amount determined by applying an industry profit percentage to the taxpayer's gross receipts from that business category.

15. *Treatment of certain grants (sec. 403).*—The bill provides that income received by an individual in the form of a scholarship or fellowship grant for study, training, or research is treated as derived from sources in the location of the funded activity. The bill also provides that income received as a prize or award made primarily in recognition of religious, charitable, scientific, educational, artistic, literary or civil achievement is treated as derived from sources in the location of the activities that formed the basis of the prize or award. The bill also allows certain deductions, based on the standard deduction and multiple personal exemptions, to offset certain U.S. source gross income of visiting foreign individuals received in the form of scholarships and fellowships granted by certain tax-exempt or governmental entities.

16. *Estate tax marital credit for employees of international organizations (sec. 404).*—Under present law, the marital deduction from the Federal estate tax generally is disallowed for the value of property passing to a noncitizen spouse. The bill provides a limited credit for such property if either the decedent or the spouse is employed full-time in the United States by a public international organization, so long as neither the decedent nor the spouse is a U.S. citizen or lawful permanent resident of the United States. The amount of the credit generally equals an exemption of $600,000, but, in the case of a decedent domiciled outside the United States, is reduced by the amount of the unified credit.

17. *Reduction of Puerto Rico and possession tax credit (sec. 411).*—The bill reduces the section 936 credit from 100 percent to 85 percent of pre-credit U.S. tax on a company's possession-based operations and qualified possession source investment income.

18. *Treatment of passive income related to foreign oil and gas extraction income and shipping income (secs. 412 and 201).*—The bill treats passive types of income related to oil and gas extraction activities, such as interest income derived from bank deposits or temporary investments of working capital, as passive income under the separate foreign tax credit limitation rules. In addition, the bill provides that income which would meet the definition of both foreign personal holding company income and foreign base company shipping income under present-law rules is considered passive income for foreign tax credit purposes. The bill also eliminates the treatment of any income that qualifies as passive income for foreign tax credit separate limitation purposes (e.g., interest income from bank deposits or temporary investments) as foreign oil and gas extraction income for purposes of computing the special limitation on foreign tax credits related to extraction activities.

19. *Simplification (secs. 401–402, 501–504, 511–514, and 521–524).*—The bill includes those simplification provisions passed by Congress on March 20, 1992 (and vetoed by the President), in title IV of the Tax Fairness and Economic Growth Act of 1992 (H.R. 4210), that relate to foreign income, including provisions relating to the foreign tax credits and currency transactions of individuals, the treatment of passive foreign corporations, the treatment of controlled foreign corporations the translation of taxes paid in foreign currencies, the alternative minimum tax foreign tax credit limitation, and inbound and outbound property transfers.

20. *Studies (secs. 601–603).*—The bill requires a Treasury study on tax issues relating the maintenance and enhancement of the competitiveness of the American economy in light of changing economic policies in Europe and the increasing globalization of the world economy. The bill also requires a study on administrative and compliance issues related to a value added tax. The bill further requires a study on issues related to transfer pricing rules and the proper taxation of foreign persons conducting business in the United States, including the effectiveness of provisions in the bill, issues relating to the unitary method of taxation, and the advisability of providing additional confidentiality for information provided by domestic corporations for use in formulating third-party comparable information. Treasury is required to report to Congress on all three studies by January 1, 1994.

Mr. GRADISON. Madam Speaker, today along with Chairman ROSTENKOWSKI, I am introducing the Foreign Income Tax Rationalization and Simplification Act of 1992.

In many fundamental respects the U.S. economy is becoming export oriented, and our economic growth export led. Exports now account for almost 7 percent of gross domestic product, almost double what it was during the 1960's. The share of corporate profits attributable to foreign operations has grown from 6.5 percent in the 1960's to 15.4 percent dur-

ing the 1980's, and is likely to continue increasing throughout the 1990's.

At the same time that many companies are expanding their overseas operations, they are faced with an unfair and inequitable U.S. Tax Code. Many provisions of the current tax system cause double taxation of foreign source income or treat foreign operations worse than domestic operations.

Last year, I introduced H.R. 2948, the Foreign Income Tax Reform Act of 1991, to help correct many of the inequities in the current tax code faced by American companies operating abroad. That bill has received the support of many in the business community and has helped raise the interest of Members of Congress in these complex issues.

As a result of H.R. 2948 and the Ways and Means Committee's hearings last summer on factors affecting U.S. international competitiveness, the chairman and I have developed a second bill which addresses many of the problems identified in H.R. 2948 and, importantly, covers the associated revenue loss. This, I believe, is the next step in the process of correcting the problems.

The Joint Tax Committee has assured us that this bill is revenue neutral over the 5-year budget period, but has not yet developed year by year estimates. As this legislation progresses next year, I expect the legislation to be revenue neutral in each year, and to comply fully with the Budget Enforcement Act of 1990.

I realize that many individuals and companies will like some of the proposals in the bill, but oppose some or all of the financing mechanisms. I urge them to analyze the bill in its entirety, and not just react to the revenue offsets contained in the legislation.

The Ways and Means Committee will be holding hearings on this bill later this summer. I urge all interested parties to come in and give us their comments on the bill. The revenue-raising provisions in the bill are merely suggested possible mechanisms. We are not wedded to them. If individuals like some of the provisions in the bill, but not how we pay for them, then I hope that they will suggest alternative ways to raise the money necessary to fix these serious problems. Chances are remote at best, I believe, that we will be able to find politically acceptable funding mechanisms outside the foreign area.

Many individuals have expressed concern that the revenue raisers contained in the bill might be used for purposes other than fixing the problems in our foreign tax system. I want to reassure them that I will strongly oppose any such effort. In my opinion, foreign source income I not undertaxed. If anything, it faces a higher tax burden than domestic source income.

I also hope that the hearings will help us identify problem areas which we have no addressed in the bill, which admittedly is aimed primarily at the problems facing manufacturers. In particular, I am interested in learning more about the problems our Tax Code poses for the service sector operating abroad.

This bill will not become law in its present form. I expect that we will modify this bill in light of the testimony that we receive this summer, and then reintroduce next year a revised version which will probably be substantially different than the current version. we do not plan on legislating this year.

While some have urged me not to introduce this bill, mainly because they disagree with the revenue raisers in the bill, I believe that this is the best way to advance this critical discussion. In my view, it is better to have a full and open discussion about how to finance correcting the serious tax impediments facing American firms, than to wait and suffer for years with the status quo in the hope that the problems will miraculously solve themselves.

THE COMPREHENSIVE NATIONAL ENERGY POLICY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington [Mrs. UNSOELD] is recognized for 5 minutes.

Mrs. UNSOELD. Madam Speaker, not having had the opportunity to speak when the body was considering H.R. 776, I would like to take this opportunity, because a sound and balanced national energy strategy is the cornerstone to national security, economic prosperity, and the environment.

H.R. 776, the Comprehensive National Energy Policy Act, contained many important provisions. I would like to comment on a couple of them that are of great importance to the people of the Pacific Northwest.

The first such provision suspends all oil and gas preleasing and leasing activities off the coasts of Washington and Oregon until after the year 2000. This measure will ensure interim protection from administration officials who have promoted the Outer Continental Shelf, the OCS, as an energy reserve needing only to be explored and tapped, and from officials who have pushed aggressive leasing programs despite conflicts with other resources and desires of coastal areas.

I fully supported this provision as a way of providing interim protection from oil and gas development until we are able to secure a more permanent ban. Permanent protection is provided by H.R. 776 for a discrete area soon to be designated by the National Oceanic and Atmospheric Administration, NOAA, as a national marine sanctuary. This fall NOAA is expected to issue a final environmental impact statement and regulations to designate the sanctuary on the Olympic coast of Washington State.

I offered this provision for permanent protection in the Committee on Merchant Marine and Fisheries, because by all accounts, this region of the coast provides some of our country's most valued resources and warrants immediate permanent protection from the threat of offshore oil and gas production.

H.R. 776 also contains an important provision to reverse a decision by the Federal Energy Regulatory Commission, FERC, to restrict the authority of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, NMFS, to prescribe fishways for hydropower projects. Last year, unbelievably, through its rulemaking process, FERC tried to limit the authority of Fish and Wildlife Service and NMFS by defining fishways as facilities for upstream fish passage but not for downstream passage. This action was not only a roadblock to efforts to rebuild our fisheries but also a clear infringement upon the authority of the Federal agencies charged with protecting and enhancing these resources.

In light of the public outrage and legislation I introduced, FERC modified its fishway definition to recognize the downstream passage needs of some fish. However, this revised definition still limits the role of the Federal fisheries agencies.

For the first time in some 70 years, FERC would be in the position of deciding which fishway prescriptions were required and which were not. Title XVII of H.R. 776 would repeal this improper FERC rule and clarify the authority for establishing fishway prescriptions, that it belongs to the Fish and Wildlife Service and NMFS and not to FERC.

Finally, while I am pleased with aspects of H.R. 776 that suspend oil and gas leasing activities and assure adequate fish passage at hydroelectric projects, I am really disappointed the bill does not address the problem of global warming. Scientists have concluded that continued emissions of carbon dioxide and other greenhouse gases will lead to global warming. While the full consequences of this are difficult to gauge, experts fear they may be catastrophic.

Some of the possible results are severe drought, hurricanes and floods, increased spread of infectious disease, devastation of many of our planet's ecosystems, and drastic declines in agriculture productivity.

Given the seriousness of these threats, our Government cannot delay any longer. It is essential that we join the other industrialized nations and act now to stabilize the emission of carbon dioxide. The European Community, Canada, Japan, and Australia have already agreed to support stabilization of carbon dioxide emissions at 1990 levels by the year 2000.

According to studies by the Environmental Protection Agency, the National Academy of Sciences, and other organizations, this can be achieved with little cost. Some studies even predict net savings.

This is a critical turning point, Madam Speaker, in human history. The actions we take now or fail to take now could well determine the fate of our species and our planet. We must continue efforts to stabilize U.S. emissions.

LEGISLATION TO HELP STOP THE NEXT CHERNOBYL NUCLEAR REACTOR ACCIDENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Madam Speaker, I risk today to speak about the leading nuclear-related threat in the world today: the 13 Chernobyl-type RBMK reactors still operating in the former Soviet Union.

These reactors are real-life nightmares waiting to happen. The RBMK's suffer from fundamental flaws in design, construction, and operation, and should be shut down immediately. The Chernobyl nuclear reactor accident in 1986 cost the former Soviet Union the equivalent of billions of dollars, contaminated thousands of acres of land, and will contribute to countless cancer-related deaths. A similar accident at this time could cause tremendous long-term health and environmental damage, exacerbate the former Soviet Republics difficult progress toward economic recovery and reform, and possibly lead to political instability.

In addition, aside from the RBMK's, there are dozens of other Soviet-designed reactors in Eastern Europe and the former Soviet Union with poor construction and lax and outdated operating procedures. Many of these reactors should be shut down; others should be upgraded to Western safety standards.

While nuclear power makes up only a small percentage of the overall energy output in the former Soviet Union, certain regions depend heavily on these unsafe reactors. The United States must take the lead in helping stop these ticking nuclear time bombs from dispersing radiation clouds all over the Eurasian continent. We should help Eastern Europe and the former Soviet Union to achieve energy efficiency and get alternative energy sources on line, so that the most dangerous reactors can be shut as soon as possible. Additionally, we should provide technical and other assistance so that those reactors which can be made safer are upgraded as much as possible.

I wish to commend the administration for its recent announced plans to help address this problem in coordination with the other G–7 countries. Today, I am introducing, along with Mr. DICKS and Mr. MCCURDY, legislation that will complement these important efforts. This bill calls for the President to help the countries in Eastern Europe and the former Soviet Union to shut down the Chernobyl-type reactors, upgrade their other reactors, bring on line alternative power sources, and bring about energy efficient measures and technologies. Additionally, the legislation urges the President to help make great resources available to the International Atomic Energy Agency to promote programs of nuclear safety in these countries.

The United States must act now to prevent another Chernobyl. It Is critical that both the Congress and the President make their voices heard on this important issue.

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HAITIAN REFUGEES

The SPEAKER pro tempore (Ms. SLAUGHTER). Under a previous order of the House, the gentleman from Illinois [Mr. HAYES] is recognized for 5 minutes.

Mr. HAYES of Illinois. Madam Speaker, it seems that our U.S. Government is moving further away from being the humanitarian nation that she once proudly proclaimed. Never in my life have I seen such incompassion for human life and common decency. Today, I stand here to ask President Bush to have compassion on the Haitian refugees who have fled their country because of fear of political persecution. The actions that are being taken by the U.S. Government are deplorable. How can we live with ourselves? We are supposed to be a compassionate nation, a nation that cares about the world community, and now we refuse to take a moral stance to assist the Haitians simply because they are poor and black. There is no other explanation for this travesty, because there have been too many other situations where we have gladly opened our arms to refugees from other lands. When trouble erupted in Central America, refugees were given the chance to apply for asylum in large numbers. I ask you, what is the difference?

After 7 months of economic pressure from the Organization of American States there is still no hope that the de facto government in Haiti will fall. Negotiations have not produced relief and the crisis continues with refugees fleeing in record numbers. I understand that no one policy alone can guarantee freedom and democracy in Haiti. However, the United States can take a tough stand for the principles of democracy as well as lend a helping hand by accepting the Haitian refugees on a temporary basis.

There are many refugees at Guantanamo Bay who have not even had an adequate review to determine their status. The President contends that such a review process can be conducted at the United States Embassy in Haiti. This is totally unrealistic because the Haitian Government is closely monitoring those that have been returned by fingerprinting them. Those refugees that were screened were determined to have had a credible fear of return, and yet the Bush administration believes that the fear is based solely on economic reasons and not political persecution. It is not beyond reason to think that the refugees can both fear starvation and bodily harm. I'm saddened that the President can sleep at night with the blood of those suffering on his hands.

I call for immediate action by the Congress in response to this emergency. Let's stop these illegal deportations and return to the humane principles that we once proclaimed. Thank you, Mr. Speaker.

THE 46TH ANNIVERSARY OF THE FOUNDING OF THE ITALIAN REPUBLIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Madam Speaker, it gives me great pleasure to announce to my colleagues that June 2 marks the 46th anniversary of the founding of the Italian Republic.

On that date in 1946, the freedom-loving people of Italy voted in a plebiscite to replace their monarchy with a republican form of government. Barely 18 months later, the ingenious people of Italy approved a new Constitution on January 1, 1948. This document echoed our own Constitution in its declaration that "Sovereignty belongs to the people who exercise it within the forms and limits of the government." In addition, Italy's Constitution affirmed that the "inviolable rights of man" require equal treatment under the law for all people regardless of race, sex, religion, or creed.

It is inspiring to recall that this Constitution laid the groundwork for a revival of Italy after the disastrous calamity of World War II. With crucial assistance provided by the United States through the Marshall plan, the postwar reconstruction of Italy represents nothing short of a second renaissance. Italy's industries now compete worldwide, and the country has made tremendous strides in education, health care, and other vital services.

At the same time, Italy has maintained her obligation to defend democracy at home and abroad. During the cold war, the Italian people demonstrated their commitment to freedom by actively participating in the North Atlantic Treaty Organization.

These are highly fitting accomplishments for Italy, a nation whose democratic roots stretch back to ancient Rome. For more than 2,000 years, the world has benefited tremendously from Italy's contributions to the arts, law, literature, religion, science, philosophy, and other fields. Italy's innumerable achievements since World War II suggest a destiny of success. I firmly believe that Italy's future is as bright as the spirit of her proud people.

On that note, Madam Speaker, I would like to offer my congratulations to the Italian people on this 46th anniversary of the founding of their Republic. I also would like to offer on this occasion my best wishes to all people of Italian descent in the United States, around the world, and of course, in the 11th Congressional District of Illinois, which I am honored to represent.

In the 46 years since the rebirth of democracy in Italy, her people have endured great sacrifices. It is highly appropriate then that they may now enjoy the benefits of their hard-won freedom. May the Republic of Italy continue to experience prosperity, progress, and stability, and may the friendship between our countries and our people continue to flourish in the years ahead.

IMPLEMENTING A BALANCED BUDGET CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Madam Speaker, today I am introducing legislation to establish a mechanism for enforcing a constitutional amendment requiring a balanced Federal budget.

The Balanced Budget Enforcement Act of 1992 would require a gradually increasing amount of deficit reduction each year, leading to a balanced budget by 1997. The President's budget, the annual concurrent resolution on the budget, and enacted legislation would be required to meet those targets. If the goals were not met by the enactment of specific spending cuts or tax increases, sequestration—across-the-board spending cuts and surtaxes on corporate and individual income taxes—would be ordered.

It is increasingly likely that Congress will recommend to the 50 States a constitutional amendment requiring a balanced budget. What is unclear, however, is how such an amendment would be enforced. In my view, we need an enforcement mechanism that is tough and workable. This legislation seeks to provide that kind of mechanism.

Like the Gramm-Rudman-Hollings and Budget Enforcement Acts which are its predecessors, this measure seeks to pressure the President and the Congress to make the tough policy choices needed to achieve deficit reduction. And like those measures, it imposes an across-the-board solution when the regular budget, reconciliation, legislative, and appropriations processes fail.

Unlike those laws, however, it seeks to make sequestration as fair as possible, eliminating exemptions from spending cuts and adding taxes to the mix in order to ensure that the wealthy bear a share of deficit reduction. At the same time, the process limits the amount of damage that can be done to the entitlement programs that exist for the most vulnerable in our society.

Madam Speaker, I have long believed that no process change can endow the President or the Congress with the courage or the political will to make tough budget choices. But clearly, if a balanced budget constitutional amendment is adopted, we would be irresponsible not to seek to enforce it. Without a strong, orderly enforcement process, the result could be chaos. I hope my colleagues will join me in supporting this difficult but necessary procedure.

Following is a description of the Balanced Budget Enforcement Act of 1992:

BALANCED BUDGET ENFORCEMENT ACT OF 1992

Purpose: The purpose of this Act is spelled out in Section 2 of the Act:

The purpose of this Act is—

(1) to mandate and achieve enough deficit reduction in each year through fiscal year 1997 to eliminate the deficit by that year or, if more optimistic estimates prevail, to achieve a surplus in that year;

(2) to mandate additional deficit reduction in fiscal years 1996 and 1997, if any is needed to offset deterioration in current estimates;

(3) from fiscal year 1998 onward, to mandate whatever deficit reduction may be needed to eliminate any deficit that may be estimated;

(4) in meeting balanced budget requirements, to—

(A) determine the applicable deficit reduction estimate as close to the start of the fiscal year as possible;

(B) allow provisions for "specific excesses"; and

(C) establish a Stabilization Reserve Fund and, starting in fiscal year 1998, allow its balances to cover rainy days;

(5) to establish a Board of Estimates to arbitrate between OMB and CBO;

(6) to require the 5-year figures in the President's budget and the budget resolution to meet the provisions of this Act;

(7) to enforce each year's deficit reduction/elimination requirements through the Congressional Budget Act, including multiyear allocations and reconciliation directives;

(8) to supplement Congressional Budget Act enforcement with sequestration whenever the deficit reduction or balanced budget requirements of this Act are not met;

(9) to provide that sequestration enforces the overall deficit reduction mix among appropriation reductions, entitlement reductions, and revenue increases set forth in budget resolutions;

(10) to create a backup formula-based sequestration applicable in any fiscal year in which the deficit reduction mix in a budget resolution is not enforceable; and

(11) to provide that reconciliation savings and sequestration savings shall be permanent.

General Description: The bill establishes deficit reduction requirements, requires the President and Congress to meet those deficit reduction requirements, and has automatic sequestration at the end of any session of Congress in which the deficit reduction requirements for the budget year were not fully met.

(A) Use of Sound Estimates by the President and Congress: A Board of Estimates is established; its function is to meet twice a year, initially to establish official deficit reduction targets for the year, and ultimately to determine whether those targets have been met. It makes those determinations in each case by selecting without change either all the calculations made by CBO or all the calculations made by OMB. Those calculations follow the rules under this Act, and their product is a deficit reduction target for the budget year. The choice is disjoint; the Board may not pick some of CBO's assumptions but others from OMB, nor may it make its own calculations. The President and Congress are required to achieve the deficit reduction target chosen by the Board. OMB and CBO are required to use the economic and major technical assumptions chosen by the Board in their subsequent calculations. That requirement does not by itself produce identical CBO and OMB bill cost estimates. Identical bill cost estimates are neither achievable nor desirable; each agency acts as a check on the other. However, this system is designed to accomplish three goals; (A) to have the most realistic assumptions used for establishing the presidential and congressional budgets; (B) to encourage OMB and CBO to converge rather than diverge in their initial estimates since a set of estimates that differs substantially from the mainstream is unlikely to be chosen; and (C) to have the deficit reduction requirements be the same for the President and the Congress.

The Board makes its initial choice by January 15th (or possibly later if Congressional adjournment was extremely late, and optionally earlier if Congressional adjournment was early). The President then has three weeks to complete his or her Budget, and must achieve the deficit reduction target for the budget year chosen by the Board. In the period through 1997, the President's Budget must also meet the outyear deficit reduction targets chosen by the Board.

For fiscal years 1993 through 1996, the targets and assumptions chosen by the Board are locked in for the entire session of Congress. Thus, the Board need not meet again until the end of the session, at which time it reviews the bill cost estimates made by CBO and those made by OMB and choose one set (without modification). On the basis of that choice, either sufficient deficit reduction will have been achieved, or it will not. If not, a sequester order is issued.

The approach to meeting once at the beginning and again at the end of the session is modified starting for fiscal year 1997; with that year there is a requirement for an "August update." CBO and OMB made a new set of calculations in August, which either confirm or revise the deficit reduction target for the budget year. If more deficit reduction is required, the President must submit a new budget that meets the new target—this is the Midsession Review, whose date is moved to August 29. Congress may choose to adopt a new budget resolution, and in any event will have to meet the deficit reduction target chosen by the Board.

The budgetary and legislative system works more easily if deficit reduction targets are set at the beginning of the cycle and not changed. Clearly, it is difficult for the Government to change gears suddenly and at the last minute; it is always hard to hit a moving target. The requirement of an August update starting with fiscal year 1997 is not an ideal way to do business. However, if a Constitutional amendment requires Congress to adopt a budget that is in balance, a logical inference is that the President and Congress should use up-to-date assumptions in achieving that mandate. If it is judged constitutionally acceptable to meet the requirement based on start-of-session estimates, however, then the August update probably should be dispensed with.

Setting the deficit reduction target at the start of the session and then again in August does guarantee that Congress will adopt a budget that is balanced or be faced with an automatic sequestration. In other words, when Congress adjourns to end the session, the budget will be balanced through legislation or sequestration. However, it is possible that the estimating assumptions chosen by the Board will be wrong; a surplus or a deficit might arise to the extent that the estimates were incorrect, even without any further legislation for the fiscal year. Under this bill, the Government is neither allowed to spend such an unexpected surplus nor is it required to continually monitor the daily Treasury statement through the last day of the fiscal year to try to offset any deficit that may actually occur.

I believe there is no way to guarantee that actual outlays do not exceed actual receipts, short of handing the President unilateral power to impound funds at will (even after contracts have been signed and fulfilled) and to adjust tax withholding rates at will. I am not prepared to delegate such power to the President and this bill does not do so. The proponents of constitutional balanced budget amendments uniformly assert that their amendments neither directly grant, nor implicitly require a legislative delegation, of such authority to the President. I do not know if their constitutional analysis is sound; but taking their word as to their intent, it follows that the budget must be balanced when Congress acts on it, but that later reestimates are not by themselves constitutionally suspect.

(B) Deficit Reduction Requirements: For fiscal years 1993 through 1997, the bill pre-

scribes a deficit reduction path. The mechanics of this are straightforward. A "current policy baseline" is defined. CBO currently projects deficits under that baseline to shrink somewhat until fiscal year 1996 (as the recession and the deposit insurance costs recede), then start rising steadily and permanently. This bill requires, and specifies by statute, $53.6 billion in deficit reduction from that baseline in fiscal year 1993, an additional $53.6 billion in deficit reduction in fiscal year 1994 (for a total in fiscal year 1994 of $107.1 billion), and so on. By fiscal year 1997, $267.8 billion in deficit reduction is required. Over the five-year period, the deficit reduction required by this Act totals $800 billion.

	Fiscal year—				
	1993	1994	1995	1996	1997
Deficit reduction	53.6	107.1	160.7	214.2	267.8

In addition to the deficit reduction specified by this Act, interest savings will occur and grow rather rapidly, simply because the Government will have a smaller debt than if the savings had not occurred. Those interest savings, when added to the policy savings specified in the Act, will produce a balanced budget in fiscal year 1997 if CBO's current estimates are correct.

Note that the deficit reduction required by this bill is stated as changes from a current policy baseline. This is necessary so that later baseline estimates can be used to judge compliance. However, it is fair to note that the 1990 budget summit, as codified in the Budget Enforcement Act of 1990, requires additional deficit reduction to be achieved (beyond the existing current policy baseline) in fiscal year 1993 through fiscal year 1995. Though this bill would replace and supersede the BEA, a relevant question is how much deficit reduction this bill would require in addition to that already required by the BEA. CBO's estimate of those figures are:

	Fiscal year—				
	1993	1994	1995	1996	1997
Additional reduction	37	65	102	153	203

There are three points to be made about requiring deficit reduction. First, the bill does not specify fixed deficit targets from fiscal year 1993 through fiscal year 1996. This is not a repeat of GRH I or II. Thus, if major fluctuations occur in the baseline because of, say, a major reestimate in the timing of deposit insurance outlays and collections, the deficit reduction requirement is not altered. The bill requires $107.1 billion in deficit reduction for fiscal year 1994 whether new estimates show the fiscal year 1994 deficit to be higher or lower than currently projected.

Second, if CBO's current projections are too pessimistic, then the $267.8 billion in deficit reduction required for fiscal year 1997 will produce a surplus. OMB's current projections imply a small surplus in that year, given the deficit reduction requirements of the bill. This bill does not include a provision to reduce the deficit reduction requirements—thus, if OMB is right, this bill requires a small 1997 surplus.

Third, CBO's current projections may prove too optimistic. If so, the deficit reduction path specified in the bill will not achieve balance in fiscal year 1997. Therefore, a fail-safe mechanism is included. Starting with fiscal year 1996, a projection will be made of the 1997 surplus or deficit assuming full compliance with the basic deficit reduction requirements. If that projection shows a fiscal year 1997 deficit rather than a balance or surplus, then one-half that deficit will be added to the fiscal year 1996 and to the fiscal year 1997 deficit reduction requirements. For example, if in fiscal year 1996 the fiscal year 1997 projection (assuming compliance) showed a $20 billion deficit, then the fiscal year 1996 deficit reduction requirement would be increased by $10 billion (to $224.2 billion) and the fiscal year 1997 deficit reduction will be increased by $10 billion (to $277.8 billion).

Then in fiscal year 1997, the deficit for the budget year—fiscal year 1997—will again be projected. By now, the deficit target has become a fixed target of zero. If a deficit is projected, the amount of that deficit will be added to the deficit reduction requirement for fiscal year 1997. This is algebraically equivalent to saying that the amount of that deficit will be that session's deficit reduction requirement. Put most simply, if a deficit is projected, the Government will have to eliminate it.

The requirements for fiscal year 1998 and subsequent fiscal years are just as simple: a current policy projection will be made of the surplus or deficit for the budget year; if a deficit is projected, the Government must pass enough laws to eliminate it.

In setting a deficit reduction target for the Government for fiscal year 1997 and thereafter, the bill takes into account that any given amount of deficit reduction will produce an extra increment of interest savings. The policy savings plus the attendant interest savings must eliminate the projected deficit.

(C) Sequestration Formula: It is my hope that the President and Congress, when faced with a deficit reduction requirement, will work together to meet that requirement. I expect that major disputes over philosophy, economic goals, and politics will make the negotiations and decisions within Congress and between the two branches contentious and difficult; I expect there will be partisan disputes. These are normal, and in the broadest sense healthy; Members are elected to be advocates for their deeply held beliefs and those of their constituents. But contention and strife should eventually lead to resolution through the legislative process. It is my hope that they do not lead to stalemate—a legislative inability to enact any law achieving the necessary deficit reduction.

But stalemate is a possibility. And a constitutional requirement does not allow the budget to be unbalanced merely because there is no majority for any given deficit reduction plan, or merely because the President could not impose his or her will on Congress, or vice versa. Therefore, this bill, like the three incarnations of the Balanced Budget and Emergency Deficit Reduction Act, includes sequestration as the ultimate deficit reduction vehicle.

The sequestration targets are based primarily (but not exclusively) on the deficit reduction target for the budget year. The budget cat has a long deficit tail; in the period from fiscal year 1993 through fiscal year 1997 we have the choice of cutting of that tail by inches or all at once. Obviously, major entitlement cuts and tax increases are likely to be enacted between now and FY 1997 to achieve balance. This bill does not require that they all be enacted this session; it merely requires that we make the first of five annual payments this session. Thus, sequestration is based on the budget-year's deficit reduction target—for this session, that target is $53.6 billion.

The bill provides two alternative forms of sequestration: Categorical Sequestration and, as a fallback, General Sequestration. Categorical sequestration divides the budgetary world into three types of budgetary action: discretionary appropriations (which cover defense, international, and domestic programs in a single group); direct spending (i.e., entitlements, user fees, and any other form of backdoor spending such as trust funds); and receipts (i.e., revenues). The premise behind categorical sequestration is similar to the premise behind the BEA; that each type of budgetary action should have its own target, should be held accountable for meeting its own target, and should not be held accountable for the failure of wither of the other two categories to meet their targets. Colloquially, this punishes the guilty and protects the innocent. It also means that if, in one category, more deficit reduction is achieved than required, the other two categories are not relieved of the obligation to meet their own targets.

It is not possible to establish in fiscal year 1993 the correct mix of discretionary reductions, entitlement reductions, and tax increases for the next five years. The world is too changeable, and the law must allow flexibility to meet new challenges. But categorical sequestration must be measured using calculations that have a statutory base. Therefore, in order for categorical sequestration to work, the Government must enact a statute at the start of each session that establishes the deficit reduction requirements in each of the three categories. (This is an algebraic requirement; that statute could, conceivably, allow deficit increasing legislation in one category, to be offset by deficit reducing legislation in the other two categories, which would also bear all the burden of deficit reduction for that session. In fiscal year 1993 through fiscal year 1997, however, for which major increases in deficit reduction are required each year, the prospects for an agreement to let any one category off the hook is extremely remote.)

The bill uses the congressional budget process to create the statute setting the deficit reduction requirements for each of the three categories. A budget resolution may (as an option) contain a "spin-off bill" that would set the percentage proportions of deficit reduction to be achieved in each of the three categories. Those proportions, when multiplied by the dollar deficit reduction requirement chosen by the Board, produce a dollar deficit reduction requirement in each of the three categories.

(The use of percentage rather than dollar amounts in the spin-off bill is irrelevant from fiscal year 1993 through FY 1996; the two are synonymous. Starting with fiscal year 1997, however, there will be an August update which will revise the deficit reduction target for the budget year. If Congress does not wish to pass a new budget resolution in September, does not wish to retain categorical sequestration, or is satisfied with the proportions enacted through the extant budget resolution, then proportions are useful. They will automatically produce new dollar targets in each category.)

Adoption by Congress of a conference agreement on a budget resolution will create the spin-off bill, which will be deemed passed by the House and the Senate. That bill will go to the President for his signature or veto, a veto could be overridden by the normal constitutional process. If enacted, categorical sequestration is in effect, but for the budget year only. The process would be repeated each year.

For the purposes of categorical sequestration, adoption of a law that provides for (or alters) the taxation of an entitlement benefit is considered a direct spending law. This make sense in two ways; first of all, taxing benefits is simply a mechanism for reducing benefits, and should be treated as a reduction in spending. Second, it gives the committees that wish to be less regressive when they cut benefits a simple mechanism (the tax code), rather than forcing them to create a complex income-based systems for reporting and awarding benefits.

General sequestration is the fallback in any budget year for which no spin-off bill is enacted. Under general sequestration there is no separate statutory target for each category. Obviously the budget resolution is a target, but absent a spin-off bill, it cannot be the base against which a sequestration requirement is measured.

Therefore, under general sequestration, if the aggregate deficit reduction target for the budget year is not achieved for any reason (i.e., because of inadequate reconciliation or excessive appropriations), there is a formula-based sequester. One-half of the sequestration is achieved through a tax surcharge on corporate and personal income tax liability, one quarter is achieved through a reduction in direct spending programs, and one quarter through a reduction in discretionary appropriations. Implementation of these sequestrations will be discussed below.

In my belief, categorical sequestration is superior to general sequestration for a number of reasons. First, it protects all the parties that agreed to the budget resolution from any major change in priorities among the three categories. Second, as noted, it protects the innocent and punishes the guilty, which is important for institutional equity among the major committees of Congress. The lack of this feature was a major flaw with GRN I and II. Third, it provides both a carrot and a stick when it comes to complying with the deficit reduction targets in the budget resolution. At least with regard to the three categories, the committees are sequestered in their own home if they fail to meet their deficit reduction target (with no one else to share the burden of their failure); at the same time, if they do meet their target, they have bought sequestration insurance for their home. I am convinced that voluntary compliance is better when there is a carrot as well as a stick. And finally, if one category achieves more than enough deficit reduction, no other category can use it; therefore, we get lower deficits. Given the magnitude of the task, every extra bit helps.

(D) Application of Sequestration: As described, sequestration occurs in three categories: discretionary appropriations, direct spending, and revenues. For discretionary appropriations, the concept is similar to existing law. That is, if a sequester is needed, discretionary budget authority is reduced across-the-board by a single, uniform percentage. There are no longer any "walls" among defense, international, or domestic appropriations; all accounts are cut to achieve the required savings. Further, there are no longer any exemptions (formerly, WIC was exempt) or limitations (formerly, Veterans medical care and some other medical programs were limited to a two percent cut under any sequestration). The President retains the option of partially or fully exempting any military personnel from sequestration, but if he uses that option, the additional amount that needs to be saved must come entirely from other defense spending. In addition, the President is given a new option to exempt some proportion of Federal civilian personnel from sequestration. This option must be across-the-board; the President cannot pick favored agencies. If, for example, he exempts 50% of civilian personnel from sequestration, this really means that funding for all such accounts (whether DoD civilians or domestic civilians) will be cut by a uniformly smaller amount, and every other program account in the government (whether missile procurement or EPA sewer construction grants) will be cut by a uniformly higher percentage.

Sequestration of revenues is accomplished by the imposition of a single, uniform percent surtax on the income tax liability of corporations or individuals. This does not increase the marginal rates by the same number of percentage points; rather, it increases tax liability by the same percent. Thus, it retains exactly the amount of average progressivity as in the current tax code. The surtax is effective with the taxable year that starts on or after January 1. This means that the amount of surtaxes collected in the fiscal year is about 9/12 (or slightly less) of the increase in full-year tax liability. Therefore, the surtax is set high enough so that the dollar amount collected in the fiscal year meets the dollar deficit reduction target for the fiscal year.

Sequestration of direct spending is accomplished by cutting payments under direct spending programs. All those programs currently subject to sequestration remain so, but the base of sequestrable programs is widened significantly by removing the exemptions for Social Security; Civil Service, Military, and other Federal retirement; the Postal Service; Veterans programs; and the low-income entitlements (Food Stamps, AFDC, SSI, Child Nutrition, and Medicaid). Medicare reductions would continue to be capped at 4%; that is, no sequester could reduce medicare payments by more than 4%. The cut in Social Security, Federal Retirement, and Veterans benefits would be capped at 2%. The cut in low-income entitlements would be capped at 1%. For both the latter two categories, a sequestration would be effective in January (or later if congressional adjournment is delayed), which means that the cut in benefits would only generate 9/12 of a full-year's amount of savings. As a result, the overall percentage would be slightly higher, in order to achieve the necessary amount of savings. The cut in benefits would be exactly that; benefits would be calculated as under existing law (including whatever full COLAs are due); then beneficiaries would receive checks that paid, for example, 98 cents on the dollar. This feature thus treats people who become eligible slightly before the date of a sequestration exactly the same way as people who become eligible slightly after that date; it prevents the creation of future "notches".

A special feature of the direct spending sequestration applies to Social Security (including Railroad Retirement Tier I). For that program, a sequester would *not* cut benefits. Instead, it would achieve the necessary savings by increasing the income tax liability of the retirees who receive Social Security benefits. Under current law, 50% of the benefits for retirees above a specified income threshold are considered taxable income. A sequestration would both lower that threshold and increase the proportion of benefits that are considered taxable income (by the same uniform percentage). This type of sequestration exempts the poorest Social Security recipients from any cuts, and achieves the savings in a progressive fashion.

Both the direct spending and the surtax sequestrations would be permanent, rather than one-year, changes in law. Since the amount of deficit reduction that is required grows significantly from one year to the next, the Government cannot afford to enforce this year's targets by one-year, temporary sequesters. While it is possible to imagine saving $53.6 billion in one fiscal year, it is almost inconceivable to save $107.1 billion in one fiscal year. Yet that would be the fiscal year 1994 requirement if fiscal year 1993 savings were accomplished through a purely temporary sequestration.

The analogy is with reconciliation. Just as we will need reconciliation savings to be permanent so that we can ratchet down the deficit one year at a time, so we will need sequestration savings to be permanent. To argue against permanent savings is, by implication, to wait until fiscal year 1997, then try to achieve the entire $267.8 billion in deficit reduction in that year alone. Of course, a "permanent" sequestration is merely a law. Nothing would prevent Congress from later repealing that sequestration if the costs of that repeal were paid for.

The fact that direct spending and surtax sequestrations are permanent means that the caps (e.g., the 4% cut in Medicare) is really a cap only on the reduction brought about through a single sequestration order. If legislative stalemate occurred two years in a row, medicare could be cut by an additional 4%, and so on. Again, this may seem extreme, but a constitutional mandate to balance the budget by 1997 is a mandate, not an option.

Finally, since the necessity of permanent reconciliation savings is obvious, a so-called "penalty sequester" is created. On top of whatever sequestration is needed to achieve a budget-year target for deficit reduction, there is an additional sequester in the budget year if the reconciliation bill does not achieve as much, on average, in the outyears as it does in the budget year. This is hardly an onerous requirement, in that real savings almost always grow over time.

All sequestrations have a "de minimis"—an appropriations or a direct spending sequestration occurs only if it is at least $250 million, and a surtax is rounded to the nearest 1-tenth of one percent. In theory, this means that very small shortfalls in deficit reduction are not offset by sequestration.

An additional feature with a somewhat similar result is that both target amount for discretionary appropriations and the measurement of appropriations compliance is achieved by measuring budget authority rather than outlays, and then multiplying that aggregate budget authority savings by an aggregate spendout rate. This prevents two games. First, it stops the President or Congress from assuming an unrealistic mix of increases in slow-spending appropriations; we cannot load up our budget with budget authority and pretend that outlays won't occur. Second, it removes any possible advantage to the recent practice of "delayed obligations". The Appropriations Committee will be judged by how much they appropriate, not how slowly they let it dribble out. However, this feature leaves open the small possibility that actual outlays will be slightly higher than outlays recorded for purposes of meeting the deficit reduction targets.

Both the de minimis and obligation/outlay features of this bill are offset by the requirement that, starting in fiscal year 1997, $2 billion per year be paid into a Stabilization Reserve Fund. Because of that payment, the

bill actually aims for a $2 billion surplus each year, offset by the trivial slippage allowed under the de minimis rules and the appropriations crediting rule.

In addition, the Stabilization Reserve Fund will receive amounts equal to any actual surpluses that the Government rules. If the Government is provident enough to run surpluses during good economic times, then these surpluses can be transferred to the Treasury by enactment of a law during bad economic times, to help pay for the costs of a recession. 34 States specifically provide for such rainy day funds, and virtually every State achieves that result by putting the balances from the prior year on the books of the current year. I believe that this approach, which requires that we must run surpluses before we can spend the money that is saved, is consistent with the intent of the sponsors of various constitutional balanced budget amendments.

(E) Budget Act Changes: The Congressional Budget Act is changed in ways to make it consistent with the requirements of this Act. Primarily, this requires making budget resolutions enforceable over five-year periods. That is current law, but that feature is due to expire at the end of fiscal year 1995; this bill makes it permanent. Likewise, the definition of budget authority needs to be made complete in order for the control of appropriations through limits on budget authority rather than outlays to be fully effective. Finally, given that approach, Senate points of order that depend on spendout rates and other aspects that purely affect outlays are eliminated.

THE HAITIAN REFUGEE CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CONYERS] is recognized for 60 minutes.

Mr. CONYERS. Madam Speaker, the Haitian refugee crisis has gone from bad to worse.

We are now saying, "Sorry, the inn is filled up and we are not willing to help Haitians in their struggle against repression and domination."

The irony is that today, May 27, is exactly 53 years earlier that the Hamburg American Lines Cruiser, the *St. Louis*, arrived in the Caribbean. On board were 930 passengers who had a red "J" stamped on their passports identifying them as Jewish refugees fleeing Hitler's Germany. With embarrassment and the only other time that has happened, the Jews on the *St. Louis* could find no sanctuary in the United States.

This weekend on the golf course, the President determined that there would be no further processing of Haitians, and by Executive order he declared that they would be picked up in their ships and returned to Haiti. Forgetting, I hope, that one out of two of these boats never make it to the United States, he has now indulged in a policy of drowning, because who is to say which of these rickety craft that made it over here on a 50-percent chance will ever make it back to the shores of Haiti.

No more question about political asylum as a reason or economic asylum as a reason. No more question about the laws of the U.S. immigration, no more concern about in the international treaty that has been our guide in immigration matters, the Geneva accord, since 1968. From this point on, unlike any other case other than the voyage of the damned in 1939, 53 years ago today, the President now says nobody will be processed from Haiti who comes to these shores.

Madam Speaker, I would like now to yield to several of my colleagues who have brief comments. I would start off with the gentleman from New York [Mr. RANGEL], whose leadership in this matter has been exemplary. I refer to the chairman of the Narcotics Committee, and I yield to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I thank the gentleman for yielding to me, not only for having this special order, but for being involved with the leadership of the Congressional Black Caucus who has brought this moral and this legal issue before the Congress, and I am so pleased to see we are joined by so many of our friends.

You know, if this country was not so small, if it were not so poor, if they were not so black, we would never even concede that a great power like the United States of America would send its ships to this country and under no color of law determine that they cannot leave the country. If they do, we are going to return them to their country.

We might say that is because we are trying to save them from themselves. They are escaping from a building on fire and we are taking them, saying that you will be better inside this building than you would outside on a Coast Guard cutter.

But the truth of the matter is that we have signed international agreements and we have said that we will give political asylum to those people who are suffering political persecution. Even under the high artificial standards that are set by the Immigration Service, even as we find these awkward people on boats trying in broken Creole to say whether these people are political or economic, because it is hard to believe that you can be poor and black and hungry and still be subjected to political persecution.

Thirty percent of the people who have been screened have reached these standards. So you have to assume that not only are we violating the principles of international law in stopping them, but we also are violating the law in not allowing those who are eligible to come to the United States.

I have never felt more proud of my country than I was when I was with Assistant Secretary of State Lawrence Eagleburger at the OAS Conference that was held last weekend, where America's voice was heard loud and clear that we will not allow the international community to recognize this illegal and immoral military coup government and that they will not be recognized until they restore democracy and President Aristide.

I was waiting for the President of the United States, the leader of the free world, the leader of the new world order, to get this report from his Secretary of State and to tell the free world that you can count on the United States for help.

□ 1910

And the President has said now, "We are going to enforce an embargo." I shared with the President this morning that an embargo that includes oil is long, long overdue. But, I said, "Mr. President, if you just enforce the embargo, which is going to bring further pain and suffering on the poor, without personally interceding and providing the leadership to let these people know once and for all that they are going to have to yield to democracy, then it is not worth the effort. We need the diplomatic initiative on the highest possible levels if we are going to employ those types of sanctions."

So I implore the religious community as well as our leaders around this country, if there ever was a time, no matter whether you are black or white, whether you are Jew or gentile, whether you are Protestant or Catholic, it is something immoral to say that there is, "no more room in the inn."

I thank the gentleman from Michigan for taking this special order to give us an opportunity to share our views in the CONGRESSIONAL RECORD.

Mr. CONYERS. I thank the gentleman for his comments, and I yield to the gentleman from New York.

Mr. GILMAN. Madam Speaker, I thank the gentleman for yielding and commend him for his remarks in behalf of a critical issue. I want to congratulate the gentleman from Michigan for taking this special order.

Madam Speaker, the people of Haiti have long suffered under the brutal and arbitrary rule of dictatorship. In 1986, the Haitian people demonstrated incredible courage when they ousted the then President-for-life Claude Duvalier. In 1987, an overwhelming majority of Haitians declared themselves in support of democratic rule by approving a constitution, which established a legal framework for the election of a civilian government.

In 1987, the Presidential election was cancelled due to widespread violence in Haiti on the day of the election. On December 16, 1990, in a free and fair election, Jean-Bertrand Aristide was elected President, by almost 70 percent of the vote.

Mr. Speaker, with the democratization of Eastern Europe before us, many of us were willing to believe the ways of the Haitian dictator was almost over—but on September 30, 1991, ele-

ments of the Armed Forces launched an attack against president Aristide and the people of Haiti, forcing the President of leave Haiti with the Haitian Government in the hands of a military junta. While we certainly recognize that the duly elected government of Haiti did not have a stellar human rights record, it is still, in fact, the duly elected Haitian Government.

Throughout the entire period of tumult in Haiti, I have kept a watchful eye on developments in that nation. Just a few months ago I accompanied the distinguished gentleman from New York [Mr. RANGEL] to Haiti. After our extensive series of meetings with Government officials, military offices, and private citizens, our delegation came to the conclusion that some of the refugees being forcibly repatriated could face repercussions from the illegitimate government that rules Haiti.

I have raised this matter with the Attorney General of the United States in the recent past, and I remain firmly convinced that it goes against the very nature of our national character to force these refugees to return to Haiti.

Since the fall, the United States Coast Guard has picked up some 30,000 Haitians. Of these, roughly 14,000 have been returned to Haiti after being screened by the INS, 8,000 have been permitted to seek political asylum in the United States, and 12,000 remain at the Guantanamo Bay Naval Base in Cuba.

Some have contended that the Haitians fleeing Haiti are economic refugees. We recognize that poverty is nothing new or recent to Haiti. It is the repression by the military dictatorship currently in power that these people seek to escape.

Mr. Speaker, I want to thank the gentleman from Michigan [Mr. CONYERS] for his outstanding efforts in arranging this special order. I call upon our executive and legislative branches to work together to forge a humane and acceptable policy to resolve this crisis until democracy is restored to Haiti.

Madam Speaker, again I thank the gentleman for yielding.

Mr. CONYERS. I thank the gentleman from New York [Mr. GILMAN], my colleague and friend for his remarks, which are very important and timely. He has joined us in the well before to raise this issue, and I am honored to have him in this discussion with us.

Madam Speaker, the administration of the incumbent President has done, in other instances, exactly what we ask him to do in this instance: to grant temporary safe haven until a democratic government is restored.

After all, we refused to recognize the dictatorship in Haiti. We know that it is a terroristic, military-operated criminal operation that cannot stand the scrutiny of a diplomatic examination. So the striking irony is that what we are asking for Haiti has been granted by President Bush to the Lebanese, to the Liberians, to the Palestinians, to the Chinese. Why not the Haitians?

It has been granted in other instances—to Hungary, Romania, Cuba, the Dominican Republic, Czechoslovakia, Chile, Vietnam, Laos, Cambodia, Ethiopia, Uganda, Iran, Nicaragua, Afghanistan, Poland, El Salvador, the People's Republic of China, Liberia, Somalia, Kuwait—but not the Haitians.

I think we have now reached a groundswell in American public opinion where common sense requires us to, again, through the legislative route, petition the President.

I would now like to yield to our colleague and distinguished friend, the gentleman from Indiana, Mr. ANDREW JACOBS, who has been a former member of the Committee on the Judiciary and whose concern in this area and in human rights generally has made him an important contributor to issues of this kind.

Mr. JACOBS. Madam Speaker, I thank the gentleman from Michigan [Mr. CONYERS] for yielding to me, and I am particularly appreciative of the gentleman's historic perspective on this unhappy hour for our beloved country, namely the rejection of Jews who were the subject of persecution in Nazi Germany by our own beloved country, a dark moment in American history which could never happen again—until now.

I just wonder how many people in this country who are really, really honest with themselves would deny the obvious reason for all this. Why the Jews? Why the African-Americans? Why not anybody else?

And to compound the outrage is the fact that this Government, this administration, which is a continuum of the 1980's administration, has sent young Americans to foreign countries to end their dreams, their lives, their beings forever to protect freedom in countries where there was absolutely no freedom to protect.

Here was a country, as has been pointed out, where the leader was freely elected by 70 percent of the public. Now I really believe the administration—I think it goes deeper than just this, just how people in the administration see the world from, as the gentleman says, a golf course or perhaps even the locker room of a country club, and that is this: I believe this administration has discovered a new form of public finance of campaigns. If you can use your official office to send a signal, why waste money on a Willy Horton ad?

Madam Speaker, again I thank the gentleman from Michigan for yielding.

Mr. CONYERS. Madam Speaker, I thank the gentleman for his observations. I would like to point out that it has now been brought to our attention that there are things that can be done. There are those who consider this to be an impossible situation. But if the OAS embargo was raised to a United Nations embargo, we would stop the filtrations of European products and oil that are coming in. If we would cut off the visas of the foreign flights that land regularly from Haiti to Miami and close down the bank accounts of those who are supporting this incredible terroristic government, we could begin to put a circle around these predators of their own nation.

□ 1920

If we were to send in from the United Nations an investigatory force to determine the circumstances that exist, incredibly enough the State Department still maintains that no one person repatriated has been subjected to violence or death, even in the face of eyewitness reports, testimony from Amnesty International, the Washington office on Haiti and individuals who have been there and report the violence.

So, Madam Speaker, there are things that are not being done that send an oh-so-discrete signal to those vicious thugs in Haiti that really deep down this administration is not that concerned about restoring democratic rule. Deep down Kuwait is more important than Haiti. Deep down stopping Iraq is more important than Haiti. Deep down invading Grenada is more important than Haiti. Deep down bombing Libya is more important than protecting democracy in Haiti.

I am now pleased to recognize the gentleman from Pennsylvania [Mr. FOGLIETTA], the chairman of the urban caucus, one who has worked with us on human rights issues from the first day he entered the Congress.

Mr. FOGLIETTA. Madam Speaker, I rise today to express my strong opposition to the Bush administration's decision to immediately return sea-going Haitian refugees to their country. No interview, no screening, no hearing to determine if they deserve political asylum. This policy is hard-hearted, immoral, and even racist.

At the heart of this wrong-headed action is the failed United States policy toward Haiti. Just a short time ago this administration organized an international effort to restore the royal family to the throne in Kuwait. Not too long ago, this administration invaded a country in this hemisphere to bring down a military dictator and alleged drug dealer.

But when real democracy is in danger, this President is nowhere to be found. Where is the President who organized an international effort in the Middle East? Where is the President who talked about a new world order?

We now see how thin President Bush's words were 1½ years ago. We

now see that President Bush's new world order is a vision for just part of the world as he defines it.

Madam Speaker, we must decide what is in our national interest. Haiti is a desperately poor country right on our doorstep.

We have an interest in seeing that Haiti is stable, prosperous, and democratic. Our policy must reflect this interest. We talk a lot about democracy and fundamental human rights. Sadly, however, too often our action is less than our words.

Well, Madam Speaker, it is time to change our policy towards Haiti. It is time to show what we will do when we are faced with a true and immediate threat to democracy on our doorstep. The best way to stop the flow of refugees is to stop its cause. We should move immediately to restore democracy to that nation.

Again, Madam Speaker, I thank the gentleman from Michigan [Mr. CONYERS] for this opportunity.

Mr. CONYERS. Madam Speaker, I thank the gentleman from Pennsylvania [Mr. FOGLIETTA].

Many years ago I met, fighting for jobs, justice and peace, a municipal elected official of Philadelphia whose burning passion for democracy has led him to hold now a seat in the Federal legislature, and I am pleased that he shares this special order with us tonight, and I yield now to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Madam Speaker, once again we rise to address the adversities that plague the people of Haiti. Over 30 years ago, as a labor leader, I attended many meetings in Miami, FL, and I watched as the Cuban refugees came to this country, and I watched as they were allowed to partake of every good thing that this country has to offer, and today there are great people in the city of Miami. And over the years I have watched as the Vietnamese have come to the city of Philadelphia. I watched as the Hmongs have come to the city of Philadelphia. I watched as the Cambodians have come to the city of Philadelphia. I watched as the Japanese and the Koreans have come to Philadelphia. Great people. Great people. They are doing a very fine job.

Madam Speaker, there is something wrong with a country that does not respect persons, and that is what is happening in this country today. Scripture tells us not to be a respecter of persons. Well, I say to great Russia, "We spent all this money on defense to defend this country to defeat communism, and today we tell the people that we were afraid of, that were going to destroy the world, we say to them, 'Come sit beside us and be our partners in this thing called the world. We're going to give you $24 billion that we do not have while our people are sleeping on the streets.'"

Yet, Madam Speaker, when it comes to a little, small country like Haiti that needs help, we say to them, "You can't even come to these shores." We say to them, "It's all right for the little babies to drown in the ocean."

Prophet Micah says, "What does the Lord require of me but to do justly, to allow mercy and to walk with thy God?" Where is the mercy for the Haitians? Where is the justice for the Haitians? Why are we arrogantly, not humbly, saying it is all right for them to be mistreated in their own country, to be slaughtered, to be shot down, chase the newly elected President out of the country and say, "It's all right for that to happen."

It is all right to go into other countries to stop that, Madam Speaker, and yet today we would turn these people back after, after placing an embargo on this country so that no jobs are going in. According to the gentleman from New York [Mr. RANGEL], he reported to us last week, and he is doing a magnificent job in reporting to us making sure we know what is going on in the country, but after the President's embargo and having pain and suffering, having men and women that are suffering, then we say they cannot come to these shores.

It is a sin before God. It is the most outrageous thing that this country has ever done. I have seen this administration do many things, but I never thought that they would turn people back just for one reason, because their skin is of a darker hue than anyone else. No one in the history of this country has ever been turned away from these shores, but no one, so it is time, Madam Speaker, to be fair to the Haitians, do justly, love mercy and to do it in the name of the Lord.

□ 1930

Mr. CONYERS. Madam Speaker, I believe we now have a new and spirited determination in the House to turn around this policy of drowning that cannot be allowed to be maintained.

It is with great pleasure I yield now to the gentleman from Hawaii [Mr. ABERCROMBIE], who is so outstanding that he has already become the leader of the freshman Members of Congress.

Mr. ABERCROMBIE. Madam Speaker, I have with me a copy of today's Washington Post. If you can see this picture, Madam Speaker, you will see that the words beneath this picture say, "One of the initial returnees." They are called returnees.

We have these marvelous ways of creating expressions to be attached to human beings in chains under threat of torture, those who have experienced the terrors of leaving Haiti, trying to escape desperately to freedom. They are now returnees, as if they were coming home under the new rules.

I find it fascinating that the Post can print this. "One of the initial returnees under new rules."

What are these new rules? The new rules are to be fingerprinted by the Haitian police—by the Haitian police. We all know what fingerprinting is all about in a police station, and we certainly know what it is in a police station in Haiti. It is the formal recognition that that person, who has been forced back to Haiti by the actions of the United States of America—give me your poor, give me your wretched, give me your oppressed. That is what we say at the Statue of Liberty.

I put my few dollars that I was able to get together toward the Statue of Liberty restoration. Mr. Iacocca and the rest of the committee who were so proud of their heritage, so proud of those people who left oppression and injustice in their lands, who came through Ellis Island, to restore that statue. That is what they said, because that is what America is all about.

There are all kinds of people. It is not just people of color. It is people who have known oppression and injustice.

My Scotch ancestors were run off their land by barons and nobles. We even use the word today, oh, what a noble attitude.

I will tell you what a noble is. A noble is a thief and a torturer and a murderer who lives off the sweat and labor of other people. They enclosed their land with fences. They enclosed people.

What they did is they put animals ahead of people. Of course, my ancestors, they were so stubborn they went to Ireland and they got their lesson all over again.

A pig on the road had the right-of-way over a human being if he or she was Irish. They came thence to Canada and then to the United States, and they found freedom in the United States.

Nobody asked my grandfather whether he was Scottish or he came from Ireland or came through Canada. They wanted to know if you can handle this eight-horse team. That is where the name "teamsters" came from, because he could handle an eight-horse team.

He delievered on that wagon. All he asked for was a chance to work.

My other grandfather delivered coal, tons of coal, and he had to have a shovel in his hand. He had to go down to the coalbins in Buffalo, NY, and shovel that coal into that big truck, and then shovel it again into the coalbins all over Buffalo by hand. Nothing was automated. The sweat of his brow and the strength of his back, that is all they asked from my grandfather. It is all this country asked, "Are you willing to work? Are you willing to make your contribution to this society?"

He did not get fingerprinted in any police station. Not in this country. That is not what it was supposed to be about.

But that is what we are doing today to our neighbors. Is this not the coun-

try with the good neighbor policy? Are we not supposed to in this hemisphere work with one another and be good neighbors to one another?

How is it to be a good neighbor to send a small child back into the ocean? I come from an island people. Hawaii is in the middle of the ocean. I recognize that every time I go back looking down. I know what the limits are, and I know what that ocean is.

The power and the majesty of the ocean takes precedence over any human quality. The people of the islands, the Polynesian people have taught all of us who have come to live in the islands that nature comes first and nature rules.

Who are we to talk about returnees? These poor people in these poor rickety little boats, subject to the power of nature and the ocean. Do you think this is a cruise? This is not the President and the Vice President and some of their rich friends out on a cruise. This is not America's Cup. This is not America^3 and $65 million given to a foundation so you can get tax benefits out of it. This is not gentlemen sailing on the ocean for their pleasure.

These are people who face murder, who face the disintegration of their families, who understand that unless they escape they are going to die. This is what this is about.

This is what this picture is about, with this little benign phrasing underneath it, "The returnee under the new rules."

I ask you, Madam Speaker, what will those new rules be, besides fingerprinting?

The administration's decision to forcibly—forcibly—return, that word was left out. This is not the forced returnee, this is the returnee, as if you are coming back from a sail in the afternoon from the yacht club.

This is Haitians fleeing an illegal military dictatorship which contravenes all the principles of human rights. Furthermore, this policy violates the United States Refugee Act of 1980, articles 13 and 14. I can get legalistic like the President does, too.

I will tell you what articles 13 and 14 say of the universal declaration of human rights. Universal, it applies to all of us.

Article 33 of the U.N. Refugee Convention and Protocol. This is what we tried to do. This is what the President told us we were supposed to be. We were supposed to be neighbors in the world. We were supposed to be a rainbow of people in a new world order all going to look out for each other.

It prohibits the return of a refugee in any manner whatsoever to a place where his or her life would be threatened. That is what it says.

We can either believe it or not. There is no in between, not as far as this Member is concerned.

Madam Speaker, sending these refugees back to Haiti will not solve the grave situation which exists there today. Thousands of people are in hiding. Torture, arbitrary arrests, and extrajudicial executions are being committed by security forces of the military.

In addition, since the United States-backed embargo began in October, the economic climate of Haiti, as has been pointed out by others, has deteriorated.

Madam Speaker, I am sorry to say that some of our allies, particularly those in the European Community that are now preaching to us as to what we should do in trade policies, are trading with these people. They are gangsters, they are murderers, they are torturers. I cannot be any more explicit.

I am standing here on the floor of the U.S. House of Representatives. I am proud to be here. I looked at the word "justice" right behind the gentleman from Michigan [Mr. CONYERS]. Right behind the gentleman from Michigan [Mr. CONYERS] right now is the word "justice" engraved on your podium, Madam Speaker.

That is what we are supposed to be for. It is not just a word, it is not just a concept. It is something we are supposed to embody here as the representatives of what the Constitution means here in this country.

So with violence and repression widespread, it is no surprise that Haitians have fled Haiti for the United States, because we are the dream. They look to us, not to be their savior, but to be their brother, to be their sister, to reach out to them in friendship.

They expect that from us. These are desperate people, Madam Speaker. The United States must not turn its back on them. We need to reverse the administration's hypocritical and inhumane policies. They need our protection, not our mistreatment.

For this reason, I urge you, Madam Speaker, and all of our colleagues to support legislation to grant temporary protected status to Haitians until such time as the democratically elected government is restored. The way to do that is for us to join together to see that that embargo works and that it works across the board, and that our allies are not allowed to be allies unless they fulfill their obligations as allies.

□ 1940

The least that these people can expect from us is the temporary protected status that should be granted to anyone seeking freedom under the condition that the Haitians face today.

Madam Speaker, I have with me a copy of today's Washington Post which shows the photograph of one of the initial Haitian returnees being fingerprinted by Haitian police. Do we know the current status of this individual? It is a fact, Madam Speaker, that these refugees face torture and execution upon their return.

The administration's decision to forcibly return Haitians fleeing an illegal military dictatorship contravenes all the principles of human rights. Furthermore, this policy violates the U.S. Refugee Act of 1980, articles 13 and 14 of the Universal Declaration of Human Rights, and article 33(1) of the U.N. Refugee Convention and Protocol which—"prohibits the return of a refugee in any manner whatsoever" to a place where his/her life would be threatened.

Madam Speaker, sending these refugees back to Haiti will not solve the grave situation which exists in Haiti today. Thousands of people are in hiding. Torture, arbitrary arrests, and extrajudicial executions are being committed by security forces of the military. In addition, since the United States-backed embargo in October, the economic climate of Haiti has deteriorated. Unfortunately, this has not deterred the military rules from holding on to power.

With violence and repression widespread, it is no surprise that thousands of Haitians have fled Haiti. These are desperate people, Madam Speaker. The United States must not turn its back on them. We need to reverse the administration's hypocritical and inhumane policy. They need our protection, not mistreatment. For this reason I urge my colleagues to support legislation to grant temporary protected status to Haitians until such time as the democratically elected government is restored.

I come from an island people.

Do you know the power and majesty of the ocean?

Mr. CONYERS. Madam Speaker, I yield to the distinguished gentleman from New Jersey [Mr. PAYNE], who serves on the Committee on Government Operations as well as the Committee on Foreign Affairs.

Mr. PAYNE of New Jersey. Madam Speaker, President Bush has again demonstrated his insensitivity to people of color by his latest action to send back Haitian refugees without proper screening procedures to determine their rights of asylum.

By forcing refugees to return to Haiti where their lives or freedom would be threatened, President Bush has topped his lack of leadership following the Rodney King decision and the ensuing reaction in Los Angeles.

And of all the times for President Bush to implement this new policy, he selected the Memorial Day weekend, a time when we remember the many black and other minorities who served so gallantly along with their white brothers and sisters in our Armed Forces.

We also have a debt to pay the Haitian people on Memorial Day. Few of us can recall the history of the Revolutionary War.

At that time there was a voluntary battalion of 1,550 French Haitians who fought side by side with us against the British in the battle of Savannah. And that battalion, President Bush, included a black unit called a Company of Color.

The Haitian people are our neighbors. They are not way off somewhere in Asia, Europe, or even Africa.

They are only a few hundred miles from our shore. They are a kind and gentle people whose colorful art decorates many American homes. Why then do we treat these friends in such an unwelcoming manner?

President Bush states this is for their safety, and they can apply for asylum in the United States at the U.S. Embassy in Haiti.

Yet, we all know the United States has reduced its personnel in the Embassy as a show of disfavor to the Haitian Army coup that caused their democratically elected President Aristide to flee the country.

Today, I received a report from Mr. Worth Cooley-Prost, who is at the dockside in Port-au-Prince monitoring the forced return of the refugees.

Mr. Cooley-Prost, who is president of the board of directors of the Washington office on Haiti, said that when the arriving refugees were told to go to the United States consulate, numerous attempts were made to phone the consulate and the phone at the consulate was never answered.

The refugees at the docks expressed fear of going to the consulate and did so only when accompanied by an American volunteer. The refugees complained of long interrogations that tried to prove their claims false.

At the docks the refugees were further intimidated when the Haitian military took their fingerprints. Some were even singled out for a second fingerprinting by the police.

When asked why, the American volunteers were told by an unnamed U.S. consulate officer at the docks that those doing the fingerprinting could not even read them and were doing it for intimidation purposes only.

President Bush said there is no more room at Guantanamo. True, the old aircraft runway there is crowded with refugees.

And, it also gets hot in tents erected on the runway with summer coming. Water is provided through pipes laid on the surface and when the temperature reaches well over 100 degrees, we are told the water is virtually undrinkable. But, there is plenty of other open space at Guantanamo if the refugees could just be taken off the runway.

The State Department reports they have interviewed 1,800 of the first 11,600 involuntarily returned refugees to Haiti. In not even one of these interviews do they report any persecution taking place.

I have a hard time reconciling this clean report with others we read from respected human rights groups.

It is obvious to many that when people live in an environment of killing and reprisal taking, that they would be hesitant to say things that would bring further harm. When a GAO report was requested by Chairman CONYERS of the Government Operations Committee, we found out that mistakes were made at Guantanamo Bay by our Government; 54 refugees were sent back to Haiti, whom our Government certified had credible asylum claims.

There also could be mistakes made in the methodology used in the interview of the 1,800. I believe we should also have an investigation by GAO of those interviews.

Madam Speaker, I feel that the American people are being subjected to a program of disinformation by our own Government. Surely, these actions do not represent the heart and values of the American people.

We can do better.

Mr. CONYERS. Madam Speaker, I insert for the RECORD the documents, depositions, and affidavits that attest to harm of 14 people who were forcibly repatriated Haitians.

TESTIMONY OF YALE LAW SCHOOL AT APRIL 9, 1992, GOVERNMENT OPERATIONS HEARING

APPENDIX D: PLAINTIFF' EVIDENCE IN HAITIAN CENTERS COUNCIL VERSUS MCNARY—RE: HARM TO FORCIBLY REPATRIATED HAITIANS

Gene McNary, Commissioner of the Immigration and Naturalization Service, alleges that the INS has found no credible evidence of persecution of Haitian refugees forcible repatriated to Haiti. The GAO reports that its findings regarding the treatment of forcibly returned refugees is inconclusive. Here we attach specific evidence from documents, depositions and affidavits submitted and/or gathered for *HCC* v. *McNary*, that attests to harm to 14 people who the INS forcibly repatriated. We also attach copies of some of the exhibits entered in that lawsuit that describe this persecution in further detail.

Executive Summary

1. Luma Dukens, was repatriated to Haiti on November 20, 1991. Upon his return, he was tortured by soldiers. The military told him they would counter the efforts of people escaping Haiti by beating, imprisoning, and killing returnees, and disposing of their bodies so that no one would know what happened to them. (P.E. 28, Affidavit of Luma Dukens).

2. Marie Zette was a young Haitian woman who had fled Haiti, had been screened-in, and who was forcibly repatriated by the INS. The day after she was sent back to Haiti, her name was called to go to Miami for asylum processing. About two weeks later, relatives of Marie Zette arrived in Guantanamo. They said she had been killed by Tonton Macoutes while she slept, the very first night of her forced return to Haiti. (P.E. 52, Affidavit of Marcus Antoine).

3. Jeanette Bousico was a woman repatriated to Haiti by the INS. Upon her arrival she was murdered by the military. Her story was reported on Radio Soleil on or about February 15, 1992. (Declaration of Kate Ramsey).

4–7. Harold Fremont, Eugene Miclis, Yvela Fremont and Jocelyn Clairemont are four cousins who were repatriated on March 27, 1992. All four of these people were "mandateurs," Aristides's official election observers. Mandateurs are now primary candidates for persecution by the Haitian military. The cousins had been put into Camp 3, a camp for screened-in-people. Also, their three cousins, who had similar experiences in Haiti, were put in Camp 3 and now are in the U.S. for asylum proceedings. The four repatriated cousins are currently in hiding in Haiti. (See P.E. 54, Affidavit of Jerry Salut et al.; Declaration of Kate Ramsey; Affirmation #2 of Jordan Levine; P.E. 49, Affidavit of Anne Fuller and Manifest).

8–9. Ernest Belisere and Jean-Michel Pavaluce were repatriated to Haiti in February, 1992, after being screened-out. Rather than go back to stay with his wife and seven children in Port-au-Prince, Ernest Belisere is in hiding because he is too well known as a painter of political murals in his home town. His neighbors tell him that the police are looking for him as a result of these murals. His brother-in-law, Jean-Michel Pavaluce is in hiding with him because his name appears on a death list. (National Public Radio's Morning Edition, February 11, 1992).

10. Harold Laurent was a Lavalas supporter who only had five minutes to tell his story on Guantanamo before he was repatriated. He planned on going into hiding because otherwise he would be killed. (See P.E. 61, "Toronto Star" article).

11–12. Elie Rocher and Direst August were sent back to Haiti three days before their names were called as people boarding a plane for the U.S. (See Affirmation #1 of Jordan Levine, in which Elie Rocher's name is misspelled as "Elie Roche").

13–14. Louissera Merzier and Rodrigue Jacinthe were both people held in Camp 3, a camp for screened-in refugees. They were sent back to Haiti on March 27th. (See P.E. 55, Affirmation of Jeannie Su, P.E. 49, Affidavit of Anne Fuller and Manifest).

For additional accounts of harm suffered by people forcibly repatriated to Haiti, see e.g., the January 23, 1992 memo from Scott Busby to Gregg Beyer and the Deposition of Grover Rees, General Counsel, INS. (P.E. 50 at 66–67).[1]

Persecution of Repatriates

The following are detailed accounts of the harm that befell Luma Dukens, Marie Zette and others who were repatriated to Haiti by the INS. Some of these people fled Haiti once, only to be returned and persecuted. They fled again. Others never had the opportunity to flee a second time because they were killed by the military upon their return.

1. Luma Dukens

Luma Dukens was a member of his local peasant group, called Mouvement Peyizan Papaye (MPP). Groups such as his cropped up all over Haiti in the wake of Aristide's election, and its members were avid Aristide supporters. He worked with his group, cleaning up his community and running literacy programs. After the coup that ousted Aristide, Luma Dukens participated in demonstrations against the military in the streets of his neighborhood. On the day after the coup, he broke his leg while fleeing from the military, but he was too afraid to go to the hospital and get medical care. He hid in the bush for a while and then he finally decided to flee with a group of others. His friends carried him to the boat because he was unable to walk on his broken leg.

Luma Dukens was picked up by a Coast Guard cutter soon after he fled. He was subjected to a short interview aboard the cutter. The interviewer and interpreter did not identify themselves, and he was very frightened during the interview. In addition, the interviewer did not inquire about Luma Duken's specific political involvement. He was very frustrated during the interview and felt that

[1] The cites that appear at the end of each narrative refer to some of the 70 plaintiffs Exhibits filed in *HCC* v. *McNary*. Please reference these materials for a more detailed description of each story.

he was being continually cut off. After the interview he was taken off of the cutter briefly in order to have his leg put in a cast. Then he was returned to Haiti.

Upon his return, he was greeted by the Haitian Red Cross (which is not a member of the International Red Cross). He also met a sea of cameras. He was fearful that Tonton Macoutes were taking his photograph, and if they had his picture, they would identify him as a member of Aristide's movement, and would come after him. The Haitian Red Cross provided him with bus fare and a van ride to the bus terminal. Before the van left, soldiers stopped it and asked for his parents' names, his address, age, and how he broke his leg. He told them the truth because he was not sure whether or not his file from the Coast Guard cutter, which contained the actual information, had made it into the hands of the military.

Luma Dukens traveled only as far as his cousin's house in Cite Soleil because he did not have enough money to go all the way to his mother's house in Cap Haitien. His cousin gave him money to continue his journey, and the next morning he left in search of transportation. As he struggled to walk, he was stopped by members of the military. These soldiers asked him who he supported in the election. He lied, because he was fearful for his life, and said that he supported Marc Bazin, and that members of Lavalas, Aristide's party, had broken his leg. They forced him to walk with them, on his broken leg, to a house, where they pressed him further. They forced him to lie on his stomach, and they beat him with a stick on the left side of his body—the same side as his broken leg. He refused to change his story and continued to pretend that he hated members of Lavalas. They did not believe him and persisted in the beating. After they finished, they let him go because, they said, they wanted others to see him and to know that this is what would happen to them if they left Haiti. One soldier told him, "[T]hose of you who are leaving, you are causing trouble in Haiti." They told him the military would counter the efforts of these people, and that they would beat, imprison and kill returnees, and dispose of their bodies so that no one would know what had happened.

Luma Dukens does not know how these soldiers found him, or knew that he had just returned to Haiti. He suspects that they followed him from the dock.

After the beating, Luma Dukens continued on to his mother's house in Cap Haitien. When he arrived in town, neighbors warned him not to go home because there had been soldiers at his house regularly, trying to find him. His friends hid him in the countryside, and his mother would come and sneak him food. She told him to leave Haiti because the military had come back and searched the house. On December 2, his friends found another boat leaving Haiti, and Luma Dukens fled a second time.

He was picked up again on December 3, 1992 by a Coast Guard cutter. This time he was interviewed by immigration officials on land. He was also able to sleep and bathe before his interview, which lasted significantly longer than his first interview. This time he was screened-in to the United States, and he has since been brought to the United States to pursue his asylum claim.

2. Marie Zette

Marie Zette's story was related to us in Miami by a refugee named Marcus Antoine. Marie Zette was his friend, and he described her in detail. She was a young woman, about sixteen or seventeen years-old. She was short and round and had long black hair. She used to sing to her friends on Guantanamo about her fears of returning to Haiti. She had told her friends, as well as immigration, that she would be killed if she were sent back to Haiti. Nonetheless, in early February her name was called out over the microphone in her camp, and she was told she was to be repatriated. The very next day her name was announced again, only this time she was called to go to Miami. It was too late. She had already been sent back to Haiti.

In mid-February, about two weeks after she had left, a new group of refugees were brought to Guantanamo. Among them were relatives of Marie Zette. They said that she had been killed by Tonton Macoutes while she slept the first night after she arrived in Haiti. Her murder led her relatives to flee for their lives. Marie Zette's life was lost because of an administrative error on Guantanamo.

3. Jeanette Bousico

Jeanette Bousico was a woman who was forcibly repatriated to Haiti. Upon her arrival in Port-au-Prince, she was murdered by members of the military. The account of her death was broadcast on the air of Radio Soleil on or about February 15, 1992. Haitians on Guantanamo heard this broadcast. Among them was Jeanette's brother, who was held in Camp 4(a).

4–7. Harold Fremont, Eugene Miclis, Yvela Fremont, and Jocelyn Clairemont

The following story of four "mandateurs" who were wrongfully sent back to Haiti was sworn to by their three cousins Jerry Salut, Ken Ramone, and Marty Abel. Their names are Harold Fremont, Eugene Miclis, Yvela Fremont, and Jocelyn Clairemont. Their names appeared on the manifest of the boat that went back to Haiti on March 27th, 1992. All four of the returned cousins were "mandateurs" (Aristide's official election observers) for the December 16, 1990 election, making them the first targets of persecution after the September 30, 1991 coup. These four men had also worked to organize public meetings in support of Aristide in their home town of Bayader. They all made speeches at these rallies. As a result of this activity, as well as their positions as mandateurs, they had problems with the local Section Chief.

The four mandateurs and their three cousins (also mandateurs) were held in Camp 3 on Guantanamo. They had similar stories and all seven believed they had been screened in. On Thursday March 26, however, only the three cousins, in a group of about sixty-two Haitians, were moved to Camp 5 to begin their process of leaving for Miami. The four mandateurs, though, were included in a group of about twenty-seven other people from Camp 3 who were taken to Camp 1, the camp for people being sent back to Haiti. A man named Joseph Fricher knew Harold Fremont and, in addition to the three cousins, he watched as Harold was taken to the boat.

Since arriving in New York this past week, one of the cousins of these four mandateurs spoke to his sister in Port-au-Prince to see whether or not she had heard any news from them. She said that she had not, but that she was not surprised because she knew they could not go back to their house for fear they would be killed. She herself was afraid to talk on the phone, but indicated that things were getting worse for her and that she was thinking of fleeing Haiti herself.

8–9. Ernest Belisere and Jean-Michel Pavaluce

These two brothers-in-law fled together from Haiti on November 23, and they were picked up by the Coast Guard two days later and taken to Guantanamo. Both were pro-Aristide activists. Belisere was well-known in his neighborhood as an artist who painted murals of Aristide and of the red rooster that is Aristide's symbol. Pavaluce's name was on a death list in the possession of the military. In February, these two men were repatriated together to Haiti after being screened-out by the INS.

They are now in hiding at the home of relatives outside of Port-au-Prince. Belisere has stated that he is afraid to return to his wife and seven children in Port-au-Prince because his neighbors tell him that the police have been looking for him. Pavaluce knows that his life is in danger because his name remains on the death list.

Alan Tomlinson reported the story of these two men for National Public Radio, and confirmed the story with Belisere's neighbors. He did not make inquiries to the military regarding the death list because he did not want to alert them to Pavaluce's presence in Haiti.

10. Harold Laurent

Harold Laurent was a supporter of Lavalas and had worked as a body guard for Aristide when he visited his hometown of St. Marc. After the coup, two of his friends were killed by soldiers. When he was brought to Guantanamo, he only had five minutes to tell his story. His claim was rejected and he was returned. He planned to go into hiding after being sent back to Haiti, because otherwise he would be killed.

11–12. Elie Rocher and Direst August

Bertha Hilaire, a fifteen year old refugee, knew these two people both in Haiti and in Guantanamo. She heard their names called on a Saturday for repatriation, and again heard their names called the following Monday for the same flight that brought her to Miami, but they did not appear for the plane. The name of Elie Rocher appears on the manifest of the ship sent back to Port-au-Prince on March 27th, 1992.

13–14. Louissera Merzier and Rodrigue Jacinthe

Louissera Merzier and Rodrigue Jacinthe were part of a group of 22 refugees who had stayed in Camp 3, a screened-in camp, who were forcibly repatriated on March 27th. Their name was called over the microphone, and they were told to line up. They did not know what specifically was happening to them. On March 30th, friends of these two people were interviewed at Church World Service in Miami, and they explained that these two people were screened-in and should have been brought to Miami. Their names are on the manifest of the boat that went to Port-au-Prince on March 27th.

Ms. PELOSI. Madam Speaker, I thank the gentleman from Michigan for calling this special order and for his leadership on this important moral issue.

Madam Speaker, in the last few days the administration's policy regarding Haitian refugees has gone from bad to worse. On Sunday, the President ordered the Coast Guard to return all Haitians rescued at sea immediately to their country, without the opportunity to apply for political asylum.

As a result, individuals who have a justifiable, immediate fear for their lives are no longer receiving political asylum interviews on the Coast Guard cutters or at the United States Naval Base at Guantanamo, Cuba. Instead, the administration has left the Haitians with only one alternative: To apply for political

asylum at the United States consulate at Port-au-Prince.

And what's wrong with going to the U.S. consulate for help? Perhaps the better question is what's not wrong with this option. First, the Haitian people are understandably leery of openly going to the consulate for fear of retaliation from the Haitian Army, the same army that was responsible for the bloody military coup that ousted President Aristide.

Second, up until this point the consulate has not been accepting walk-ins. Instead, it has required all applicants to phone for an appointment. The problem with this ill-conceived procedure is that the overwhelming majority of Haitians have no access to a telephone.

And finally, even if a person decides to go to the consulate and risk retaliation from the military, and even if that person is able to arrange for an appointment with consulate personnel, there is very little hope that they will be granted political asylum. Since February, of the 279 individuals who have been interviewed at the consulate, only about 2 individuals a month have been admitted to the United States. What is so remarkable about these dismally low numbers is how they compare to the 9,000 out of 27,000 people interviewed at Guantanamo that have been cleared by the INS for entrance into the United States.

Certain administration officials explain this discrepancy in numbers by saying that naive INS interviewers were fooled by the boat people they interviewed at Guantanamo into granting so many requests for political asylum. Madam Speaker, the only people being fooled are the members of the international community who are being told that this administration places a high priority on human rights.

Mr. FAZIO. Madam Speaker, I rise once more in support of the plight of the thousands of Haitians who, fearing for their lives, are seeking a safe haven until democracy is restored in their homeland.

I agree that we cannot afford to open our doors to all the poor people of every nation who want to enter the United States to better their lives. But Haitians do not want this. They want to be able to live in their own country, in a democracy, where their basic human and civil rights are respected. When this was the case, Haitians were not setting sail for the United States.

But we all know that this is not the current situation. When last September's coup shook the island of Haiti, its democratically elected Government was overthrown, its President was forced into exile, and the military took over. Over 1,500 Haitians were killed, and thousands more began to flee their country, fearing for their lives.

The Haitian people have two very limited options. They can remain in Haiti, where the military now rules with an iron had and where supporters of democracy face torture, and even death. Or they can risk death on the high seas, as they attempt to seek refuge here in the United States.

We cannot continue to turn our backs on these people. It is cruel. It is inhumane. It is heartless. It is wrong. Madam Speaker, I commend my colleague from Michigan, Mr. CONYERS, for calling this special order and for not allowing us to forget the plight for our Haitian neighbors. I urge my colleagues on both sides of the aisle to revisit this issue so that we, as true Americans, can demonstrate our commitment to fairness, justice, and basic human rights.

Mr. FAZIO. Mr. Speaker, I wish once more to take advantage of the opportunity to address the House on behalf of the plight of the thousands of Haitian refugees who are being forcibly returned to their homeland.

The situation in Haiti is not only bad; it is also very complex. Haiti's democratically elected President has been forced into exile, the military thugs are in power, and the OAS embargo is choking the life out of the Haitian economy. Haitians are both economically and politically oppressed.

But not every Haitian who flees the island in fear for his or her life is an economic refugee. Not every Haitian who risks life and limb in an attempt to reach safety here in the United States wants to remain here. The Haitian refugees' first wish is to return home where they can enjoy the same rights and liberties that we do here in America. Taking to the high seas is a last ditch effort in their attempts to escape torture, and even death—the fate of those Haitians who support democracy. The journey to the United States is a last resort in their struggle for survival.

And that is why I find the administration's position in regard to these people both cruel and insensitive. I can neither understand nor support it. I agree that it is important to distinguish between political and economic refugees. And I acknowledge that we cannot afford to open our doors to all the poor people of every nation who want to enter the United States to better their lives.

But that's the reason for the asylum process—for granting hearings—to determine if, indeed, because they are being politically persecuted at home, Haitian refugees are entitled to come into our country. So why don't we let the process decide? Why don't we grant these people the hearings to which they are entitled, and then make our decisions?

If we are not going to deal with the bigger problem, if we are not going to take stronger steps to ensure that democracy returns to Haiti, we must at least give our Haitian neighbors the benefit of due process.

I again thank the gentleman from Michigan, Mr. CONYERS, for his diligence in ensuring that this issue remains high on the congressional agenda.

Mr. TOWNS. Mr. Speaker, today I join with my colleagues in expressing outrage over the recent Executive order issued by the President. This policy of forcibly returning Haitian refugees without giving them a fair opportunity to apply for political asylum, is clearly cruel and inhumane. Moreover, it is a gross violation of international human rights.

I am deeply disturbed by the insensitivity displayed by the administration, to the Haitian plight. Never before has the United States had a policy of return for any group suffering from civil strife other than these black refugees. How can we allow these refugees who are fleeing tyranny to be turned back, to travel in dangerous shark-infested waters and face further oppression when we know their chances for survival are slim? It is simply barbaric and inconsistent with what this Nation is supposed to stand for.

Civil strife does exist in Haiti. The people are attempting to escape from the political repression and the increasing human rights abuses that are occurring there. Therefore, these refugees should be given a chance to obtain political asylum. They should not be sent back without some fair process to evaluate their claim to asylum. I believe the Haitians at least should be granted extended voluntary departure status.

I call on the President to immediately rescind this racist policy of forced repatriation. Instead of exerting energy to keep Haitian refugees out of the United States, the Government should work diligently to help restore democracy to that troubled country.

GENERAL LEAVE

Mr. CONYERS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Ms. SLAUGHTER). Is there objection to the request of the gentleman from Michigan?

There was no objection.

A TIME FOR LEADERSHIP: NEGOTIATE A COMPREHENSIVE TEST BAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. LEACH] is recognized for 60 minutes.

Mr. LEACH. Madam Speaker, last week China conducted the largest underground nuclear test in its history. The explosion, which some seismologists thought at first to be a major earthquake, equalled one megaton. This is roughly equivalent to 1 million tons of TNT or 70 times the explosive power of the first atomic bomb.

In reaction, the United States promptly called on China to exercise restraint in its nuclear testing program. But the force and effect of Washington's diplomatic representations have been undercut by our own stubborn commitment to a policy of continued nuclear testing.

Madam Speaker, it is time for leadership, time to negotiate a comprehensive test ban.

At the profoundest level the issue is simply this: As hardy a planet as this one is, it has enough problems adjusting to earthquakes, volcanic eruptions, and an occasional meteor shower. Dusting the planet with radioactive material and puncturing the earth's crust with super kinetic explosions jeopardize the balance of nature, survivability of the species.

For six administrations up to President Reagan's, it was the policy of the United States to support a comprehensive test ban once the Soviets accepted on-site inspection. Not only has the principle of on-site inspection now been embraced, but the former Soviet

Union under Gorbachev and current C.I.S. leadership under Yeltsin have provided model confidence-building inspection precedents.

In this regard, many scientists believe it is easier to assess violations of a comprehensive as contrasted with threshold test bans where infractions may or may not be intended.

A CTB is not the most important arms control issue of our times, but in historical terms, it is nonetheless significant. While late—the issue having been under consideration for almost five decades—this still would be a particularly propitious moment to announce U.S. support for a moratorium on testing coupled with serious intent to negotiate a comprehensive test ban.

In terms of timing, several factors should be stressed:

First, China's new testing aggressiveness contrasts with France's recent decision to adopt a testing moratorium, a position ironically more difficult for a French than American Government to embrace;

Second, the implications of the ending of the cold war; issues which we have viewed primarily in a bipolar context now clearly have grave if not graver implications for the developing world;

Third, the growing problem of nuclear proliferation, especially in the Middle East and on the Korean peninsula and Indian subcontinent, and the understanding that, without a United States initiative on a test ban, substantive criticism of new testers or intervention by the United States or other members of the world community would lack credibility, if not lawfulness;

Fourth, a pending decision by Russia's President Yeltsin to resume testing in 1993, which almost certainly would be reversed if the United States took a bold step forward on the test ban issue;

Fifth, the closing down of our nuclear weapons manufacturing facilities, with the doubtful prospect that Congress will appropriate the billions of dollars it will cost to redesign and reconstruct these facilities under existing strategic assumptions; and

Sixth, the forthcoming Earth summit at Rio, at which an American announcement of a testing moratorium coupled with a draft treaty and/or updated atoms-for-peace approach would co-opt and overshadow all other proposals.

With regard to international politics, the United States decision to continue nuclear testing puts us at odds with our oldest ally, France, our geographically closet ally, Canada, as well as our newest emerging partner, Russia, all of whom favor a test moratorium. Despite the fact Russia has announced a moratorium on testing through the rest of this calendar year, there are strong signals—including preparations at an underground testing site in the Russian arctic—that Moscow may resume testing in 1993, absent United States leadership on this issue. Ironically, within its society Russian leadership appears more constrained by democratic forces on this issue at this time than American.

For the moment, Washington is in the awkward position of appearing to tag along with Beijing and, to a lesser extent, London, in asserting the necessity of continued nuclear testing. In this regard, the United States and the Department of Defense are clinging to an aspect of cold war strategic doctrine that has lost persuasive force. This protesting stance not only undermines our credibility with established nuclear powers whom we are urging to act responsibly, that is, China, but also with aspiring nuclear powers in the third world whom we are urging to cease and desist.

A CTB is regarded by most nonnuclear countries as the single most important step nuclear powers can take toward effective and verifiable arms control. This undue public skepticism—or implicit private opposition—toward a test ban by the United States has the unfortunate result of undercutting the continued viability of the Nuclear Non-Proliferation Treaty, as well as other vital elements of America's non-proliferation regime. This is particularly true in the case of South Asia, where negotiation of a CTB holds some, if not the only, prospect of gaining Pakistani and Indian support for the NPT. Indeed, in the Indian subcontinent a global approach to arms control clearly has a better chance than regional initiatives which we theoretically support, but, because of the uncooperative attitudes of the parties, represent cop-out exhortations of the need for restraint. As for the Middle East, I can think of few initiatives more important for Israel's survival than a CTB.

While testing is no longer essential to the development of simple atomic weapons, a test ban could make a major contribution to nonproliferation by slowing down decision-making in countries on the cusp of testing, conceivably precluding entirely the development of those complex fission and thermonuclear weapons which require testing.

Successful negotiation of a test ban would also greatly strengthen the consensus for substantial extension of the NPT in 1995, as well as increase the leverage of the United States and its allies to insist on the development of a highly intrusive inspection regime for a CTB as well as related non-proliferation regimes, presumably including sanctions for violations, which would patently be of significance vis-a-vis potential proliferators, a la North Korea. In this context a CTB would buttress the development of more effective restraints on the transfer of services and technology associated with weapons of mass destruction, as well as the case for intervention by outside parties in countries which may be bent on developing such weapons.

In this context I would reference an out-of-fashion word: freeze. A ban on testing, if widely accepted by other parties, has the effect of freezing the world community at a place where the United States is ahead in number of tests, and most particularly, degree of sophistication in tests. This is particularly important in making it more difficult for rogue countries or terrorist groups to develop the smaller warheads necessary for delivery by missile. A CTB may not obviate the need for ABM systems, but it makes the prospect of potential enemies, particularly in the Third World, developing nuclear-tipped ICBM capabilities substantially more difficult.

In terms of presidential politics, it is understood that the American public remains profoundly concerned with the problem of proliferation of weapons of mass destruction, a concern made more poignant by revelations about the extent of Iraq's clandestine nuclear weapons program. Hence, if it refuses to lead, the administration risks losing the electoral support of concerned citizens who want to put definition into a new world order and an additional lock on the nuclear nonproliferation regime.

To be sure, there are a number of so-called test ban moderates who suggest that the United States ought to consider intermediate steps like a lower threshold ban or the maintenance of testing for reliability and safety purposes. There is some credibility to reliability and safety arguments, but they miss the big picture. The big picture is that the international community will only give credibility to a comprehensive test ban. If we are to put a tighter lock, albeit an imperfect one, on the nonproliferation regime, a partial test ban will be of marginal significance. Nonnuclear countries are not going to give credence to a nuclear country continuing testing, even for alleged safety purposes.

The ultimate irony of American hard-headedness on the issue is that our lead in sophisticated testing is so large and our technological ability to extrapolate proven data so much vaster than other nuclear powers that we have the least to gain and the most ground to give up by legitimatizing the testing-for-reliability or testing-for-safety rationale.

In particular, the argument that testing must be continued for warhead reliability purposes has two weaknesses: (a) very few tests have so far been made that fall into this category, which suggests the low priority professionals in the field place upon this need; while problems can arise with

warheads, the United States has far greater understanding and capacity to deal with such thorough quality control and certification of parts without further testing than any other country; and (b) presumably a test ban would not preclude the right of a party to replace a warhead with a like-designed device. Thus if the United States became apprehensive a given warhead was in danger of going out of condition, we could simply replace it without the need for further testing.

The only argument against replacement as a testing substitute comes from the nuclear weapons labs. Some there contend that technological expertise will be lost if testing stops, with the alleged inevitable result that tomorrow's nuclear warhead builders will have lower levels of competence than those of today. This argument is self-servingly defiant of the history of modern science, where knowledge once garnered is seldom lost.

There is greater, although not necessarily compelling, argumentation to the rationale for safety tests, that is, to prevent accidental explosions or release of radiation. In the first instance, many experts note that the issue of inadvertent explosion has been resolved through redundancy of safety features. With regard to the accidental dispersal of plutonium or enriched uranium due to fire or plane crashes, for example, the testing that is done is really of a reliability nature—because the test is to ensure that bomb encasements designed to prevent accidents don't themselves interfere with the performance characteristics of the warhead. In any regard, arguments for maintaining safety and reliability tests pale before the dangers of accidental or intentional explosions by other countries which can be expected to expand nuclear weapons development absent a comprehensive test ban. The "safety" rationale simply cannot be considered compelling if it leads to a less safe world.

Here it should be stressed that with the President's September 1991 arms restraint initiative the total number of safety tests needed may be far less than a dozen—one former prominent Labs scientist is now suggesting less than a handful. If this argument is considered persuasive by the White House, the administration could consider announcing a 6-month moratorium to be followed by a handful of tests exclusively for safety—with the goal of negotiation and signing of a comprehensive test ban within a year.

From a congressional perspective, it must be noted that the executive branch is in danger of losing control of this issue to a Congress that is almost certain in the not too distant future to legislate prohibitions on funding for further testing. Absent dramatic destabilizing changes in the strategic environment, it is highly unlikely that Congress will either appropriate the billions of dollars it will cost to redesign and reconstruct our deteriorating nuclear weapons manufacturing facilities or continue to fund new testing.

It may well be that the administration will have the votes to sustain a veto over legislated restraints on testing, but at minimum the executive branch will become politically vulnerable if it vetoes a progressive commonsense proposal and at worst look weak if Congress overrides, thus supplanting the executive branch in national security as well as environmental leadership.

The environmental implications of usage, accidental or otherwise, of nuclear weapons are profound. Even underground nuclear testing carries with it enormous environmental implications. In the first instance, testing creates unusable national sacrifice zones that are reduced to an environmental hazard. In addition, underground tests, particularly by less sophisticated countries, carry a risk that radioactivity may be released through venting. Although the United States has done a professional job since 1970 of containing radiation associated with underground tests in Nevada, other countries may not be as thorough. Hence the concern with French nuclear testing in Polynesia, as well as concern in Russia and Kazakhstan with Moscow's former underground testing at Semipalatinsk and Scandinavian concerns about new testing at Novaya Zemlya.

Because the environmental movement, at the nub, is concerned far more than with chlorofluorocarbons, the administration has the potential to establish itself as a world leader on environmental as well as arms control issues by announcing a test ban initiative at the Rio Earth summit, particularly if such an initiative is coupled with a resurrection of Eisenhower's atoms-for-peace proposal.

Weapons-grade material dismantled from warheads. Instead, their awesome destructive potential should be converted to peaceful, humanitarian purposes.

As we all understand, arms control to date has dealt more with delivery systems than warheads. As delivery systems are cut back, the administration has the opportunity not only to turn swords into fewer swords but through a CTB and atoms-for-peace, the chance to thwart the development of new nuclear swords and turn some, if not into plowshares, at least into the energy that will produce heat to shape new industrial products and light to illuminate man's imaginative capacities to utilize them.

Experts tell us the technology is available to make such a weapons-to-energy conversion a reality. All that is needed is the political will to make it happen. If the United States was prepared to take such a step, it would, as President Eisenhower put it, be dedicating some of its strength "to serve the needs rather than the fears of mankind."

Strategic leadership cannot be exercised in a world of political chaos. A comprehensive test ban may well be the most anti-anarchy initiative that the world community can contemplate at this time. Without action now, we may not have enough fingers and toes to count the number of nuclear powers that could develop by the turn of the century.

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LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of medical reasons.

Mr. BRUCE (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of death in the family.

Mr. ANTHONY (at the request of Mr. GEPHARDT), for today through June 6, on account of necessary leave.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SOLOMON) to revise and extend their remarks and include extraneous material:)

Mr. WALKER, for 60 minutes each day, on May 28 and June 3, 4, 9, 10, 11, 16, 17, and 18.

Mr. LEACH, for 60 minutes, today.

Mr. RIGGS, for 60 minutes, on today and on May 28.

Mr. ROBERTS, for 5 minutes, on May 28.

Mr. THOMAS of California, for 5 minutes, on May 28.

Mr. BARRETT, for 5 minutes, on May 28.

Mr. SHUSTER, for 60 minutes each day, on June 8 and 15.

(The following Members (at the request of Mr. ABERCROMBIE) to revise and extend their remarks and include extraneous material:)

Mrs. UNSOELD, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. HAYES of Illinois, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. CONYERS, for 60 minutes, today.

Mr. GEPHARDT, for 60 minutes, today.

Mr. ROSE, for 5 minutes, on May 28.

Mr. SWIFT, for 5 minutes, on May 28.

Mr. KLECZKA, for 5 minutes, on May 28.

Ms. KAPTUR, for 5 minutes each day, today, and on May 28, June 2, 3, and 4.

Mr. GEPHARDT, for 60 minutes each day, on May 28, 29, June 1, 2, 3, 4, 5, 8, 9, 10, 11, and 12.

Mr. MURTHA, for 60 minutes each day, on June 8 and June 15.

Mr. GONZALEZ, for 60 minutes each day, on June 1, 2, 5, 8, 12, 15, 19, 22, 26, and 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SOLOMON) and to include extraneous matter:)

Mr. WELDON.
Mr. GEKAS.
Mr. MCDADE.
Mr. LENT in two instances.
Mr. GINGRICH.
Mr. FISH.
Mr. BEREUTER.
Mr. EMERSON.
Mr. CAMPBELL of California.
Mr. FIELDS.
Mr. SCHAEFER.
Mr. SCHULZE.
Mr. RIGGS.
Mr. MCEWEN.
Mr. GALLO.
Mr. HERGER.
Mr. HOUGHTON.
Mr. MICHEL.
Mr. CRANE.
Ms. ROS-LEHTINEN in six instances.

(The following Members (at the request of Mr. ABERCROMBIE) and to include extraneous matter:)

Mr. SKELTON in three instances.
Mr. LANTOS in two instances.
Mr. FALEOMAVAEGA in five instances.
Mr. COLORADO.
Mr. JONTZ.
Mr. REED.
Mr. MAZZOLI.
Mr. LEVINE of California.
Mr. SIKORSKI.
Mr. SCHUMER.
Mr. SMITH of Florida.
Mr. HAMILTON.
Mr. FOLEY.
Mr. DE LUGO.
Mr. FASCELL in two instances.
Mr. ACKERMAN.
Mr. ROSTENKOWSKI.
Mr. BLACKWELL.
Mr. PANETTA.
Mrs. BOXER.
Mr. SCHEUER.
Mr. PAYNE of New Jersey.
Mr. SYNAR.
Mr. SERRANO.
Mr. MAVROULES.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1216. An act to provide for the adjustment of status under the Immigration and Nationality Act of certain nationals of the People's Republic of China unless conditions permit their return in safety to that foreign state; to the Committee on the Judiciary.

S. 1731. An act to establish the policy of United States with respect to Hong Kong, and for other purposes; to the Committee on Foreign Affairs.

S. 2245. An act to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the U.S. Army Corps of Engineers under the authority of Public Law 100-202; to the Committees on Interior and Insular Affairs and Public Works and Transportation.

S. 2780. An act to amend the Food Security Act of 1985 to remove certain easement requirements under the conservation reserve program, and for other purposes; to the Committee on Agriculture.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4990. An act rescinding certain budget authority.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 870. An act to authorize inclusion of a tract of land in the Golden Gate National Recreation Area, California.

S. 2569. An act to provide for the temporary continuation in office of the current Deputy Security Advisor on a flag officer grade in the Navy.

ADJOURNMENT

Mr. LEACH. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 5 minutes p.m.) the House adjourned until tomorrow, Thursday, May 28, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3579. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation entitled "The Rural Telephone Loan Credit Quality Act of 1992"; to the Committee on Agriculture.

3580. A letter from the Department of the Navy, transmitting notification that the Department intends to offer for lease two naval vessels to the Republic of Korea, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on Armed Services.

3581. A letter from the Department of the Navy, transmitting notification that the Department intends to offer for lease a naval vessel to the Republic of Korea, pursuant to 10 U.S.C. 7307(b)(2); to the Committee on Armed Services.

3582. A letter from the Office of General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 37, United States Code, to aid certain members of the uniformed services who are evacuated from areas outside the United States, or other places designated by the President; to the Committee on Armed Services.

3583. A letter from the Secretary of Education, transmitting notice of Final Priority—Demonstration Projects for the Integration of Vocational and Academic Learning Program (Model Tech-Prep Education Projects), pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3584. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Korea (Transmittal No. OTC-17-92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3585. A letter from the Solicitor, U.S. Commission on Civil Rights, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1991, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3586. A letter from the Secretary of Labor, transmitting the quarterly report on the expenditure and need for worker adjustment assistance training funds under the Trade Act of 1974, during the quarter ending March 30, 1992, pursuant to 19 U.S.C. 2296(a)(2); to the Committee on Ways and Means.

3587. A letter from the Office of Thrift Supervision, transmitting the Office's 1991 Annual Consumer Report to Congress; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 4727. A bill to extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes; with an amendment (Rept. 102-536, Pt. 1). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. Report on They Went Thataway: The Strange Case of Marc Rich and Pincus Green (Rept. 102-537). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on Coins, Contracting, and Chicanery: Treasury and Justice Departments Fail to Coordinate (Rept. 102-538). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of Texas:

H.R. 5266. A bill to provide grants to the Bureau of Justice Assistance to expand the capacity of correctional facilities in the States, increase programs for major offenders and parolees, and for other purposes; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. CONYERS:

H.R. 5267. A bill to address the Haitian refugee crisis, to express United States support for the restoration of democratic constitutional government in Haiti, to grant temporary protected status to Haitians until such a government is restored, to terminate the migrant interdiction agreement between the United States and Haiti, and to direct the President to establish expanded processing facilities for Haitians seeking refuge; jointly, to the Committees on Foreign Affairs, Merchant Marine and Fisheries, and the Judiciary.

By Mr. DEFAZIO (for himself, Mr. MINETA and Mrs. BOXER):

H.R. 5268. A bill to amend the Federal Aviation Act of 1958 to establish deadlines relating to the issuance of rules by the Administrator of the Federal Aviation Administration, and for other purposes; to the Committee on Public Works and Transportation.

By Ms. OAKAR (for herself, Mr. ROSE, Mr. ROBERTS, Mr. KLECZKA, Mr. KOLTER, Mr. MANTON, Mr. RUSSO, Mr. DICKINSON, Mr. THOMAS of California, and Mr. PANETTA):

H.R. 5269. A bill to add to the area in which the Capitol Police have law enforcement authority, and for other purposes; to the Committee on House Administration.

By Mr. ROSTENKOWSKI (for himself, and Mr. GRADISON):

H.R. 5270. A bill to amend the Internal Revenue Code of 1986 to improve the application of the tax laws to American businesses when operating abroad, to eliminate the deferral of tax on income of controlled foreign corporations, and for other purposes; to the Committee on Ways and Means.

By Mr. PAYNE of Virginia:

H.R. 5271. A bill to authorize the National Park Service to provide funding to assist in the restoration, reconstruction, rehabilitation, preservation, and maintenance of the historic buildings known as "Poplar Forest" in Bedford County, VA, designed, built, and lived in by Thomas Jefferson, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PANETTA:

H.R. 5272. A bill to require a balanced Federal budget by fiscal year 1997 and each year thereafter, achieve significant deficit reduction in fiscal year 1993 and each year through 1997, establish a Board of Estimates, require the President's budget and the congressional budget process to meet specified deficit reduction and balance requirements, enforce those requirements through a multiyear congressional budget process and, if necessary, sequestration, and for other purposes; jointly, to the Committees on Government Operations, Ways and Means, and Rules.

By Mr. SUNDQUIST:

H.R. 5273. A bill to amend the Tariff Act of 1930 to strengthen those provisions relating to preventing the circumvention of antidumping and countervailing duty orders; to the Committee on Ways and Means.

By Mr. WISE:

H.R. 5274. A bill to amend title 39, United States Code, with respect to the nondisclosure by the U.S. Postal Service of lists of names and addresses in its possession; to the Committee on Post Office and Civil Service.

By Mr. WYDEN (for himself, and Mr. RICHARDSON):

H. Con. Res. 325. Concurrent resolution concerning the establishment of a bilateral commission of the environment between the United States and Mexico; jointly, to the Committees on Foreign Affairs, Ways and Means, Energy and Commerce, and Public Works and Transportation.

By Mr. COSTELLO:

H. Con. Res. 326. Concurrent resolution to express the sense of the Congress that the United States Trade Representative must negotiate a tough but fair multilateral trade agreement regarding steel products; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

450. By the SPEAKER: Memorial of the House of Representatives of the State of Hawaii, relative to the right of the Hawaiian people to sovereignty and self-determination; to the Committee on Interior and Insular Affairs.

451. Also, memorial of the General Assembly of the State of New Jersey, relative to the beating of Rodney G. King; to the Committee on the Judiciary.

452. Also, memorial of the House of Representatives of the State of Missouri, relative to the right of free expression; to the Committee on the Judiciary.

453. Also, memorial of the House of Representatives of the State of Missouri, relative to Veterans Administration disability compensation; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RAHALL introduced a bill (H.R. 5275) for the relief of Rola Alami Zaki; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 110: Mr. JONTZ.
H.R. 127: Mr. SIKORSKI.
H.R. 237: Mr. KILDEE and Mr. ERDREICH.
H.R. 327: Mr. ZIMMER.
H.R. 589: Mr. KOPETSKI.
H.R. 722: Mr. WYDEN and Mr. GLICKMAN.
H.R. 723: Mr. WYDEN and Mr. GLICKMAN.
H.R. 886: Ms. OAKAR and Mr. TAYLOR of Mississippi.
H.R. 977: Mr. SHAYS.
H.R. 1213: Mr. PANETTA.
H.R. 1497: Mr. FISH and Mr. BONIOR.
H.R. 1515: Mr. PENNY.
H.R. 1573: Mr. HEFNER, Mr. WISE, Mr. LEWIS of Georgia, Mr. LAUGHLIN, and Mr. ROSE.
H.R. 1637: Mr. RAHALL.
H.R. 1799: Mr. NEAL of North Carolina.
H.R. 2104: Mr. GRADISON.
H.R. 2355: Mr. JOHNSTON of Florida.
H.R. 2559: Mr. JOHNSTON of Florida.
H.R. 2782: Mr. MOAKLEY, Mr. COSTELLO, Mr. EARLY, Mr. HUGHES, and Mr. MARKEY.
H.R. 2872: Ms. MOLINARI and Mr. HOCHBRUECKNER.
H.R. 2906: Mr. FISH.
H.R. 3195: Mr. EVANS.
H.R. 3198: Mr. FAZIO and Mr. MCMILLEN of Maryland.
H.R. 3236: Mr. JONES of North Carolina and Mr. FISH.
H.R. 3250: Mr. WALSH, Mrs. COLLINS of Michigan, and Mr. RANGEL.
H.R. 3518: Mr. WYLIE and Mr. SPRATT.
H.R. 3538: Mr. FAWELL.
H.R. 3542: Mr. GUARINI.
H.R. 3545: Mr. SIKORSKI.
H.R. 3555: Mr. FIELDS, Mr. RINALDO, and Mr. FRANKS of Connecticut.
H.R. 3605: Mr. KASICH.
H.R. 3660: Mr. FRANKS of Connecticut.
H.R. 3675: Mr. PENNY, Mr. FOGLIETTA, Mr. ACKERMAN, and Mr. LAGOMARSINO.
H.R. 3689: Mr. WISE and Mr. ENGLISH.
H.R. 3725: Mr. COX of California.
H.R. 3838: Mr. MARTINEZ, Mr. INHOFE, Mr. LIVINGSTON, and Mr. RAY.
H.R. 3871: Mr. KOPETSKI, Mr. WAXMAN, Mr. FROST, Mr. HYDE, Mrs. LOWEY of New York, and Mr. SOLARZ.
H.R. 3939: Mr. MINETA and Mrs. MORELLA.
H.R. 3949: Mr. SCHUMER.
H.R. 3994: Mr. ZIMMER.
H.R. 4025: Mr. KASICH.
H.R. 4045: Mr. BORSKI and Mr. JACOBS.
H.R. 4083: Mr. GUARINI.
H.R. 4192: Mr. STARK, Mr. MCDERMOTT, Mr. DURBIN, and Ms. OAKAR.
H.R. 4246: Mr. CRAMER.
H.R. 4256: Mr. SIKORSKI, Mr. WILLIAMS, Mr. LANCASTER, Mr. ESPY, Mr. POSHARD, Mr. JOHNSON of South Dakota, Mr. PAYNE of Virginia, Mr. SENSENBRENNER, and Mrs. MINK.
H.R. 4464: Mr. ESPY, Mr. POSHARD, Mr. BEREUTER, and Mr. JOHNSON of South Dakota.
H.R. 4472: Mr. KLUG and Mr. CARPER.
H.R. 4490: Mr. WILLIAMS, Mrs. PATTERSON, Mr. PAYNE of Virginia, and Mr. LEWIS of Florida.
H.R. 4688: Mr. DYMALLY, Mr. KLECZKA, and Mr. STARK.
H.R. 4729: Mr. WEISS, Mr. EVANS, Mr. JONES of Georgia, and Mrs. SCHROEDER.
H.R. 4742: Mr. Horton and Mrs. MINK.
H.R. 4755: Mr. LANCASTER, Mr. HARRIS, Mr. WEBER, Mr. ESPY, Mr. POSHARD, Mr. WILLIAMS, Mr. VOLKMER, MR. JOHNSON of South Dakota, Mr. TAYLOR of North Carolina, and Mr. BAKER.
H.R. 4790: Mr. PENNY, Mr. RAVENEL, Mr. SABO, Mr. CAMPBELL of Colorado, Ms. KAPTUR, Mr. TOWNS, Mr. RAHALL, Mr. HORTON, Mr. VANDER JAGT, Mr. DICKS, and Mr. KYL.
H.R. 4831: Mr. JENKINS.
H.R. 4918: Mr. GEJDENSON.
H.R. 4929: Ms. HORN.
H.R. 4930: Mr. CLINGER, Mr. LEWIS of California, Mr. PETRI, Mr. RHODES, and Mr. RIGGS.
H.R. 4983: Mr. SMITH of Oregon, Mr. OXLEY, Mr. EMERSON, Mr. GOSS, Mr. RIDGE, Mr. DANNEMEYER, Mr. CUNNINGHAM, Mr. DORNAN of California, Mr. LOWERY of California, Mr. TAYLOR of Mississippi, Mr. SKEEN, Mr. PETERSON of Minnesota, Mr. GLICKMAN, Mr. ARCHER, Mr. KASICH, Mr. HYDE, Mr. BOEHNER, Mr. RIGGS, Mr. HOBSON, and Mr. GINGRICH.
H.R. 5010: Mr. GAYDOS.
H.R. 5013: Mr. EVANS and Mr. MARKEY.
H.R. 5024: Mr. DEFAZIO, Mr. KOPETSKI, Mr. WISE, Mr. WELDON, Mr. MCNULTY, Mr. YOUNG of Florida, Ms. NORTON, Mr. WYLIE, Mr. SKELTON, Mr. MARTIN, and Mr. SLATTERY.
H.R. 5026: Ms. NORTON.
H.R. 5039: Mrs. UNSOELD.
H.R. 5056: Mr. NEAL of North Carolina.
H.R. 5075: Mr. CAMPBELL of Colorado, Mr. TOWNS, Mr. DE LUGO, Mr. FRANK of Massachusetts, Mr. HORTON, and Mrs. MINK.
H.R. 5109: Mr. HUGHES and Mr. RHODES.
H.R. 5113: Mr. PENNY and Mr. EMERSON.
H.R. 5178: Ms. LONG.
H.R. 5194: Mr. GOODLING, Mr. FAWELL, Mrs. LOWEY of New York, and Mr. BARRETT.
H.R. 5216: Mr. HOUGHTON, AND MR. SANTORUM.
H.R. 5234: Mr. BUSTAMANTE and Mr. FIELDS.
H.R. 5240: Mr. PALLONE and Mr. RICHARDSON.

H.J. Res. 237: Mr. PANETTA.
H.J. Res. 239: Ms. SNOWE.
H.J. Res. 357: Mr. KASICH.
H.J. Res. 391: Mr. HAMILTON, Mr. FAZIO, Mr. DICKINSON, Mrs. PATTERSON, Mr. JACOBS, Mr. BEVILL, Mr. PICKLE, Mr. BENNETT, Mr. PETERSON of Florida, Mr. APPLEGATE, Mr. REGULA, Mr. IRELAND, Mr. VENTO, Mr. FASCELL, and Mr. CAMP.
H.J. Res. 397: Mr. KLUG.
H.J. Res. 411: Mr. YOUNG of Alaska, Mr. VOLKMER, and Ms. SNOWE.
H.J. Res. 445: Mr. LEACH, Mr. EARLY, Mr. VENTO, Mr. FRANKS of Connecticut, Mr. LENT, Mr. RHODES, Mr. KLECZKA, Mr. JENKINS, Mrs. BYRON, Mr. DE LA GARZA, Mr. BORSKI, Mr. SISISKY, Mr. CHANDLER, Mr. CARDIN, Mr. ROHRABACHER, Mr. BEVILL, Mr. DICKS, Mr. BROWN, Ms. LONG, Mr. MATSUI, Mr. MONTGOMERY, Mr. SMITH of Florida, Ms. KAPTUR, Mr. SAXTON, Mr. KANJORSKI, Mr. PAYNE of New Jersey, Mr. VANDER JAGT, Mr. ANDREWS of New Jersey, Mr. WISE, Mrs. LOWEY of New York, Mr. KILDEE, Mr. AUCOIN, Mr. DORGAN of North Dakota, Mr. CHAPMAN, Mrs. MORELLA, Mr. SOLARZ, Mr. ENGEL, Mr. HENRY, Mr. NATCHER, Mr. PACKARD, Mr. DOOLITTLE, Mr. WALSH, Ms. SLAUGHTER, Mr. MARTIN, Mr. BERMAN, Mr. MARKEY, Mr. MAVROULES, Mr. KENNEDY, Mrs. BENTLEY, Mr. BROOMFIELD, Mr. BREWSTER, Mr. CONYERS, Mr. PANETTA, Mr. PALLONE, and Mr. PORTER.
H.J. Res. 455: Mr. GUARINI.
H.J. Res. 470: Mr. BUNNING and Mr. LEVINE of California.
H.J. Res. 478: Mr. TAUZIN, Mr. LAFALCE, Mr. LENT, Mr. HORTON, Mr. FRANKS of Connecticut, Mr. CHAPMAN, Mr. JEFFERSON, Mr. BILIRAKIS, Mr. JONES of Georgia, Mr. TORRICELLI, and Mr. COBLE.
H.J. Res. 482: Mr. ERDREICH, Mr. POSHARD, Mr. MCGRATH, Mr. MCMILLEN of Maryland, Mr. SERRANO, Mr. FRANKS of Connecticut, Mr. CHAPMAN, Mr. MOODY, Mr. PAXON, Mr. MCHUGH, Mr. FISH, Mr. HOCHBRUECKNER, and Mr. HOYER.
H. Con. Res. 308: Mr. MCCLOSKEY.
H. Con. Res. 309: Mr. GRANDY, Mr. ANTHONY, and Mr. GILCHREST.
H. Con. Res. 316: Mr. BRUCE, Mr. YATES, Mr. TORRICELLI, Mr. LEVINE of California, and Mr. ACKERMAN.
H. Res. 361: Mr. LEHMAN of California.
H. Res. 372: Mr. SAXTON, Mr. OWENS of New York, Mr. GILMAN, and Mr. TORRICELLI.
H. Res. 399: Mrs. BENTLEY, Mr. FISH, Mr. FROST, and Mr. MACHTLEY.
H. Res. 448: Mr. WOLF and Mr. SOLARZ.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5253: Mr. ROEMER.
H.J. Res. 490: Mr. ROEMER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5006

By Mr. DICKS:

—At the appropriate place in the bill, insert the following new section:

SEC. . NUCLEAR SAFETY IN EASTERN EUROPE AND THE FORMER SOVIET UNION.

(a) FINDINGS.—The Congress finds that—

(1) the Chernobyl nuclear reactor accident on April 26, 1986, has resulted in $283 to $352 billion worth of damage, with more than 4,000,000 people still living on land contaminated with radiation;

(2) there are 16 Chernobyl-type RBMK reactors now operating in Russia, Ukraine, and Lithuania, all of which have faulty designs, poor construction, and dangerously lax and outdated operating procedures;

(3) there are dozens of Soviet-designed reactors now operating in Eastern Europe and the former Soviet Union with poor construction and lax and outdated operating procedures;

(4) a serious nuclear reactor accident in one of the newly freed states of Eastern Europe and the former Soviet Union would seriously exacerbate these states' difficult progress towards economic recovery and could lead to political instability;

(5) retrofitting the RBMK reactors with modern Western safety equipment will result in only marginal safety improvements at great expense; and

(6) alternative power sources, such as natural gas turbines, and modern energy efficiency measures and technologies could displace the need for much of the power which these reactors provide.

(b) UNITED STATES POLICY.—It is the sense of Congress that the President should undertake bilateral and multilateral initiatives, including trade initiatives, to—

(1) assist in bringing on line enough replacement power and modern energy efficiency measures and technologies in the states of Eastern Europe and the former Soviet Union so that the RBMK reactors may be shut down as soon as possible and placed in stable condition to prevent radiological contamination;

(2) assist the states of Eastern Europe and the former Soviet Union in upgrading their other nuclear reactors to Western standards of safety and in ensuring that all of their nuclear reactors receive routine maintenance and repairs;

(3) encourage and provide technical assistance to Russia and Ukraine to enact domestic legislation governing nuclear reactor safety;

(4) negotiate formal agreements for nuclear cooperation with Russia and Ukraine;

(5) identify nuclear safety research as a principal focus of the soon-to-be created nuclear science center in Ukraine; and

(6) make greater resources available to the International Atomic Energy Agency to promote programs of nuclear safety in Eastern Europe and the former Soviet Union.

(c) REPORTING REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report with a systematic assessment of the nuclear reactor safety situation in Eastern Europe and the former Soviet Union, with a description of specific bilateral and multilateral initiatives the Administration is taking and plans to take to address these nuclear safety issues.