rental payments and other measures to encourage domestic oil and gas production. It is a safety net. The bill's provisions phase in and out as oil prices fall and rise between $17 and $14 per barrel and natural gas prices fall and rise between $1.86 and $1.56 per thousand cubic feet. It will provide a permanent mechanism to help our domestic producers cope with substantial and unexpected declines in world energy prices.

Let's examine how one aspect of this bill—marginal well production—affects this nation. A marginal well is one that producers 15 barrels of oil per day or 60,000 cubic feet of natural gas or less. Low prices hit marginal wells especially hard because they typically have low profit margins. While each well produces only a small amount, marginal wells account for almost 25 percent of the oil and 8 percent of the natural gas produced in the continental United States. The United States has more than 500,000 marginal wells that collectively produce nearly 700 million barrels of oil each year. These marginal wells contribute nearly $14 billion a year in economic activity. The marginal well industry is responsible for more than 38,000 jobs and supports thousands of jobs outside the industry.

The National Petroleum Council is a federal advisory committee to the Secretary of Energy. Its sole purpose is to advise, inform, and make recommendations to the Secretary of Energy on any matter requested by the Secretary with relating to oil and natural gas or to the oil and natural gas industries. The National Petroleum Council's 1994 Marginal Well Report said that:

> Preseving marginal wells is central to our energy security. Neither government nor the industry can set the global market price of crude oil. Therefore, the nation's internal cost structure must be relied upon for preserving marginal well contributions.

The 1994 Marginal Well Report went on to recommend a series of tax code modifications including a marginal well tax credit and expensing key capital expenditures. The Independent Petroleum Association of America estimates that as many of half the estimated 140,000 marginal wells closed in the last 17 months could be lost for good.

Mr. President, the facts speak for themselves. The U.S. share of total world crude oil production fell from 52 percent in 1950 to just 10 percent in 1997. At the same time, U.S. dependence on foreign oil has grown from 36 percent in 1973 (the time of the Arab oil embargo) to about 56 percent today. That makes the U.S. more vulnerable than ever—economically and militarily—to disruptions in foreign oil supplies. This legislation will provide a mechanism to help prevent a further decline in domestic energy production and preserve a vital domestic industry.●

● Mr. GRAMM. Mr. President, I am pleased to join Senator KAY BAILEY HUTCHISON and a number of other colleagues in the introduction of legislation which we believe will provide critically needed relief and assistance to our beleaguered domestic oil industry.

Our bill contains a number of incentives designed to increase domestic production of oil and gas. The decline in domestic oil production has resulted in the estimated loss of more than 40,000 jobs in the oil and gas industry since the crash of oil prices at the end of 1997. Our legislation will not only put people back to work, it will revitalize domestic energy production and decrease our dependence on imports.

I have sought relief for the oil and gas industry from a number of sources this year. As a member of the Senate Budget Committee, I strongly opposed the $4 billion tax which the Clinton budget proposed to levy on the oil industry. As my colleagues know, that tax is now dead.

Earlier this year I contacted Secretary of State Madeleine Albright and urged her to conduct a thorough review of our current policy which permits Iraq to sell $5.25 billion worth of oil every six months. The revenue generated from such sales is supposed to be used to purchase food and medicine but reports make it clear that Saddam Hussein has diverted these funds from their intended use and that they are being used to prop up his murderous regime. The United States should not be a party to such a counterproductive policy.

Senator HUTCHISON and I earlier this year introduced legislation which contained a series of tax law changes intended to spur marginal well production. The legislation which we introduce today contains those provisions as well as others, such as reducing the impact of the Alternative Minimum Tax (AMT) on the oil and gas industry and relaxing the existing constraints on use of the allowance for percentage depletion.

I am looking forward to working with my colleagues in an effort to enact the legislation as soon as possible.●

By Mr. McCAIN:

S. 1043. A bill to provide freedom from regulation by the Federal Communications Commission for the Internet; to the Committee on Commerce, Science, and Transportation.

THE INTERNET REGULATORY FREEDOM ACT

Mr. McCAIN. Mr. President, I rise today to introduce The Internet Regulatory Freedom Act of 1999. This legislation will help assure that the enormous benefits of advanced telecommunications services are accessible to all Americans, no matter where they live, what they do, or how much they earn.

Advanced telecommunications is a critical component of our economic and social well-being. Information technology now accounts for over one-third of our economic growth. The estimates are that advanced, high-speed Internet services, once fully deployed, will grow to a $150 billion a year market.

What this means is simple: Americans with access to high-speed Internet service will get the best of what the Internet has to offer in the way of on-line commerce, advanced interactive educational services, telemedicine, telecommuting, and video-on-demand. But what it also means is that Americans who don't have access to high-speed Internet service won't enjoy these same advantages.

Mr. President, Congress cannot stand idly by and allow that to happen.

Advanced high-speed data service finally gives us the means to assure that all Americans really are given a fair shake in terms of economic, social, and educational opportunities. Information Age telecommunications can serve as a great equalizer, eliminating the disadvantages of geographic isolation and socioeconomic status that have carried over from the Industrial Age. But unless these services are available to all Americans on fair and affordable terms, Industrial Age disadvantages will be perpetuated, not eliminated, in the Information Age.

As things now stand, however, the availability of advanced high-speed data service on fair and affordable terms is seriously threatened. Currently, only 2 percent of all American homes are served by networks capable of providing high-speed data service. Of this tiny number, most get high-speed Internet access through cable modems. This is a comparatively costly service —about $500 per year —and most cable modem subscribers are unable to use their own Internet service provider unless they also buy the same service from the cable system's own Internet service provider. This arrangement puts high-speed Internet service beyond the reach of Americans not served by cable service, and limits the choices available to those who are.

If this situation is allowed to continue, many Americans who live in remote areas or who don't make a lot of money won't get high-speed Internet service anywhere near as fast as others will. And, given how critical high-speed data service is becoming to virtually every segment of our everyday lives, creating advanced Internet ''haves'' and ''have nots'' will perpetuate the very social inequalities that our laws otherwise seek to eliminate.

This need not happen. Our nation's local telephone company lines go to almost every home in America, and local telephone companies are ready and willing to upgrade them to provide advanced high-speed data service.

They are ready and willing, Mr. President, but they are not able—at least, not as fully able as the cable companies are. That's because the local telephone companies operate under unique legal and regulatory restrictions. These restrictions are designed to limit their power in the local voice telephone market, but they are mistakenly being applied to the entirely different advanced data market. And as a result, their ability to build out these networks and offer these services is significantly circumscribed.

Mr. President, it's very expensive for to build high-speed data networks. Unnecessary regulation increases this already-steep cost and thereby limits the deployment of services to people and places that might otherwise receive them—and many of them are people and places that won't otherwise be served. This legislation will get rid of this unnecessary regulation, thereby facilitating the buildout of the advanced data networks necessary to give more Americans access to high-speed Internet service at a cheaper price and with a greater array of service possibilities.

That's called ''competition,'' Mr. President, and some people don't like it very much. AT&T, for example, owns cable TV giant TCI and its proprietary Internet service provider @Home. AT&T doesn't face the same regulatory restrictions as the telephone companies do, and AT&T will fight furiously to retain these restrictions so that it can continue to enjoy the ''first-move'' advantage it now has in the market for high-speed Internet service. So will other local telephone company competitors such as MCI/Worldcom, many of whom, like AT&T, prefer gaming the regulatory process to competing in the marketplace.

They're right about one thing, Mr. President—competition sure isn't nice. It's tough. Some companies win, and some companies lose. But the important thing to me is this: with competition, consumers win.

The 1996 Telecommunications Act effectively nationalized telephone industry competition. That's one of the many reasons I voted against it. As subsequent events have shown, the Act has been a complete and utter failure insofar as most Americans are concerned. All the average consumer has gotten are higher prices for many existing services, with little or no new competitive offerings. Most of the advantages have accrued to gigantic, constantly-merging telecommunications companies and the big business customers they serve.

Mr. President, we must not let this misguided law produce the same misbegotten results when it comes to making high-speed data services available and affordable to all Americans. The service is too important, and the stakes are too high.

Even the former Soviet Union managed to recognize that centralized planning was a flat failure, and abandoned it decades ago. It's time we started doing the same with centralized competition planning under the 1996 Act, and advanced data services are the best place to start. Unfettered competition, not federally-micromanaged regulation, is the best way of making sure that high-speed data services will be widely available and affordable. That's what I want, that's what consumers deserve, and that's what this legislation will do.

The first is the fact that the high-speed cable modem service being rolled out by AT&T on many of the nation's cable television systems favors its own proprietary Internet service provider, which limits consumer choice. Although AT&T's cable customers can access AOL or other Internet service providers of their own choice, they must first pass through, and pay for, AT&T's own Internet service provider, @Home. The fact that it typically costs around $500 a year to subscribe to @Home is a big disincentive to paying even more to access another service provider.

The second problem is every bit as troubling. Even though cable subscribers have only limited choice in accessing high-speed Internet service, 98 percent of Americans are even worse off, because they aren't served by any network that can carry high-speed Internet services.

Obviously, Mr. President, telephone networks serve almost everybody, and the large telephone companies very much want to convert their networks and make these services available to subscribers who might not otherwise get them, especially in rural and low-income areas, and also provide competitive alternatives for AT&T's cable modem subscribers. But, although AT&T can roll out cable modem service in a virtually regulation-free environment, federal regulation significantly impedes the ability of telephone companies to do the same thing.

Mr. President, this is blatantly unfair to the telephone companies—but that's not the worst of it. The benefits of business development, employment, and economic growth will go where the advanced data networks go. If these benefits go to urbanized, high-income areas first, the resulting disparities may well be difficult, if not impossible, to equalize.

Mr. President, I ask unanimous consent the text of the bill be printed in the RECORD.

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

S. 1043

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet Regulatory Freedom Act of 1999''.

SECTION 2. PURPOSE.

The purpose of this Act is to eliminate unnecessary regulation that impedes making advanced Internet service available to all Americans at affordable rates.

SECTION 3. PROVISIONS OF INTERNET SERVICES.

Part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following:

''SEC. 231. PROVISION OF INTERENT SERVICES.

''(a) POLICY.—Since Internet services are inherently interstate in nature, it is the policy of the United States to assure that all Americans have the opportunity to benefit from access to advanced Internet service at affordable rates by eliminating regulation that impedes the competitive deployment of advanced broadband data networks.

''(b) FREEDOM FROM REGULATION; LIMITATIONS ON COMMISSION'S AUTHORITY.—Notwithstanding any other provision, including section 271, of this Act, nothing in this Act applies to, or grants authority to Commission with respect to—

''(1) the imposition of wholesale discount obligations on bulk offerings of advanced services to providers of Internet services or telecommunications carriers under section 251(c)(4), or the duty to provide as network elements, under section 251(c)(3), the facilities and equipment used exclusively to provide Internet services;

''(2) technical standards or specifications for the provisions of Internet services; or

''(3) the provision of Internet services.

''(c) INTERNET SERVICES DEFINED.—In this section, the term 'Internet services' means services, other than voice-only telecommunication services, that consist of, or include—

''(1) the transmission of writing, signs, signals, pictures, or sounds by means of the Internet or any other network that includes Internet protocol-based or other packet-switched or equivalent technology, including the facilities and equipment exclusively used to provide those services; and

''(2) the transmission of data between a user and the Internet or such other network.

''(d) ISP NOT A PROVIDER OF INTRASTATE COMMUNICATION SERVICES.—A provider of Internet services may not be considered to be a carrier providing intrastate communication service described in section 2(b)(1) because it provides Internet services.''.

By Mr. KENNEDY:

S. 1044. A bill to require coverage for colorectal cancer screenings; to the Committee on Health, Education, Labor, and Pensions.

THE ELIMINATE COLORECTAL CANCER ACT OF 1999

• Mr. KENNEDY. Mr. President, today we are introducing a bill that will require all private insurers to provide coverage for screening tests for colorectal cancer. More than 56,000 Americans die from colon cancer each year and we know that the vast majority of these tragedies could have been prevented by early detection and treatment.

Millions of Americans are at risk of contracting colon cancer during their lifetime. Persons over age 50 are particularly vulnerable, and so are family members of those who have had this illness. Effective treatments are well-established for this disease, but it must be detected early in order for the treatment to be successful.

Unfortunately, fewer than 20 percent of Americans take advantage of the routine screening tests that can identify those who have the disease or who are at risk. Too many physicians fail to recommend or even mention it. The cost of screening those at risk is minor compared to the savings gained by reducing the overall costs of treatment, suffering, lost productivity, and premature death.

As many colon cancer survivors have told us, early recognition and treatment are essential to winning this battle. Over 90% of people who have been diagnosed as a result of these screening tests and then treated for this cancer have resumed active and productive lives.

People on Medicare already have the right to these screening tests. The legislation we are introducing today will extend the same benefit to everyone else who has private insurance coverage. Under our proposal, coverage for screening tests will be available to anyone over age 50, and also to younger persons who are at risk for the disease or who have specific symptoms. The type of tests and frequency of tests would be determined by the doctor and the patient. This is a very reasonable and cost-effective measure that is essential to prevent thousands of unnecessary deaths.

Our bill has already received support and endorsements from all the major gastrointestinal professional organizations, the American Cancer Society, the American Gastroenterological Association, the Cancer Research Foundation of America, the American Society for Gastrointestinal Endoscopy, the American Society of Colon and Rectal Surgeons, STOP Colon and Rectal Cancer Foundation, the United Ostomy Association, the Colon Cancer Alliance, Cancer Care, Inc., and the American Association of Homes and Services for the Aging.

A companion bill is being introduced in the House with the bipartisan leadership of my respected colleagues, Congresswomen LOUISE SLAUGHTER and CONNIE MORELLA. They have rightly emphasized that this disease is one that affects women as much as men. I look forward to working with them and my colleagues here in the Senate to get this very important protective legislation passed.●

By Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. BREAUX, Mr. KERREY, and Mr. ROBB):

S. 1045. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on persons who acquire structured settlement payments in factoring transactions, and for other purposes; to the Committee on Finance.

STRUCTURED SETTLEMENT PROTECTION ACT

Mr. CHAFEE. Mr. President, today I am introducing the Structured Settlement Protection Act, together with Senators BAUCUS, GRASSLEY, ROCKEFELLER, BREAUX, and KERREY of Nebraska. Companion legislation has been introduced in the House as H.R. 263, sponsored by Representatives CLAY SHAW and PETE STARK and a broad bipartisan group of Members of the House Ways and Means Committee.

The Act protects structured settlements and the injured victims who are the recipients of the structured settlement payments from the problems caused by a growing practice known as structured settlement factoring.

Structured settlements were developed because of the pitfalls associated with the traditional lump sum form of recovery in serious personal injury cases. All too often a lump sum meant to last for decades or even a lifetime swiftly eroded away. Structured settlements have proven to be a very valuable tool. They provide long-term financial security in the form of an assured stream of payments to persons suffering serious, often profoundly disabling, physical injuries. These payments enable the recipients to meet ongoing medical and basic living expenses without having to resort to the social safety net.

Congress has adopted special tax rules to encourage and govern the use of structured settlements in physical injury cases. By encouraging the use of structured settlements Congress sought to shield victims and their families from pressures to prematurely dissipate their recoveries. Structured settlement payments are non-assignable. This is consistent with worker's compensation payments and various types of federal disability payments which are also non-assignable under applicable law. In each case, this is done to preserve the injured person's long-term financial security.

I am very concerned that in recent months there has been sharp growth in so-called structured settlement factoring transactions. In these transactions, companies induce injured victims to sell off future structured settlement payments for a steeply-discounted lump sum, thereby unraveling the structured settlement and the crucial long-term financial security that it provides to the injured victim. These factoring company purchases directly contravene the intent and policy of Congress in enacting the special structured settlement tax rules. The Treasury Department shares these concerns and has included a similar proposal in the Administration's FY 2000 budget.

An article in the January 25 issue of U.S. News & World Report highlights the growing problem of structured settlement purchases. Orion Olson was bitten by a dog when he was three years old. The dog bite caused him vision and neurological problems. The settlement resulting from his lawsuit called for Mr. Olson to receive $75,000 in periodic payments once he turned 18. Unfortunately, Mr. Olson was lured into selling his payments for a lump sum payment of $16,100. Within six months this money was gone and Mr. Olson was living in a car.

Last year, the National Spinal Cord Injury Association wrote to the Chairman of the Finance Committee strongly supporting the legislation. They stated: [o]ver the past 16 years, structured settlements have proven to be an ideal method for ensuring that persons with disabilities, particularly minors, are not tempted to squander resources designed to last years or even a lifetime. That is why the National Spinal Cord Injury Association is so deeply concerned about the emergence of companies that purchase payments intended for disabled persons at drastic discount. This strikes at the heart of the security Congress intended when it created structured settlements.''

The legislation we are introducing would impose a substantial penalty tax on a factoring company that purchases the structured settlement payments from the injured victim. This is a penalty, not a tax increase. Similar penalties are imposed in a variety of other contexts in the Internal Revenue Code to discourage transactions that undermine Code provisions, such as private foundation prohibited transactions and greenmail. The factoring company would pay the penalty only if it engages in the transaction that Congress has sought to discourage. An exception is provided for genuine court-approved hardship cases to protect the limited instances where a true hardship warrants the sale of future structured settlement payments.

This bipartisan legislation, which is supported by the Treasury Department, should be enacted as soon as possible to stem this growing nationwide problem.

Mr. President, I ask unanimous consent that a copy of the bill, a summary of the legislation and the article from U.S. News & World Report be printed in the RECORD.

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

S. 1045

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Structured Settlement Protection Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. IMPOSITION OF EXCISE TAX ON PERSONS WHO ACQUIRE STRUCTURED SETTLEMENT PAYMENTS IN FACTORING TRANSACTIONS.

Subtitle E is amended by adding at the end the following new chapter:

''CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

''Sec. 5891. Structured settlement factoring transactions.

''SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.

''(a) IMPOSITION OF TAX.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 50 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

''(b) EXCEPTION FOR COURT-APPROVED HARDSHIP.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is—

''(1) otherwise permissible under applicable law, and

''(2) undertaken pursuant to the order of the relevant court or administrative authority finding that the extraordinary, unanticipated, and imminent needs of the structured settlement recipient or the recipient's spouse or dependents render such a transfer appropriate.

''(c) DEFINITIONS.—For purposes of this section—

''(1) STRUCTURED SETTLEMENT.—The term 'structured settlement' means an arrangement—

''(A) established by—

''(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

''(ii) agreement for the periodic payment of compensation under any workers' compensation act that is excludable from the gross income of the recipient under section 104(a)(1), and

''(B) where the periodic payments are—

''(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

''(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

''(2) STRUCTURED SETTLEMENT PAYMENT RIGHTS.—The term 'structured settlement payment rights' means rights to receive payments under a structured settlement.

''(3) STRUCTURED SETTLEMENT FACTORING TRANSACTION.—The term 'structured settlement factoring transaction' means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

''(4) FACTORING DISCOUNT.—The term 'factoring discount' means an amount equal to the excess of—

''(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

''(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

''(5) RELEVANT COURT OR ADMINISTRATIVE AUTHORITY.—The term 'relevant court or administrative authority' means—

''(A) the court (or where applicable, the administrative authority) which had jurisdiction over the underlying action or proceeding that was resolved by means of the structured settlement, or

''(B) in the event that no action or proceeding was brought, a court (or where applicable, the administrative authority) which—

''(i) would have had jurisdiction over the claim that is the subject of the structured settlement, or

''(ii) has jurisdiction by reason of the residence of the structured settlement recipient.

''(d) COORDINATION WITH OTHER PROVISIONS.—

''(1) IN GENERAL.—In any case where the applicable requirements of sections 72, 130, and 461(h) were satisfied at the time the structured settlement was entered into, the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

''(2) REGULATIONS.—The Secretary is authorized to prescribe such regulations as may be necessary to clarify the treatment in the event of a structured settlement factoring transaction of amounts received by the structured settlement recipient.''

SEC. 3. TAX INFORMATION REPORTING OBLIGATIONS.

Subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new section:

''SEC. 6050T. REPORTING REQUIREMENTS REGARDING STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.

''(a) IN GENERAL.—In the case of a transfer of structured settlement payment rights in a structured settlement factoring transaction—

''(1) described in section 5891(b) and of which the person making the structured settlement payments has actual notice and knowledge, such person shall make such return and furnish such written statement to the acquirer of the structured settlement payment rights as would be applicable under the provisions of section 6041 (except as provided in subsection (c) of this section), or

''(2) subject to tax under section 5891(a) and of which the person making the structured settlement payments has actual notice and knowledge, such person shall make such return and furnish such written statement to the acquirer of the structured settlement payment rights at such time, and in such manner and form, as the Secretary shall by regulations prescribe.

''(b) COORDINATION WITH OTHER PROVISIONS.—The provisions of this section shall apply in lieu of any other provisions of this part to establish the reporting obligations of the person making the structured settlement payments in the event of a structured settlement factoring transaction. The provisions of section 3405 regarding withholding shall not apply to the person making the structured settlement payments in the event of a structured settlement factoring transaction.

''(c) DEFINITION.—For purposes of this section, the term 'acquirer of the structured settlement payment rights' shall include any person described in section 7701(a)(1).''

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall be effective with respect to structured settlement factoring transactions (as defined in section 5891(c)(3) of the Internal Revenue Code of 1986, as added by this Act) occurring after the date of enactment of this Act.

SUMMARY OF THE STRUCTURED SETTLEMENT PROTECTION ACT

1. STRINGENT EXCISE TAX ON PERSONS WHO ACQUIRE STRUCTURED SETTLEMENT PAYMENTS IN FACTORING TRANSACTIONS

Factoring company purchases of structured settlement payments so directly subvert the Congressional policy underlying structured settlements and raise such serious concerns for the injured victims that it is appropriate to impose a stringent excise tax against the amount of the discount reflected in the factoring transaction (subject to a limited exception described below for genuine court-approved hardships). Accordingly, the Act would impose on the factoring company that acquires structured settlement payments directly or indirectly from the injured victim an excise tax equal to 50 percent of the difference between (i) the total amount of the structured settlement payments purchased by the factoring company, and (ii) the heavily-discounted lump sum paid by the factoring company to the injured victim.

Similar to the stiff excise taxes imposed on prohibited transactions in the private foundation and pension contexts—which can range as high as 100 to 200 percent—this stringent excise tax is necessary to address the very serious public policy concerns raised by structured settlement factoring transactions.

The excise tax under the Act would apply to the factoring of structured settlements in tort cases and in workers' compensation. A structured settlement factoring transaction subject to the excise tax is broadly defined under the Act as a transfer of structured settlement payment rights (including portions of payments) made for consideration by means of sale, assignment, pledge, or other form of alienation or encumbrance for consideration.

2. EXCEPTION FROM EXCISE TAX FOR GENUINE, COURT-APPROVED HARDSHIP

The stringent excise tax would be coupled with a limited exception for genuine, court-approved financial hardship situations. The excise tax would apply to factoring companies in all structured settlement factoring transactions except those in which the transfer of structured settlement payment rights (1) is otherwise permissible under applicable Federal and State law and (2) is undertaken pursuant to the order of a court (or where applicable, an administrative authority) finding that the extraordinary, unanticipated, and imminent needs of the structured settlement recipient or his or her spouse or dependents render such a transfer appropriate.

This exception is intended to apply to the limited number of cases in which a genuinely extraordinary, unanticipated, and imminent hardship has actually arisen and been demonstrated to the satisfaction of a court (e.g., serious medical emergency for a family member). In addition, as a threshold matter, the transfer of structured settlement payment rights must be permissible under applicable law, including State law. The hardship exception under this legislation is not intended to override any Federal or State law prohibition or restriction on the transfer of the payment rights or to authorize factoring of payment rights that are not transferable under Federal or State law. For example, the States in general prohibit the factoring of workers' compensation benefits. In addition, State laws often prohibit or directly restrict transfers of recoveries in various types of personal injury cases, such as wrongful death and medical malpractice.

The relevant court for purposes of the hardship exception would be the original court which had jurisdiction over the underlying action or proceeding that was resolved by means of the structured settlement. In the event that no action had been brought prior to the settlement, the relevant court would be that which would have had jurisdiction over the claim that is the subject of the structured settlement or which would have jurisdiction by reason of the residence of the structured settlement recipient. In those limited instances in which an administrative authority adjudicates, resolves, or otherwise has primary jurisdiction over the claim (e.g., the Vaccine Injury Compensation Trust Fund), the hardship matter would be the province of that applicable administrative authority.

3. NEED TO PROTECT TAX TREATMENT OF ORIGINAL STRUCTURED SETTLEMENT

In the limited instances of extraordinary and unanticipated hardship determined by court order to warrant relief under the hardship exception, adverse tax consequences should not be visited upon the other parties to the original structured settlement. In addition, despite the anti-assignment provisions included in the structured settlement agreements and the applicability of a stringent excise tax on the factoring company, there may be a limited number of non-hardship factoring transactions that still go forward. If the structured settlement tax rules under I.R.C. Sections 72, 130 and 461(h) had been satisfied at the time of the structured settlement, the original tax treatment of the other parties to the settlement—i.e., the settling defendant (and its liability insurer) and the Code section 130 assignee—should not be jeopardized by a third party transaction that occurs years later and likely unbeknownst to these other parties to the original settlement.

Accordingly, the Act would clarify that if the structured settlement tax rules under I.R.C. Sections 72, 130, and 461(h) had been satisfied at the time of the structured settlement, the section 130 exclusion of the assignee, the section 461(h) deduction of the settling defendant, and the Code section 72 status of the annuity being used to fund the periodic payments would remain undisturbed. That is, the assignee's exclusion of income under Code section 130 arising from satisfaction of all of the section 130 qualified assignment rules at the time the structured settlement was entered into years earlier would not be challenged. Similarly, the settling defendant's deduction under Code section 461(h) of the amount paid to the assignee to assume the liability would not be challenged. Finally, the status under Code section 72 of the annuity being used to fund the periodic payments would remain undisturbed.

The Act provides the Secretary of the Treasury with regulatory authority to clarify the treatment of a structured settlement recipient who engages in a factoring transaction. This regulatory authority is provided to enable Treasury to address issues raised regarding the treatment of future periodic payments received by the structured settlement recipient where only a portion of the payments has been factored away, the treatment of the lump sum received in a factoring transaction qualifying for the hardship exception, and the treatment of the lump sum received in the non-hardship situation. It is intended that where the requirements of section 130 are satisfied at the time the structured settlement is entered into, the existence of the hardship exception to the excise tax under the Act shall not be construed as giving rise to any concern over constructive receipt of income by the injured victim at the time of the structured settlement.

4. TAX INFORMATION REPORTING OBLIGATIONS WITH RESPECT TO A STRUCTURED SETTLEMENT FACTORING TRANSACTION

The Act would clarify the tax reporting obligations of the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs. The Act adopts a new section of the Code that is intended to govern the payor's tax reporting obligations in the event of a factoring transaction.

In the case of a court-approved transfer of structured settlement payments of which the person making the payments has actual notice and knowledge, the fact of the transfer and the identity of the acquirer clearly will be known. Accordingly, it is appropriate for the person making the structured settlement payments to make such return and to furnish such tax information statement to the new recipient of the payments as would be applicable under the annuity information reporting procedures of Code section 6041 (e.g., form 1099–R), because the payor will have the information necessary to make such return and to furnish such statement.

Despite the anti-assignment restrictions applicable to structured settlements and the applicability of a stringent excise tax, there may be a limited number of non-hardship factoring transactions that still go forward. In these instances, if the person making the structured settlement payments has actual notice and knowledge that a structured settlement factoring transaction has taken place, the payor would be obligated to make such return and to furnish such written statement to the payment recipient at such time, and in such manner and form, as the Secretary of the Treasury shall by regulations provide. In these instances, the payor may have incomplete information regarding the factoring transaction, and hence a tailored reporting procedure under Treasury regulations is necessary.

The person making the structured settlement payments would not be subject to any tax reporting obligation if that person lacked such actual notice and knowledge of the factoring transaction. Under the Act, for purposes of the reporting obligations, the term acquirer of the structured settlement payment rights'' would be broadly defined to include an individual, trust, estate, partnership, company, or corporation.

The provisions of section 3405 regarding withholding would not apply to the person making the structured settlement payments in the event that a structured settlement factoring transaction occurs.

5. EFFECTIVE DATE

The provisions of the Act would be effective with respect to structured settlement factoring transactions occurring after the date of enactment of the Act.

[From U.S. News & World Report, Jan. 25, 1999]

SETTLING FOR LESS

SHOULD ACCIDENT VICTIMS SELL THEIR MONTHLY PAYOUTS?

(By Margaret Mannix)

Orion Olson has had his share of hard knocks. When he was a 3 year old, a dog bite caused him vision and neurological problems, as well as injuries requiring plastic surgery. In his teens, he dropped out of high school and wound up homeless. But he had hope. On his 18th birthday, the Minneapolis man was to start receiving the first of five periodic payments totaling $75,000 from a lawsuit stemming from the dog attack. He received the first installment of $7,500, but the money didn't last long.

So when Olson saw a television ad for a finance company named J. G. Wentworth & Co. that provided cash to accident victims, he saw a way to get his life back on track. He agreed to sell his remaining future payments of $67,500 to Wentworth for a lump sum of $16,100. ''I needed money,'' says Olson, now 20 years old. ''If I could get the money out like they were saying on TV, I wouldn't have to worry about being on the street anymore.'' Within six months, however, Olson had spent all the money and was living in a car. He now wishes he had waited for his regular payments.

Olson may be financially unsophisticated, but he is also caught up in a burgeoning, and unregulated, new industry that specializes in converting periodic payments into fast cash. Also known as factoring companies, these firms can be a godsend to accident victims, lottery winners, and others who have guaranteed future incomes but need immediate funds. But like a modern-day Esau trading his inheritance for a bowl of soup, the unwary consumer may be selling future sustenance for cheap. A growing number of federal and state legislators, as well as several attorneys general, contend that factoring companies charge usurious interest rates, fail to properly disclose terms, and take advantage of desperate people. ''It's unconscionable,'' says Minnesota Attorney General Mike Hatch. ''They are really preying upon the vulnerable.''

Frittering away. Critics further allege that factoring companies undermine the very law that Congress passed to help beneficiaries of large damage awards. In 1982, seeking to prevent accident victims from frittering away large sums intended to provide for them over their lifetimes, Congress instituted tax breaks for those who agreed to receive their money over a period of years. But now, contends Montana Sen. Max Baucus, a sponsor of that legislation, the careful planning that goes into the structuring of these payments ''can be unraveled in an instant by a factoring company offering quick cash at a steep discount.''

A number of advanced-funding companies compete for their share of future payments that include more than $5 billion in structured settlements awarded each year. The largest buyer is Wentworth, handling an estimated half of all such transactions. Based in Philadelphia, the firm began by financing nursing homes and long-term care facilities. In 1992 it started buying settlements that auto-accident victims were owed by the state of New Jersey. Since then, Wentworth has completed more than 15,000 structured-settlement transactions with an approximate total value of $370 million.

The deals work like this: A structured-settlement recipient who wants to sell, say, $50,000 in future payments, will not get a limp sum of $50,000. That's because, as a result of inflation, money schedule to be paid years from now is worth less today. Formulas based on such factors as inflation and the date that payments begin are used to determine the ''present value'' of the future payments. The seller is, in essence, borrowing a lump sum that is paid back with the insurance company payments. The interest on the borrowed sum is called the ''discount rate.''

Wentworth and other advanced-funding companies say they are providing a valuable service because structured settlements have a basic flaw: They are not flexible. Consumer needs change, they note, and a fixed monthly payment does not. Wentworth points to an Ohio woman who sold the company a $500 portion of her monthly payments for six years when her bills were piling up and her home mortgage was about to be foreclosed. She received instant cash of $21,000, at a discount rate of 15.8 percent. The customer, who did not wish to be identified, says she is grateful to Wentworth for advancing her the money when her insurance company would not. ''The insurance companies just don't understand,'' she says, ''When I needed their help, they were not there.'' Likewise, a New York quadriplegic, who also did not want to be named, says he secured funds from Wentworth at a 12 percent discount rate to expand his won business and, as a result, is more successful than ever. ''It was definitely worth it for me,'' he ways.

But other customers are not as satisfied. New York City resident Raymond White lost part of one leg when we has struck by a subway train in 1990. A lawsuit led to a settlement that guaranteed White a monthly payment of $1,100, with annual cost-of-living increases of 3 percent. In 1996, White, who did not have a job, wanted cash to buy a car and pay medical bills. So he turned to Wentworth, selling portions of his monthly payments for the next 15 years in six different transactions.

Altogether White gave up future payments totaling $198,000. He received a total of $54,000 in return, but the money, which he used for living expenses, is now gone. He bought a car, but it has been repossessed. He bought a plot of land in Florida, but lost it to foreclosure. With debts mounting, he now relies partially on public assistance to get by. ''Unfortunately I was so overwhelmed with debt and striving for a better life that I went along with it,'' says White. ''In reality, what I was doing was accumulating more debt for myself.''

Some Wentworth customers say they might have realized the repercussions of their transactions had the contracts been clearer about the long-term costs. Jerry Magee of Magnolia, Miss., who has filed a class action suit against the company, is one of them. In a mortgage contract, for instance, lending laws require that consumers see their interest rate and the total amount of money they will be paying over the life of the loan. By contrast, Magee's lawyer says, neither the effective interest rate nor the total amount of the transaction was clearly spelled out in the 13-page contract or in the 25 other documents Wentworth required him to sign. Wentworth says it has been revising its documents to make them easier to understand.

Change of address. While the factoring transaction itself is complex, the transfer of payments is simple. The structured settlement recipient instructs the insurance company to change his or her address to that of the factoring company. The check remains in the recipient's name, and the factoring company uses a power of attorney, granted by the recipient, to cash it.

This roundabout method is used because insurance companies say structured payments should not be sold. Most settlement contracts specify that payments cannot be "assigned," and the Internal Revenue Service says that payments "cannot be accelerated, deferred, increased or decreased." Selling payments, the insurance companies say, amounts to accelerating them. And that may threaten the claimant's tax break. Insurance companies say that if their annuitants start selling their payments, the social good that justifies the tax break disappears. Ironically, they make this argument even though some insurance companies themselves are not making counteroffers to factoring companies, accelerating payments to their own claimants. Berkshire Hathaway Life Insurance Co., for example, recently offered a claimant a lump sum of $59,000, beating Wentworth's offer of $45,000. The IRS has not formally addressed the tax issues, but the U.S. Department of the Treasury has recommended a tax on factoring transactions to discourage them.

Insurance companies also worry about having to pay twice. Last year, a judge ruled an insurance company was obligated to pay a workers' compensation recipient his monthly payments because the factoring transaction he entered into was invalid under Florida's workers' compensation statute. For their part, the factoring companies argue that even though the claimants do not own the annuities—the insurance companies do—the factoring companies can buy the "right to receive" the payments.

Insurance companies are getting wise to these factoring deals—CNA, a Chicago-based insurer, noticed that annuitants from all over the country were changing their addresses to Wentworth's Philadelphia post office box—and some are trying to stop the transactions. Some insurance companies, for example, refuse to honor change-of-address requests or redirect the payments back to the annuitant after the deal is done. But redirecting a payment can cause serious consequences for the claimant. In Wentworth's case, the company has each customer sign a clause called a "confession of judgment," which allows the factoring company to sue customers quickly for default when their payments are not received; customers also waive the right to defend themselves.

Christopher Hicks, a 20-year-old accident victim from Oklahoma City, learned the effects of that clause the hard way. In 1997, Hicks signed over to Wentworth half of his $2,000 monthly payments for the next 32 months and $1,500 for the 26 months after that. In exchange, Hicks received $37,500, which he admits he quickly spent on furniture, clothes, and other items. When Wentworth failed to receive a check from the insurance company that pays Hicks the annuity, it secured a judgment against him for the entire amount of the deal—$71,000.

No clue. To collect, Wentworth garnisheed Metropolitan Life, meaning that Metropolitan Life was supposed to start sending Hicks's monthly checks to Wentworth. It did not—the company won't say why—and Hicks, who was supposed to be getting $1,000 back from Wentworth, was left with nothing. "When the money stopped, I had no clue what was going on," says Hicks, who had to rely on family and friends until the two companies settled their differences in court. Hicks now wishes he had never gotten involved with Wentworth. "They make you think you are doing the right thing in the long run," says Hicks, "but you are really messing up your life."

Wentworth makes liberal use of confession-of-judgment clauses even though they are illegal in consumer transactions in the company's home state of Pennsylvania. The Federal Trade Commission also bans the clauses as an unfair practice in consumer-credit transactions. The clauses are allowable in business transactions in Pennsylvania if they are accompanied by a statement of business purpose. So in each case Wentworth certifies that the agreements "were not entered into for family, personal, or household purposes."

Such language is used in affidavits despite cases like that of Davinia Willis, a 24-year-old resident of Richmond, Calif., who entered into a transaction with Wentworth in 1996 to stop her house from being foreclosed upon and to repair wheelchair ramps—clearly, she says, personal uses. In a class action lawsuit against the company, she cites the confession of judgment as one reason why the contract is "illegal, usurious, and unconscionable." Wentworth says the clauses are necessary to keep its customers from reneging on their agreements.

In the end, the controversy over factoring companies comes down to a fundamental disagreement over the definition of their business. The factoring companies say they are not subject to usury or consumer-credit disclosure laws because they are not, in fact, lenders. "We don't make loans," declares Andrew Hillman, Wentworth's general counsel. "We buy assets." But some state attorneys general say these transactions differ very little, if at all, from loans and perhaps should be classified as such. That way, says Shirley Sarna, chief of the New York attorney general's consumer fraud and protection bureau, the law could prevent factoring companies from charging discount rates that she says in some cases have exceeded 75 percent. Wentworth says its average rate is 16 percent, and several factoring companies insist their rates would be much lower if insurance companies did not make it expensive from them to complete the deals. "By getting the insurance companies to process the address changes, it would overnight transform our discount rates from high teens to the single digits," says Jeffrey Grieco, managing director of Stone Street Capital, an advanced-funding firm in Bethesda, Md.

Who is right and who is wrong is being hammered out in courtrooms and statehouses across the country. The insurance companies were heartened last summer when a Kentucky judge denied four of Wentworth's garnishment actions, saying the purchase agreements the customers signed were neither valid nor legal. But other courts have ruled differently.

In Illinois, a new state law says that structured settlements can be sold as long as a judge approves the transaction. Wentworth notes that more than 100 such sales have been approved. At the same time, several state attorneys general are examining the factoring industry's practices. "You have got to worry about people who have a debilitating injury," says Joseph Goldberg, senior deputy attorney general for Pennsylvania. "The injury is never going away and they have no real means of income and probably no means of employment. . . . If they give that monthly payment up, it could have serious consequences." Voicing similar concerns, disability groups like the National Spinal Cord Injury Association, which now refuses to accept factoring companies' advertisements in its magazine, are warning members about the hazards of cashing out. The association is "deeply concerned about the emergency of companies that purchase payments intended for disabled persons at a drastic discount," says its executive director, Thomas Countee.

While opinions are divided about the validity of factoring transactions, both sides agree that regulation of the secondary market is necessary. As in Illinois, Connecticut and Kentucky have passed laws requiring a judge's approval of advanced-funding deals, as well as fuller disclosure of costs. Faced with mounting criticism, Wentworth this week will announce its pledge to submit every request for purchase of a settlement to a court for approval. Other states are expected to address the issue this year, and in Congress, Rep. Clay Shaw, a Florida Republican, has reintroduced a measure that would tax factoring transactions.

The factoring companies respond to all these efforts by also calling for better disclosure from the primary market—the insurance companies, attorneys, and brokers that set up the structured settlements in the first place. Factoring companies argue that structured settlements are not always as generous as they are represented to be. "We challenge insurance companies and their brokers to take the same pledge." said Michael Goodman, Wentworth's executive vice president.

Whatever the outcome of the debate, consumers thinking about selling their future payments are well advised to take a hard look at what they are getting into.

• Mr. BAUCUS. Mr. President, I am pleased to join today with Senator CHAFEE and a bipartisan group of our colleagues from the Finance Committee in introducing the Structured Settlement Protection Act.

Companion legislation has been introduced in the House (H.R. 263) by Representatives CLAY SHAW and PETE STARK. The House legislation is cosponsored by a broad bipartisan group of Members of the House Ways and Means Committee.

The Treasury Department supports this bipartisan legislation

I speak today as the original Senate sponsor of the structured settlement tax rules that Congress enacted in 1982. I rise because of my very grave concern that the recent emergence of structured settlement factoring transactions—in which favoring companies buy up the structured settlement payments from injured victims in return for a deeply-discounted lump sum—complete undermines what Congress intended when we enacted these structured settlement tax rules.

In introducing the original 1982 legislation, I pointed to the concern over the premature dissipation of lump sum recoveries by seriously-injured victims and their families:

In the past, these awards have typically been paid by defendants to successful plaintiffs in the form of a single payment settlement. This approach has proven unsatisfactory, however, in many cases because it assumes that injured parties will wisely manage large sums of money so as to provide for their lifetime needs. In fact, many of these successful litigants, particularly minors, have dissipated their awards in a few years and are then without means of support. [CONGRESSIONAL RECORD (daily ed.) 12/10/81, at S15005.]

I introduced the original legislation to encourage structured settlements because they provide a better approach, as I said at the time: ‘‘Periodic payment settlements, on the other hand, provide plaintiffs with a steady income over a long period of time and insulate them from pressures to squander their awards.’’ (Id.)

Thus, our focus in enacting these tax rules in section 104(a)(2) and 130 of the Internal Revenue Code was to encourage and govern the use of structured settlements in order to provide long-term financial security to seriously-injured victims and their families and to insulate them from pressures to squander their awards.

Over the almost two decades since we enacted these tax rules, structured settlements have proven to be a very effective means of providing long-term financial protection to persons with serious, long-term physical injuries through an assured stream of payments designed to meet the victim's ongoing expenses for medical care, living, and family support. Structured settlements are voluntary agreements reached between the parties that are negotiated by counsel and tailored to meet the specific medical and living needs of the victim and his or her family, often with the aid of economic experts. This process may be overseen by the court, particularly in minor's cases. Often, the structured settlement payment stream is for the rest of the victim's life to ensure that future medical expenses and the family's basic living needs will be met and that the victim will not outlive his or her compensation.

I now find that all of this careful planning and long-term financial security for the victim and his or her family can be unraveled in an instant by a factoring company offering quick cash at a steep discount. What happens next month or next year when the lump sum from the factoring company is gone, and the stream of payments for future financial support is no longer coming in? These structured settlement factoring transactions place the injured victim in the very predicament that the structured settlement was intended to avoid.

Court records show that across the country factoring companies are buying up future structured settlement payments from persons who are quadriplegic, paraplegic, have traumatic brain injuries or other grave injuries. That is why the National Spinal Cord Injury Association and the American Association of Persons With Disabilities (AAPD) actively support the legislation we are introducing today. The National Spinal Cord Injury Association stated in a recent letter to Chairman ROTH of the Finance Committee that the Spinal Cord Injury Association is ‘‘deeply concerned about the emergency of companies that purchase payments intended for disabled persons at drastic discount. This strikes at the heart of the security Congress intended when it created structured settlements.’’

As a long-time supporter of structured settlements and an architect of the Congressional policy embodied in the structured settlement tax rules, I cannot stand by as this structured settlement factoring problem continues to mushroom across the country, leaving injured victims without financial means for the future and forcing the injured victims onto the social safety net—precisely the result that we were seeking to avoid when we enacted the structured settlement tax rules.

Accordingly, I am pleased to join with Senator CHAFEE in introducing the Structured Settlement Protection Act. The legislation would impose a substantial penalty tax on a factoring company that purchases structured settlement payments from an injured victim. There is ample precedent throughout the Internal Revenue Code, such as the tax-exempt organization area, for the use of penalties to discourage transactions that undermine existing provisions of the Code. I would stress that this is a penalty, not a tax increase—the factoring company only pays the penalty if it undertakes the factoring transaction that Congress is seeking to discourage because the transaction thwarts a clear Congressional policy. Under the Act, the imposition of the penalty would be subject to an exception for court-approved hardship cases to protect the limited instances of true hardship of the victim.

I urge my colleagues that the time to act is now, to stem as quickly as possible these harsh consequences that structured settlement factoring transactions visit upon seriously-injured victims and their families.●

By Mr. REED:

S. 1046. A bill to amend title V of the Public Health Service Act to revise and extend certain programs under the authority of the Substance Abuse and Mental Health Service Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

WRAP AROUND SERVICES FOR DETAINED OR INCARCERATED YOUTH ACT OF 1999

Mr. REED. Mr. President, I rise today to introduce legislation that would help local communities coordinate services for juvenile offenders who are leaving the juvenile justice system and returning to their communities. This provision was included in the Robb amendment to S. 254, the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999, which was unfortunately tabled earlier this week.

The problem of mental illness plagues an alarming number of youth, who too often find themselves caught up in the juvenile justice system. While overall crime rates in this country have been in decline for the past few years, we have seen alarming increases in the number of serious and violent crimes committed by minors. Each year, more than two million youngsters under the age of 18 are arrested. What's more, statistics show that thirty percent of these young people will commit another crime within a year of their initial arrest.

Often, society views these young people, who have turned to crime at such an early age, as a ‘‘lost cause’’ or simply beyond hope of rehabilitation. The said fact that often gets overlooked is that many of these youngsters are battling with a serious emotional or mental disorder that winds up manifesting itself in criminal behavior. We cannot condone this behavior, yet, we as a society have failed to dedicate the resources necessary to bring these children back from the edge of self-destruction.

The legislation I am introducing today would help local agencies to coordinate the array of mental health, substance abuse, vocational, and education services a youngster may need to successfully transition back into the mainstream. Once a youth has been through the juvenile or criminal justice system, we need to do all we can to prevent a similar incident. If these children have been identified as having a mental or emotional disorder, they need to have access to appropriate treatment and services while they are incarcerated, but perhaps more imperatively when they leave incarceration. Turning these young people out on the street with no services to facilitate their transition does not help these children and does not help society as a whole.

Studies have found the rate of mental disorder is two to three times higher among the juvenile offender population than among youth in the general population. According to a 1994 Department of Justice study, 73 percent of juvenile offenders reported mental health problems and 57 percent reported past treatment for their condition. In addition, it is estimated that over 60 percent of youth in the juvenile justice system have substance abuse disorders, compared to 22 percent in the general population.

In an effort to bring desperately needed mental health services to this terribly underserved population, my legislation would authorize the Substance Abuse and Mental Health Services Administration (SAMHSA), in collaboration with the Departments of Justice and Education, to administer a competitive grant program that responds to the array of social and educational needs of children who are leaving the juvenile justice system.

These cooperative ''wrap-around services'' would enable juvenile justice agencies to work together with educational and health agencies to provide transitional services for youth who have had contact with the juvenile justice system, in order to decrease the likelihood that these young people will commit additional criminal offenses.

These services, which would be targeted toward youth offenders who have serious emotional disturbances or are at risk of developing such disturbances, could include diagnostic and evaluation services, substance abuse treatment, outpatient mental health care, medication management, intensive home-based therapy, intensive day treatment services, respite care, and therapeutic foster care.

I think it is important for my colleagues to note that this proposal is modeled after existing programs with a proven record of success. For instance, my home state of Rhode Island is one of four states (the others include California, Wisconsin, and Virginia) that has sought to target teens who have been diagnosed with a serious emotional disturbance and provide them with the services they need to get back on track.

The Rhode Island Department of Youth and Families last year initiated a statewide program called ''Project Hope'', for youth ages 12 to 18 with serious emotional disturbances who are in the process of transitioning from the Rhode Island Training School back into their communities. The goal of the partnership is to develop a single, community-based system of care for these children to reduce the likelihood that they will re-offend. The program brings a core set of services to these young people that includes health care, substance abuse treatment, educational/vocational services, domestic violence and abuse support groups, recreational programs, and day care services. A key component in the program's strategy is to engage young people and their families in the planning and implementation of these transition services.

A similar program that has been in operation in Milwaukee, Wisconsin since 1994 has reported a 40 percent decline in the number of felonies committed and a 30% decrease in misdemeanors after providing comprehensive services to children with serious emotional disorders for one year.

This legislation would provide states with the resources and flexibility to start filing a critical service gap for youngsters who are leaving the juvenile justice system and re-entering their communities. The provisions of adequate transitional and aftercare services to prevent recidivism is essential to reducing the societal costs associated with juvenile delinquency, promoting teen health, and fostering safe communities.

I am pleased to introduce this legislation today. The provisions outlined in this bill will help community agencies to coordinate services, which will prevent these troubled juveniles from committing additional crimes and falling into a life on the fringes of society. It is in our best interest to take responsibility for these teens instead of turning our backs on them at such a critical stage.

By Mr. MURKOWSKI (for himself and Mr. BINGAMAN) (by request):

S. 1047. A bill to provide for a more competitive electric power industry and for other purposes; to the Committee on Energy and Natural Resources.

S. 1048. A bill to provide for a more competitive electric power industry, and for other purposes, to the Committee on Finance.

COMPREHENSIVE ELECTRICITY COMPETITION AND TAX ACTS

Mr. MURKOWSKI. Mr. President, at the request of the Administration, Senator BINGAMAN and I are introducing the President's proposed electricity legislation. The Administration's legislation is being introduced as two separate bills because Title X of their proposed legislation amends the Internal Revenue Code. I will speak first with respect to the restructuring portion of the Administration's legislation, Titles I through IX.

Mr. President, I am not introducing the restructuring portion of the Administration's legislation because I support it—I do not. Some of its provisions I agree with, but many of its key provisions I am opposed to. Instead, I am introducing the Administration's legislation in order to initiate the debate in the hope that through the legislative process Congress can craft legislation that will enjoy bipartisan support and will benefit consumers.

At the outset, let me observe that our electric power industry isn't broken. We have the finest electric system in the world bar none. Our electric utilities have done an excellent job supplying electricity to the consumers of this Nation. As a result, today electricity is both reliable and reasonably-priced. But that isn't to say that improvements cannot, and should not, be made. I believe that consumers will benefit through enhanced competition. The key question we face is: Should we try to enhance competition through increased reliance on the free market, or through increased use of government regulation? I think the answer is self evident.

Although deregulation is our goal, some regulation will remain necessary to protect consumers. However, such regulation should not be made the exclusive jurisdiction of the Federal government, as some have suggested. The retail market has traditionally been the jurisdiction of the States, and it should remain that way. States are the closest to the people, and are best able to determine what is in their consumers' best interests. Let me speak now about some of the key provisions of the Administration's legislation.

There are several important components of the Administration's legislation that I strongly support. For example, it proposes to repeal the Public Utility Holding Company Act (PUHCA) and the Public Utility Regulatory Policies Act of 1978 (PURPA), two anti-competitive laws that cost consumers billions of dollars every year in above-market electric rates. If we do nothing else, repeal of PUHCA and PURPA would materially advance competition and reduce electric rates to consumers.

The Administration's legislation also shows a clear interest in addressing several contentious issues left out in their bill in the last Congress. For example, the Administration's legislation includes provisions that will begin the debate on what to do about the Federal utilities—the Federal power marketing administrations and the Tennessee Valley Authority. The Administration's legislation also takes a significant step forward by addressing the very difficult issue of creating a level playing field between municipal and private utilities—the tax-exempt municipal bond issue. This is an issue that must be dealt with. The Administration's bill also addresses reliability and it makes all wholesale transmission open access, two very important matters. Also of note is the Administration's recognition of the need to deal with the high cost of electricity in rural communities. Senator DASCHLE and I have introduced legislation to deal with this problem, and the Administration's legislation incorporates part of our bill.

There are, however, several provisions in the Administration's legislation that I am opposed to. First, I do not support its Federal retail competition mandate which overrides State law. I see no need for this. The States are moving aggressively to implement retail competition in a manner and a time frame that benefits consumers. According to the DOE's Energy Information Administration, twenty States have already enacted restructuring legislation or issued a comprehensive regulatory order. More than half the U.S. population live in these twenty States. Again according to DOE's Energy Information Administration, twenty-eight of the remaining thirty States are in the process of deciding what is in the best interests of its residents. Accordingly I ask: With States making such good progress on retail competition what need is there for a Federal mandate—assuming such a mandate is Constitutional? Moreover, because the Administration's proposed mandate would apply even to the twenty States that have already acted, I am concerned that such a Federal mandate would upset the progress these States have made. In this connection, I am not convinced that the Administration's ''opt-out'' provision will in fact protect consumers from the adverse consequences of Federally-mandated retail competition.

Second, the bill's so-called ''renewable portfolio mandate'' is also a significant problem. For reasons that I do not understand, the Administration has decided to exclude hydroelectric power from the definition of renewable energy, even though hydro is this Nation's most significant renewable energy source. Without hydroelectric power being counted, to meet this new Federal mandate ''renewable'' generation would have to increase to 7.5 percent by the year 2010. Clearly, an impossibility.

Third, I am also troubled with the Administration's so-called ''public benefits'' fund. It puts a Federal $3 billion per year tax on electric consumers, that a Federal board gets to spend for vaguely defined public purposes. It also appears to require a matching $3 billion per year State expenditure. At the very outset, this eats up a very large share of the claimed consumer savings resulting from enactment of the Administration's bill.

Finally, the Administration's bill also contains numerous new Federal oversight, regulatory and environmental programs, many of which give the Federal Energy Regulatory Commission major oversight—much of which comes at the expense of the States. There are far too many of these in the Administration's legislation to identify and discuss here. Some of these may be worthwhile, but clearly many are not. Each will have to be carefully scrutinized and will have to be justified on their own merits if it is to be included in a final bill. I will speak now about the tax provisions of the Administration's proposed legislation which I am introducing as a separate measure.

Mr. President, at the request of the Administration I am also introducing the portion of their electricity restructuring bill that deals with tax-exempt debt issued by municipal utilities. This is Title X of the Administration's proposed legislation. In addiition, the Administration's bill clarifies the tax rules regarding contributions to nuclear decommissioning costs.

Mr. President, if consumers and businesses are to maximize the full benefits of open competition in this industry it will be necessary for all electricity providers to interconnect their families into the entire electric grid. Unfortunately, this system efficiency is significantly impaired because of current tax law rules that effectively preclude public power entities—entities that financed their facilities with tax-exempt bonds—from participating in State open access restructuring plans, without jeopardizing the exempt status of their bonds.

No one wants to see bonds issued to finance public power become retroactively taxable because a municipality chooses to participate in a state open access plan. That would cause havoc in the financial markets and could undermine the financial stability of many municipalities. At the same time, public power should be obtain a competitive advantage in the open marketplace based on the federal subsidy that flows from the ability to issue tax-exempt debt.

The Administration's proposal attempts to resolve this issue by prohibiting public power facilities from issuing new tax-exempt bonds for generating facilities and transmission facilities. However, tax exempt debt could be issued for new distribution facilities. In addition, the Administration's proposal ensures that outstanding bonds would not lose their tax-exempt status if transmission facilities violate the private use rules because of a FERC order requiring nondiscriminatory open access to such facilities. Outstanding debt for generation would not lose it's tax-exempt status if the private use rules were triggered simply because the entity entered into a contract in response to a marketplace based on competition.

Mr. President, I am not endorsing every concept in the tax portion of the Administration's proposal. I believe it is a good starting point for discussion of how we transition from a regulated environment to a free market competitive landscape. It is my hope that the public power and the investor owned utilities will sit down and come to a reasonable compromise on how to resolve the tax issues affecting the industry. My door is always open to hear all sides on this issue and see whether we can fix the problems that exist in the tax code so that competition in the industry becomes a reality.

Mr. President, the introduction of the Administration's bill is just the beginning of a very long and arduous process. I hope to be able to work with the electric power industry, my Republican and Democratic colleagues to both the Finance Committee and the Energy and Natural Resources Committee, and DOE Secretary Richardson to craft legislation that will benefit consumers and our Nation.

Mr. President, I ask unanimous consent that the Administration's transmittal letter and section-by-section analysis be printed in the RECORD.

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

THE SECRETARY OF ENERGY,
Washington, DC, April 15, 1999.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is proposed legislation, the Comprehensive Electricity Competition Act (CECA), that will reduce electricity costs, benefit the economy, and improve the environment by promoting competition and consumer choice in the electricity industry.

The basic Federal regulatory framework for the electric power industry was established with the enactment in 1935 of the Public Utility Holding Company Act and Title II of the Federal Power Act. These statutes are premised upon State-regulated monopolies rather than competition. Now, however, economic forces are beginning to forge a new era in the electricity industry, one in which generation prices will be determined primarily by the market rather than by legislation and regulation. Consequently, Federal electricity laws need to be updated so that they stimulate, rather than stifle, competition.

In this new era of retail competition, consumers will choose their electricity supplier. The Administration estimates that consumers will save $20 billion a year. Competition will also spark innovation in the American economy and create new industries, jobs, products, and services, just as telecommunications reform spawned cellular phones and other new technologies.

Competition also will benefit the environment. The market will reward a generator that wrings as much energy as possible from every unit of fuel. More efficient fuel use means lower emissions. In addition, competition provides increased opportunities to sell energy efficiency services and green power. Moreover, CECA's renewable portfolio standard and enhanced public benefit funding will lead to substantial environmental benefits.

The following are key provisions of CECA:

All electric consumers would be able to choose their electricity supplier by January 1, 2003, but a State or unregulated cooperative or municipal utility may opt out of retail competition if it believes its consumers would be better off under the status quo or an alternative retail competition plan.

States would be encouraged to allow the recovery of prudently incurred, legitimate, and verifiable retail stranded costs that cannot be reasonably mitigated.

The regions served by the Tennessee Valley Authority and the Federal Power Marketing Administrations would have greater access to alternative sources of power.

All consumers would have the opportunity to reap the full benefits of competition, because CECA would require retail suppliers to provide information regarding the service being offered; provide the Federal Trade Commission with the authority to prevent ''slamming'' and ''cramming;'' require States to consider implementing anti-redlining requirements; allow for aggregation; authorize the establishment of an electricity consumer database to help consumers compare various offers, and establish a Model Retail Supplier Code for States.

All users of the interstate transmission grid would be subject to mandatory reliability standards. The Federal Energy Regulatory Commission (FERC) would approve and oversee an organization that would develop and enforce these standards.

FERC would have the authority to require utilities to turn over operational control of transmission facilities to an independent regional system operator.

A Renewable Portfolio Standard would be established to ensure that by 2010 at least 7.5 percent of all electricity sales consist of generation from non-hydroelectric renewable energy sources.

A Public Benefits Fund would be established to provide matching funds of up to $3 billion per year to States and Indian tribes for low-income energy assistance, energy-efficiency programs, consumer information, and the development and demonstration of emerging technologies, particularly renewable energy technologies. A rural safety net would be created if significant adverse economic effects on rural areas have occurred or will occur as a result of electric industry restructuring.

Indian tribes would receive additional support through the creation of a grant's program, the establishment of an Energy Policy and Programs Office of the Department of

Energy, and special incentives for renewable energy production on Indian lands.

Barriers would be removed in order to encourage combined heat and power and distributed power technologies.

The Environmental Protection Agency would be given authority for interstate nitrogen oxides trading to facilitate attainment of the ambient air quality standard for ozone in the eastern United States.

Federal electricity laws would be modernized to achieve the right balance of competition without market abuse by repealing outdated laws including the Public Utility Holding Company Act of 1935 and the ''must buy'' provision of the Public Utility Regulatory Policies Act of 1978 and by giving FERC enhanced authority to address market power.

A separate bill being transmitted today would change Federal tax law to address certain tax-exempt bonds, nuclear decommissioning costs, class life for distributed power facilities, and to provide a temporary tax credit for combined heat and power facilities.

We urge the prompt enactment of CECA to provide lower prices, a cleaner environment, and increased technical innovation and efficiency.

The Omnibus Budget Reconciliation Act requires that all revenue and direct spending legislation meet a pay-as-you-go (PAYGO) requirement. That is, no such bill should result in net budget costs: and if it does, it could contribute to a sequester if it is not fully offset. This proposal affects direct spending and receipts; therefore, it is subject to the PAYGO requirement. The net PAYGO effect of this bill is currently estimated to be a net cost of $60 million in FY 2000 and a net savings of $274 million from FY 2000 to FY 2004.

The proposals to provide an investment tax credit for combined heat and power and to deny tax-exempt status for new electric utility bonds except for distribution related expenses, are included in the President's FY 2000 Budget. The Budget contains proposals for mandatory spending reductions and increases in receipts that are sufficient to finance these proposals.

This estimate is preliminary and subject to change.

The pay-as-you-go effect of this draft bill is:

FISCAL YEAR

[In millions of dollars]

	1999	2000	2001	2002	2003	2004
Tax Provisions:						
Revenue Effect [1]	−1	−60	−88	−90	−22	34
Renewable Portfolio Standards:						
Offsetting receipts	....	−5	−9	−9	−9	−9
Outlays	....	5	9	9	9	9
Net Cost	....	....	....	....	....	....
Public Benefits Fund and Electricity Reliability Organization:						
Offsetting receipts	....	....	−3,005	−3,005	−3,005	−3,005
Outlays	....	....	2,505	3,005	3,005	3,005
Net Cost	....	....	−500	....	....	....
Total Net Cost	1	60	−412	90	22	−34

[1] For tax provisions, a "+" is a revenue gain; a "−" is a revenue loss. These proposals have been fully offset in the President's budget.

The Office of Management and Budget advises that there is no objection to the presentation of this legislation to the Congress and that its enactment would be in accord with the program of the President.

If you require any additional information, please call me or have a member of your staff contact Mr. John C. Angell, Assistant Secretary for Congressional and Intergovernmental Affairs, at (202) 586–5450.

Yours sincerely,

BILL RICHARDSON.

SECTION-BY-SECTION ANALYSIS OF THE COMPREHENSIVE ELECTRICITY COMPETITION ACT

TITLE I. RETAIL ELECTRIC SERVICE

Section 101. Retail competition

This provision would amend the Public Utility Regulatory Policies Act of 1978 (PURPA) to require each distribution utility to permit all of its retail customers to purchase power from the supplier of their choice by January 1, 2003, but would permit a State regulatory authority (with respect to a distribution utility for which it has ratemaking authority) or a non-regulated utility to opt out if it finds, on the basis of a public proceeding, that consumers of the utility would be served better by the current monopoly system or an alternative retail competition plan.

The section also would enunciate a Federal policy that utilities should be able to recover prudently incurred, legitimate, and verifiable retail stranded costs that cannot be mitigated reasonably, but States and non-regulated utilities would continue to determine whether to provide for retail stranded costs recovery. If States and non-regulated utilities are considering implementation of retail competition, they would also be required to consider providing assistance for electric utility workers who may become or have become unemployed as a result of the implementation of retail competition. If a State or non-regulated utility decides to impose a stranded cost charge, it would be required to consider reducing that charge if the charge results from the use of on-site efficient or renewable generation. This section does not retrocede to States authority over Federal enclaves.

Section 102. Authority to impose reciprocity requirements

This section would amend PURPA to permit a State that has filed a notice indicating it is implementing retail competition to prohibit a distribution utility that is not under the ratemaking authority of the State and that has not implemented retail competition from directly or indirectly selling electricity to the consumers covered by the State's notice. This section also would permit a non-regulated utility that has filed a notice of retail competition to prohibit any other utility that has not implemented retail competition from directly or indirectly selling electricity to the consumers covered by the non-regulated utility's notice.

Section 103. Aggregation for purchase of retail electric energy

This section would amend PURPA to ensure that electricity customers and entities acting on their behalf, subject to legitimate and non-discriminatory State requirements, would be allowed to acquire retail electric energy on an aggregate basis if they are served by one or more distribution utilities for which a notice of retail competition has been filed.

TITLE II. CONSUMER PROTECTION

Section 201. Consumer information

This section would amend PURPA to permit the Secretary of Energy to require all suppliers of electricity to disclose information on price, terms, and conditions; the type of energy resource used to generate the electric energy; and the environmental attributes of the generation, including air emissions characteristics. This requirement would be enforceable by the Federal Trade Commission and by individual States.

Section 202. Access to electric service for low-income consumers

This section would amend PURPA to require a State regulatory authority or non-regulated distribution utility that files a notice of retail competition to consider assuring that its low-income residential consumers have service comparable to its other residential consumers and that all retail electric suppliers in the State share equitably any costs necessary to provide such service.

Section 203. Unfair trade practices

This section would amend the Federal Trade Commission Act to establish slamming and cramming in supplying electricity as unfair trade practices punishable by the Federal Trade Commission (FTC). Under this section, a person may not submit or change, in violation of procedures established by the FTC, a retail electric customer's selection of a retail electric supplier. Also, a person may not charge a retail electric customer for a particular service, except in accordance with procedures established by the FTC.

Section 204. Residential electricity consumer database

This section would amend PURPA to authorize the Secretary of Energy to establish a database containing information to help residential electric consumers compare the offers of various retail electric suppliers.

Section 205. Model retail supplier code

This section would amend PURPA to authorize the Secretary of Energy to develop for State use a model code for the regulation of retail electricity suppliers for the protection of electric consumers.

Section 206. Model electric utility worker code

This section would amend PURPA to authorize the Secretary of Energy to develop for State use a model code setting standards for electric utility workers to ensure that electric utilities are operated safely and reliably.

TITLE III—FACILITATING STATE AND REGIONAL REGULATION

Section 301. Clarification of State and Federal authority over retail transmission services

Subsection (a) would clarify that the Federal Power Act (FPA) does not prevent States and nonregulated distribution utilities from ordering retail competition or imposing conditions, such as a fee, on the receipt of electric energy by an ultimate customer within the State. This section also would clarify the Federal Energy Regulatory Commission's (FERC) authority over unbundled retail transmission.

Subsection (b) would reinforce FERC's authority to require public utilities to provide open access transmission services and permit recovery of stranded costs. This section also would provide retroactive effect to Commission Order No. 888 and clarify FERC's authority to order retail transmission service to complete an authorized retail sale.

Subsection (c) would extend FERC's jurisdiction over transmission services to municipal and other publicly-owned utilities and cooperatives.

Subsection (d) would give the Secretary of Agriculture intervention rights in FERC rulemakings that directly affect a cooperative with loans made or guaranteed under the Rural Electrification Act of 1936.

Section 302. Interstate compacts on regional transmission planning

This section would amend the FPA to permit FERC to approve interstate compacts that establish regional transmission planning agencies if the agencies meet certain criteria relating to their governance.

Section 303. Backup authority to impose a charge on an ultimate consumer's receipt of electric energy

This section would amend the FPA to reinforce FERC's authority to provide a back-up for the recovery of retail stranded costs if a State or a non-regulated utility has filed a retail competition notice and concludes that such charges are appropriate but lacks authority to impose a charge on the consumer's receipt of electric energy.

Section 304. Authority to establish and require independent regional system operation

This section would amend section 202 of the FPA by permitting FERC to establish an entity for independent operation, planning, and control of interconnected transmission facilities and to require a utility to relinquish control over operation of its transmission facilities to an independent regional system operator.

TITLE IV—PUBLIC BENEFITS

Section 401. Public benefits fund

This section would amend PURPA by establishing a Public Benefits Fund administered by a Joint Board that would disburse matching funds to participating States and tribal governments to carry out programs that support affordable electricity service to low-income customers; implement energy conservation and energy efficiency measures and energy management practices; provide consumer education; and develop emerging electricity generation technologies. Funds for the Federal share would be collected from generators, which, as a condition of interconnection with facilities of any transmitting utility, would pay to the transmitting utility a charge, not to exceed one mill per kilowatt-hour. The transmitting utility then would pay the collected amounts to a fiscal agent for the Fund. States and tribal governments would have the flexibility to decide whether to seek funds and how to allocate funds among public purposes. In addition, a rural safety net would be created if the Secretary of Energy determines, in consultation with the Secretary of Agriculture, that significant adverse economic effects on rural areas have occurred or will occur as a result of electric restructuring.

Section 402. Federal renewable portfolio standard

This section would amend PURPA to establish a Federal Renewable Portfolio Standard (RPS) to guarantee that a minimum level of renewable generation is developed in the United States. The RPS would require electricity sellers to have renewable credits based on a percentage of their electricity sales. The seller would receive credits by generating power from non-hydroelectric renewable technologies, such as wind, solar, biomass, or geothermal generation; purchasing credits from renewable generators; or a combination of these, but would receive twice the number of credits if the power was generated on Indian lands. The RPS requirement for 2000–2004 would be set at the current ratio of RPS-eligible generation to retail electricity sales. Between 2005–2009, the Secretary of Energy would determine the required annual percentage, which would be greater than the baseline percentage but less than 7.5%. In 2010–2015, the percentage would be 7.5%. The RPS credits would be subject to a cost cap of 1.5 cents per kilowatt hour, adjusted for inflation.

Section 403. Net metering

This section would amend PURPA by requiring all retail electric suppliers to make available to consumers ''net metering service,'' through which a consumer would offset purchases of electric energy from the supplier with electric energy generated by the consumer at a small on-site renewable generating facility and delivered to the distribution system. This section also would clarify that States are not preempted under Federal law from requiring a retail electric supplier to make available net metering service.

Section 404. Reform of section 210 of PURPA

This section would repeal prospectively the ''must buy'' provision of section 210 of PURPA. Existing contracts would be preserved, and the other provisions of section 210 would continue to apply.

Section 405. Interconnections for certain facilities

This section would amend PURPA to require a distribution utility to allow a combined heat and power or a distributed power facility to interconnect with it if the facility is located in the distribution utility's service territory and complies with rules issued by the Secretary of Energy and related safety and power quality standards.

Section 406. Rural and remote communities electrification grants

This section would amend the Rural Electrification Act of 1936 to authorize the Secretary of Agriculture, in consultation with the Secretary of Energy, to provide grants for the purpose of increasing energy efficiency, lowering or stabilizing electric rates to end users, or providing or modernizing electric facilities for rural and remote communities and Indian tribes.

Section 407. Indian tribe assistance

This section would amend the Energy Policy Act of 1992 to require the Secretary of Energy to establish a grant and technical assistance program to assist Indian tribes to meet their electricity needs. Among other things, the program could provide assistance in planning and constructing electricity generation, transmission, and distribution facilities.

Section 408. Office of Indian Energy Policy and Programs

This section would authorize the Secretary of Energy to establish an office within the Department of Energy to coordinate and implement energy, energy management, and energy conservation programs for Indian tribes.

Section 409. Southeast Alaska electrical power

This section would authorize appropriations as necessary to ensure the availability of adequate electric power to the greater Ketchikan area in southeast Alaska, including an intertie.

TITLE V—REGULATION OF MERGERS AND CORPORATE STRUCTURE

Section 501. Reform of holding company regulation under PUHCA

This section would repeal the Public Utility Holding Company Act of 1935 (PUHCA). In addition, FERC and State regulatory commissions would be given greater access to the books and records of holding companies and affiliates.

Section 502. Electric company mergers

This section would amend the FPA by conferring on FERC jurisdiction over the merger or consolidation of electric utility holding companies and generation-only companies. This section also would streamline FERC's review of mergers. In addition, this section would require that FERC consider the effect a merger could have on wholesale and retail electric generation markets.

Section 503. Remedial measures for market power

This section would amend the FPA to authorize FERC to remedy market power in wholesale markets. This section also would authorize FERC, upon petition from a State, to remedy market power in retail markets.

TITLE VI—ELECTRICITY RELIABILITY

Section 601. Electric reliability organization and oversight

This section would amend the FPA to give FERC authority to approve and oversee an Electric Reliability Organization to prescribe and enforce mandatory reliability standards. Membership in the organization would be open to all entities that use the bulk-power system and would be required for all entities critical to system reliability. The Electric Reliability Organization would be authorized to delegate authority to one or more Affiliated Regional Reliability Entities, which could implement and enforce the standards within a region.

Section 602. Electricity outage investigation

This section would amend the Department of Energy Organization Act to establish in the Department of Energy a board to investigate and determine the causes of a major bulk-power system failure in the United States.

Section 603. Additional transmission capacity

This section would amend PURPA to give the Secretary of Energy authority to call and chair a meeting of representatives of States in a region in order to discuss provision of additional transmission capacity and related concerns.

TITLE VII—ENVIRONMENTAL PROTECTION

Section 701. Nitrogen oxides cap and trade program

This section would clarify Environmental Protection Agency authority to require a cost-effective interstate trading system for nitrogen oxide pollutant reductions addressing the regional transport contributions needed to attain and maintain the National Ambient Air Quality Standards for ozone.

TITLE VIII—FEDERAL POWER SYSTEMS

Subtitle A—Tennessee Valley Authority (TVA)

Section 801. Definition

Section 802. Application of Federal Power Act

This section would subject TVA to relevant provisions of the FPA for purposes of TVA's transmission system, but would provide that any determination of the Commission would be subject to any other laws applicable to TVA, including the requirement that TVA recover its costs.

Section 803. Antitrust coverage

This section would subject TVA to the antitrust laws effective January 1, 2003, except that TVA would not be liable for civil damages or attorney's fees.

Section 804. TVA power sales

This section would permit TVA, effective January 1, 2003, to sell electric power at wholesale to any person. With regard to sales at retail, this section would permit TVA to sell (1) to existing customers or (2) to customers of an existing wholesale customer of TVA, if the distributor has firm power purchases from TVA of 50 percent or less of its total retail sales, or if the distributor agrees that TVA can sell power to the customer.

Section 805. Renegotiation of long-term power contracts

This section would require TVA to renegotiate its long-term power contracts with respect to the remaining term; the length of the termination notice; the amount of power a distributor may purchase from a supplier other than TVA beginning January 1, 2003, and access to the TVA transmission system for that power; and stranded cost recovery. This section would require that, if the parties are unable to reach agreement within the one year, they would submit the issues in dispute to the Federal Regulatory Commission for final resolution.

Section 806. Stranded cost recovery

This section would provide the Commission with the authority to provide TVA with stranded cost recovery

Section 807. Conforming amendments

This section would make conforming amendments to the Tennessee Valley Authority Act.

Subtitle B—Bonneville Power Administration

Section 811. Definitions

Section 812. Application of Federal Power Act

This section would subject Bonneville to relevant provisions of the FPA for purposes of Bonneville's transmission system, but would provide that any determination of the Commission would be subject to a list of conditions, including a requirement that the rates and charges are sufficient to recover existing and future Federal investment in the Bonneville Transmission System.

Section 813. Surcharge on transmission rates to recover otherwise nonrecoverable costs

This section would require the Commission to establish a mechanism that would enable the Administrator to place a surcharge on rates or charges for transmission services over the Bonneville Transmission System under limited circumstances in order to recover power costs unable to be recovered through power revenues in time to meet Bonneville's cost recovery requirements.

Section 814. Complaints

This section would clarify that the PMAs may file complaints with the Commission.

Section 815. Review of Commission orders

This section would clarify that the PMAs may file a rehearing request or may appeal a Commission order.

Section 816. Conforming amendments

This section would make conforming amendments to the FPA, the Federal Columbia River Transmission System Act, the Pacific Northwest Regional Preference Act, the Pacific Northwest Electric Power Planning and Conservation Act, and the Bonneville Project Act.

Subtitle C—Western Area Power Administration (WAPA) and Southwestern Power Administration (SWPA)

Section 821. Definitions

Section 822. Application of Federal Power Act

This section would subject SWPA and WAPA to relevant provisions of the FPA for purposes of the transmission systems of SWPA and WAPA, but would provide that any determination of the Commission would be subject to a list of conditions, including a requirement that the rates and charges are sufficient to recover existing and future Federal investment in the transmission systems.

Section 823. Surcharge on transmission rates to recover otherwise nonrecoverable costs

This section would require the Commission to establish a mechanism that would enable the Administrator to place a surcharge on rates or charges for transmission services over the SWPA or WAPA Transmission System when necessary in order to recover power costs unable to be recovered through power revenues in time to meet SWPA's or WAPA's cost recovery requirements.

Section 824. Conforming amendments

This section would make conforming amendments to the Department of Energy Organization Act and the Reclamation Reform Act of 1982.

TITLE IX—OTHER PROVISIONS

Section 901. Treatment of nuclear decommissioning costs in bankruptcy

This section would amend the Bankruptcy Act to provide that decommissioning costs be a nondischargeable priority claim.

Section 902. Energy Information Administration study of impacts of competition in electricity markets

This section would amend the Department of Energy Organization Act to direct the Energy Information Administration to collect and publish information on the impacts of wholesale and retail competition.

Section 903. Antitrust savings clause

This section would provide that nothing in this Act would supersede the operation of the antitrust laws.

Section 904. Elimination of antitrust review by the Nuclear Regulatory Commission

This section would eliminate Nuclear Regulatory Commission antitrust review of an application for a license to construct or operate a commercial utilization or production facility.

Section 905. Environmental law savings clause

This section would provide that nothing in this Act would alter environmental requirements of Federal or State law.

Section 906. Generating plant efficiency study

This section would amend the Department of Energy Organization Act to require the Secretary of Energy to issue a report on the efficiency of new and existing electric generating facilities before and after electric competition is in effect.

Section 907. Conforming amendments

TITLE X—AMENDMENTS TO INTERNAL REVENUE CODE

Section 1001. Treatment of bonds issued to finance output facilities

This section would amend the Internal Revenue Code to clarify the status of tax-exempt bonds used to finance utility facilities owned by municipalities. The section would grandfather current tax treatment for bonds that exist already, continue to permit public utilities to issue tax-exempt bonds in the future for new electricity distribution facilities, and eliminate their ability in the future to issue tax-exempt bonds for new transmission and generation facilities.

Section 1002. Nuclear decommissioning costs

This section would amend the Internal Revenue Code to clarify that an investor-owned utility could take a tax deduction for the amount paid into a qualified nuclear decommissioning fund for any taxable year, notwithstanding the elimination of ''cost of service'' ratemaking.

Section 1003. Depreciation treatment of distributed power property

This section would amend the Internal Revenue Code of 1986 to clarify that distributed power facilities have a tax life of 15 years.

Section 1004. Tax credit for combined heat and power system property

This section would amend the Internal Revenue Code to provide an 8 percent investment credit for qualified combined heat and power (CHP) systems placed in service in calendar years 2000 through 2002. The measure would apply to large CHP systems that have a total energy efficiency exceeding 70 percent and to smaller systems that have a total energy efficiency exceeding 60 percent.

● Mr. BINGAMAN. Mr. President, at the request of the administration, I am today joining with my good friend Senator MURKOWSKI, the Chairman of the Energy and Natural Resources Committee, to introduce the president's electricity restructuring legislation.

The administration has presented Congress a fully comprehensive set of legislative proposals. For the first time we have detailed provisions on every major issue affecting the electricity industry as it moves into the new world of competition. Significantly, the president's comprehensive proposals include a framework for the transition of the Bonneville Power Administration and the Tennessee Valley Authority into the new competitive arena.

In considering the administration's proposals, Congress should look to areas that complement the states' ongoing restructuring activities, while leaving the key decisions on retail competition to state and local authorities. Let me mention three areas for federal concern. First, I believe Congress should remove federal impediments to states that chose to implement retail competition. Second, we should take steps to improve the regulation of interstate transmission and assure the continued security and reliability of the nation's grid. And third, Congress should ensure that fair competition can operate at both the wholesale and retail levels. These are the issues that only Congress can address.

Mr. President, Congress should not dwell any longer on whether retail competition is good or bad, or whether or not it will benefit all consumers—the states are already making these decisions. It should be clear to all senators that retail competition for electric power generation is quickly becoming a reality. Nearly half of the states have now enacted restructuring legislation. Last month, New Mexico enacted restructuring legislation that will soon bring retail competition in electricity to my state.

The consensus is growing on the need for federal legislation focused narrowly on wholesale transactions, interstate transmission, and reliability. Mr. President, this is not a simple question of ''de-regulation'' versus ''re-regulation;'' this is about keeping America's high-tension grid system secure, reliable, and economical. The federal role in regulating interstate commerce in electric power is clear. I hope we will move forward soon to resolve, at a minimum, the critical federal issues.

Rather than commenting here on the pros and cons of any particular provision in the president's bill, I will wait until the administration has a fair opportunity to explain the bill to the Energy Committee in a legislative hearing. I know the committee already has a very full plate, but I hope the Chairman will find time to hold a hearing soon on this important topic.

Mr. President, Congress still has time to pass vital federal electricity legislation, but we've got to get the process underway promptly. I hope the administration's proposals will help fuel interest in the Senate. Today America has the world's best electric power system. Let's not wait until serious problems develop to begin making the needed changes in federal regulation. Electricity is too important to the nation to leave critical federal issues unresolved.●

By Mr. MURKOWSKI:

S. 1049. A bill to improve the administration of oil and gas leases on Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

FEDERAL OIL AND GAS LEASE MANAGEMENT IMPROVEMENT ACT OF 1999

By Mr. MURKOWSKI:

S. 1050. A bill to amend the Internal Revenue Code of 1986 to provide incentives for gas and oil producers, and for other purposes; to the Committee on Finance.

ENERGY SECURITY TAX POLICY ACT OF 1999

Mr. MURKOWSKI. Mr. President, the production of oil and gas in the United States is fast becoming a thing of the past. I am introducing two bills today to halt, and if possible, reverse that trend.

The economic consequences of the 1973 oil embargo were severe and long lasting. Whole sectors of our economy underwent significant changes and dislocations. Parts of the United States were plunged into recession which remained for a decade as they adjusted to the fluctuations and insecurity of energy supplies in the 1970's. At the time of the embargo, imports made up 36% of our oil consumption.

Our foreign policy was modified to reflect our growing dependence and protecting oil-producing regions of the world took on a new importance. By the time of the Gulf War of 1990–91, oil imports were roughly 50%.

Today, the United States depends upon foreign sources for some 56% of our supply. This is despite Corporate Average Fuel Efficiency (CAFE) standards for cars which have almost doubled gas mileage. This is despite the creation of the Department of Energy. This is despite the untold billions of dollars which have been invested by U.S. industry in energy-saving equipment and processes in order to remain competitive in a world economy.

If no changes are made in federal policy to protect our domestic oil and gas industry—the ''pilot light'' of our nation's economy and security upon which all productive enterprise depends—our future indeed may be bleak. The Department of Energy predicts 68% dependency on foreign oil by the year 2010. This is just shy of a doubling of our oil imports since the embargo of 1973.

In two recent hearings the Senate Energy & Natural Resources Committee examined the state of the domestic oil and gas industries and their future. What we learned has been the impetus for my introduction of these bills today.

During the past 18 months, 136,000 U.S. oil wells and 57,000 gas wells have been shut in. 50,000 men and women throughout the United States have lost their jobs in these industries—15% of all employees. With operating oil rigs at an all-time low and new investment in the U.S. drying up, the future for domestic production of oil and gas is grim.

While the consumption of natural gas is favored by the Administration as a means to reduce emissions, unless changes are made now in federal policy to make production and delivery of natural gas easier, the projected 50% increase in the need for natural gas by the year 2010 will not be met without severe price shocks for American citizens.

The price of oil today is high enough for investment in the U.S. by those who will or can still invest in our domestic oil and gas economy. However, the fact is that the fundamentals for investment in America are not good. Access to prospective areas is severely restricted, environmental costs are extremely high and production rates from U.S. wells are liable to be quite low, in comparison to other areas in the world.

The U.S. is a mature and high cost oil producing region of the world. In response to a changing world oil market, other producing countries are undertaking changes in their government policies to attract and retain economic investment in what they properly consider to be an important national industry.

For example, the United Kingdom has undertaken a significant regulatory reform effort to speed, simplify and provide certainty to investments in their energy industry. They are actively reviewing their tax and royalty systems to adjust them to the new realities of the world energy markets. Colombia, likewise, is undertaking major reductions in royalties to attract and retain investment. These nations and others have determined that they must compete with the rest of the world for investment capital, and are thus moving to make their nations more attractive to such investment. The U.S. lags far behind.

The first of the bills I am introducing is identical to a measure being introduced in the U.S. House of Representatives by Congresswoman BARBARA CUBIN, Chairman of the Subcommittee on Energy and Mineral Resources. It makes significant changes in the oil and gas leasing policies of the United States, by simplifying procedures and granting more certainty for those who choose to invest in our domestic energy business.

This legislation grants States the option of assuming federal regulation of oil and gas leases within their borders, after a federal decision to lease is made. States already perform identical functions on their lands, and this would standardize regulatory functions within a State's borders. The States are closer than the federal government to oil and gas leasing activities within their borders, and are best positioned to make timely and responsible regulatory decisions. In return for opting to assume the specified federal responsibilities for these activities, the States would receive payment of up to 50% of the costs currently assessed them by the federal government for these functions. Federal ownership of the lands would continue.

An important part of this legislation clarifies that the federal government can no longer charge States via the existing ''net receipts sharing'' program for the costs of programmatic planning activities on federal lands unrelated to mineral leasing activities. This would stop creative legal interpretations by the Department of Interior like that which charged Utah for the government's secret planning which resulted in the creation of an enormous National Monument in that State. This type of creative accounting undermines the respect of the citizenry in their governmental institutions, and with this bill, we will plug this leak in the public trust.

The legislation also assists States by dropping the requirement that their share of mineral leasing on federal lands within their borders be reduced by the government's costs of administering mineral leasing if a State opts to assume the federal government's responsibility for regulation of oil and gas activities.

In order to speed development of secure sources of domestic oil and gas by making federal practices more competitive with the rest of the world, I have included in the bill certain provisions which are intended to correct federal practices which are hastening the flight of oil and gas development capital to foreign shores.

One recurring criticism from those who would like to invest in America's domestic energy development is the uncertainty they encounter when they do business with their own federal government. In order to make investment decisions, they must have some certainty about when they might reasonably be expected to be able to actually take possession of, and invest capital in, a federal lease. Moreover, the government is increasingly charging potential lessees for governmental activities before they have any reasonable expectation of being granted a lease. This is akin to charging customers just to stand in line to buy a lottery ticket for a drawing which may never be held. This is absurd, and is a clear signal to potential investors that the U.S. cares little about whether the investment is made here or abroad. This legislation will reverse that signal and provide the certainty that investors need.

Additionally, my legislation would establish reasonable and responsible time frames for the government to respond to requests for permits. If legally-required analyses could not be undertaken by the government within a reasonable time, the applicant could be offered the opportunity to contract for such analyses by an independent party for the government's use. My bill would allow the applicant to receive a credit against royalties due from eventual production in the area for such costs, in recognition of the fact that the more rapidly lands are leased and put into oil or gas production, the more revenues the government will receive and the quicker it will receive it.

My legislation also sets fair but rigid performance deadlines for the completion of federal lease decision-making.

One of the most frequent concerns I hear from small companies throughout the country in the oil and gas producing business is the snail-like pace of federal decision-making. Customers of government services deserve a ''yes'' or ''no'', instead of the endless series of ''maybes'' to which they have become accustomed. They deserve no less, and I seek to correct that deficiency before *all* oil and gas investment flees our shores.

Coordination among federal land management agencies over leasing policies is also long overdue. The bill requires the Secretaries of the Interior and Agriculture to report to Congress with recommendations explaining the most efficient means of eliminating duplication of effort and inconsistent policy between the Bureau of Land Management and the Forest Service with respect to the treatment of oil and gas leases.

The U.S. government and the public deserve to have the best knowledge possible about our domestic supplies of energy. The legislation I am introducing today initiates a modern, science-based energy inventory process to be undertaken by the Secretary of Interior and the Director of the U.S. Geological Survey. Technology for determining oil and gas availability has revolutionized the private sector; it is time for this quantum leap information to be used by the government.

I am particularly happy to include as Title 4 of the bill a provision that Senator DON NICKLES recently introduced as S. 924, concerning federal royalty certainty. This would put an end to the seemingly intractable problem that has sprung up between lessees and the Department of Interior over the issue of where oil is to be valued for royalty purposes. While other nations around the world are taking steps to become more competitive for energy investments by changing laws to encourage investment and provide certainty to possible investors, this recent backdoor royalty increase by the Administration has sent a strong signal to domestic producers that they are no longer welcome here. Title 4 merely clarifies what congress has been saying all along—that oil should be valued for royalty purposes at or near the lease. This clarification is absolutely essential if consumers are to receive the 30 trillion cubic feet of gas the Administration says they will demand in a decade at a cost they can afford.

The final title of the legislation will serve as a strong signal to our domestic industry that we value the jobs they provide for our neighbors and the investment they make right here at home. It recognizes that when world oil prices make investments in American energy production uncompetitive with foreign investments, the U.S. will adjust our take from the current direct royalty to a system which promotes jobs and investment in down times and increases royalty and U.S. production later. Specifically, it calls for a 20% credit against royalties due the federal government against capital expenditures during times of lowered oil and gas prices. If a landlord discovered that his rental units were vacant because they were overpriced compared to the competition, he would drop the price to attract renters. The federal government should do the same.

The legislation would also adjust the definition of what constitutes a ''marginal'' oil well, and allow for suspensions of leases at the lessee's option when oil prices dip precipitously.

This bill is a comprehensive attempt to bring some of our mineral leasing laws and regulations up-to-date with the realities of today's world energy markets. Our domestic industry is dying on the vine because of a combination of governmental actions and inactions, complex regulation and outdated governmental approaches to this important part of our national economy. We need to take steps to make sure that the ''pilot light'' of our economy does not go out, and it is my belief that this legislation will go a long way to ensuring its continuing contributions to our nation's strength.

Mr. President, the second measure that I am introducing today will redress some of the unfair tax penalties that hinder the continued development and modernization of a domestic oil and gas industry. In particular the legislation focuses on aspects of the alternative minimum tax (AMT) that have a perverse effect on the industry, especially when energy prices are low.

Mr. President, in adopting the AMT in 1986, Congress stated that its purpose was to ''serve one overriding objective: to ensure that no taxpayer with substantial economic income can avoid significant tax liability by using exclusions, deductions and credits.'' Yet the unintended consequence of the AMT is that companies with high fixed costs, such as the oil and gas industry, can face higher effective AMT tax rates when the price of oil is low than when the price is high. In other words, when oil and gas companies are struggling to cope with low world prices, the AMT serves to impose a tax penalty simply because prices are low.

Let me give you an example of the perverse effect of the AMT. If the price of oil is $10 a barrel and an oil and gas company sells 100,000 barrels of oil, the company's revenues would be $1 million. If its production costs were $500,000, its gross profits would be $500,000. If the company took advantage of percentage depletion and other oil and gas incentives, it could reduce it's taxable income to $100,000 and owe $35,000 in taxes. However, because the AMT takes back many of these oil and gas incentives, the same company would be subject to a $90,000 AMT. That is a 90 percent tax rate.

By contrast, assuming the same fixed costs and incentives, if the price of oil was $20 a barrel and the company had $1.1 million in taxable income, its regular tax rate would only be 35 percent and it's AMT liability would be only 26.4 percent. Mr. President, that is not the way the AMT was designed to work.

My bill tackles this problem head-on. It eliminates the AMT preferences for intangible drilling costs, percentage depletion, and the depreciation adjustment for oil and gas assets. In addition, it eliminates the impact of intangible drilling costs, depletion and depreciation on oil and gas assets from the adjusted current earnings adjustment. Finally, the proposal allows the enhanced oil recovery credit and the Section 29 credit to be used to offset the AMT.

In addition to trying to resolve the AMT problems that face the industry, I have adopted a portion of a bill introduced by Senator Kay Bailey Hutchison that attempts to maintain viable independent producers and ensure that marginal wells stay in operation. Marginal wells are those that produce less than 15 barrels a day. In reality they produce on average about 2.2 barrels of oil a day. While individually these wells may not seem like important components of our domestic energy supply, together they produce as much oil as the United States imports from Saudia Arabia. To maintain these marginal wells, the legislation includes a marginal well tax credit of $3.00 per barrel in order to prolong marginal domestic oil and gas well production.

Mr. President, in an effort to stimulate enhanced recovery of oil and thereby increase U.S. production, my legislation enlarges the definition of enhanced oil recovery by including horizontal drilling in areas of Alaska where the only feasible method of recovering some oil is to use such methods. In Alaska, it is just not economically feasible to search for oil by moving drilling platforms from area to area. Instead, the oil companies attempt to locate oil by using a single drilling platform and employing horizontal drilling techniques to search for oil. My legislation recognizes these economic realities and encourages further development of horizontal drilling techniques so that we can recover oil more feasibly.

Finally, Mr. President, this second measure addresses a problem that has recently arisen with natural gas gathering lines. These lines are used to transport natural gas from the wellhead to a central processing facility for processing before it can be transported via trunk lines to an end user such as a distribution facility. The Federal Energy Regulatory Commission (FERC) exempts gas processor gather lines from FERC jurisdiction because they are classified as gas gathering equipment that is part of the production facility, not pipeline transportation under FERC rules.

IRS has taken the position that these lines should be depreciated over a 15 year period if they are owned and operated by an entity that does not produce oil or gas transported in the line. However, if gas transported in the line is owned by the producer, the line can be depreciated over 7 years.

Mr. President, this rule does not make sense. The depreciable life of an asset should depend on the use of the asset and not who owns the asset. For that reason, my legislation clarifies that these gathering lines are depreciable over 7 years no matter who the owner of the pipeline is.

Mr. President, there are many other tax changes that have been proposed to assist the oil and gas industry. It is my view that the proposals I have offered will, over the long term, improve the health of the industry in the most cost-effective manner.

I ask unanimous consent that the text of the two bills be printed in the RECORD.

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

S. 1049

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Oil and Gas Lease Management Improvement Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) State governments have a long and successful history of regulation of operations to explore for and produce oil and gas; the special role of the States was recognized by Congress in 1935 through its ratification under the Constitution of the Interstate Compact to Conserve Oil and Gas;

(2) under the guidance of the Interstate Oil and Gas Compact Commission, States have established effective regulation of the oil and natural gas industry and subject their programs to periodic peer review through the Commission;

(3) it is significantly less expensive for State governments than for the Federal Government to regulate oil and gas lease operations on Federal land;

(4) significant cost savings could be achieved, with no reduction in environmental protection or in the conservation of oil and gas resources, by having the Federal Government defer to State regulation of oil and gas lease operations on Federal land;

(5) State governments carry out regulatory oversight on Federal, State, and private land; oil and gas companies operating on Federal land are burdened with the additional cost and time of duplicative oversight by both Federal and State conservation authorities; additional cost savings could be achieved within the private sector by having the Secretary defer to State regulation;

(6) the Federal Government is presently cast in opposing roles as a mineral owner and regulator; State regulation of oil and gas operations on Federal land would eliminate this conflict of interest;

(7) it remains the responsibility of the Secretary of the Interior to carry out the Federal policy set forth in the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) to foster and encourage private sector enterprise in the development of economically sound and stable domestic mineral industries, and the orderly and economic development of domestic mineral resources and reserves, including oil and gas resources; and

(8) resource management analyses and surveys conducted under the conservation laws of the United States benefit the public at large and are an expense properly borne by the Federal Government.

(b) PURPOSES.—The purposes of this Act are—

(1) to transfer from the Secretary to each State in which Federal land is present authority to regulate oil and gas operations on leased tracts and related operations as fully as if the operations were occurring on privately owned land;

(2) to share the costs saved through more efficient State enforcement among State governments and the Federal treasury;

(3) to prevent the imposition of unwarranted delays and recoupments of Federal administrative costs on Federal oil and gas lessees;

(4) to effect no change in the administration of Indian land; and

(5) to ensure that funds deducted from the States' net receipt share are directly tied to administrative costs related to mineral leasing on Federal land.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPLICATION FOR A PERMIT TO DRILL.—The term ''application for a permit to drill'' means a drilling plan including design, mechanical, and engineering aspects for drilling a well.

(2) FEDERAL LAND.—

(A) IN GENERAL.—The term ''Federal land'' means all land and interests in land owned by the United States that are subject to the mineral leasing laws, including mineral resources or mineral estates reserved to the United States in the conveyance of a surface or nonmineral estate.

(B) EXCLUSION.—The term ''Federal land'' does not include—

(i) Indian land (as defined in section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702)); or

(ii) submerged land on the outer Continental Shelf (as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331)).

(3) OIL AND GAS CONSERVATION AUTHORITY.—The term ''oil and gas conservation authority'' means the agency or agencies in each State responsible for regulating for conservation purposes operations to explore for and produce oil and natural gas.

(4) PROJECT.—The term ''project'' means an activity by a lessee, an operator, or an operating rights owner to explore for, develop, produce, or transport oil or gas resources.

(5) SECRETARY.—The term ''Secretary'' means—

(A) the Secretary of the Interior, with respect to land under the administrative jurisdiction of the Department of the Interior; and

(B) the Secretary of Agriculture, with respect to land under the administrative jurisdiction of the Department of Agriculture.

(6) SURFACE USE PLAN OF OPERATIONS.—The term ''surface use plan of operations'' means a plan for surface use, disturbance, and reclamation.

SEC. 4. NO PROPERTY RIGHT.

Nothing in this Act gives a State a property right or interest in any Federal lease or land.

TITLE I—STATE OPTION TO REGULATE OIL AND GAS LEASE OPERATIONS ON FEDERAL LAND

SEC. 101. TRANSFER OF AUTHORITY.

(a) NOTIFICATION.—Not before the date that is 180 days after the date of enactment of this Act, a State may notify the Secretary of its intent to accept authority for regulation of operations, as described in subparagraphs (A) through (K) of subsection (b)(2), under oil and gas leases on Federal land within the State.

(b) TRANSFER OF AUTHORITY.—

(1) IN GENERAL.—Effective 180 days after the Secretary receives the State's notice, authority for the regulation of oil and gas leasing operations is transferred from the Secretary to the State.

(2) AUTHORITY INCLUDED.—The authority transferred under paragraph (1) includes—

(A) processing and approving applications for permits to drill, subject to surface use agreements and other terms and conditions determined by the Secretary;

(B) production operations;

(C) well testing;

(D) well completion;

(E) well spacing;

(F) communization;

(G) conversion of a producing well to a water well;

(H) well abandonment procedures;

(I) inspections;

(J) enforcement activities; and

(K) site security.

(c) RETAINED AUTHORITY.—The Secretary shall—

(1) retain authority over the issuance of leases and the approval of surface use plans of operations and project-level environmental analyses; and

(2) spend appropriated funds to ensure that timely decisions are made respecting oil and gas leasing, taking into consideration multiple uses of Federal land, socioeconomic and environmental impacts, and the results of consultations with State and local government officials.

SEC. 102. ACTIVITY FOLLOWING TRANSFER OF AUTHORITY.

(a) FEDERAL AGENCIES.—Following the transfer of authority, no Federal agency shall exercise the authority formerly held by the Secretary as to oil and gas lease operations and related operations on Federal land.

(b) STATE AUTHORITY.—

(1) IN GENERAL.—Following the transfer of authority, each State shall enforce its own oil and gas conservation laws and requirements pertaining to transferred oil and gas lease operations and related operations with due regard to the national interest in the expedited, environmentally sound development of oil and gas resources in a manner consistent with oil and gas conservation principles.

(2) APPEALS.—Following a transfer of authority under section 101, an appeal of any decision made by a State oil and gas conservation authority shall be made in accordance with State administrative procedures.

(c) PENDING ENFORCEMENT ACTIONS.—The Secretary may continue to enforce any pending actions respecting acts committed before the date on which authority is transferred to a State under section 101 until those proceedings are concluded.

(d) PENDING APPLICATIONS.—

(1) TRANSFER TO STATE.—All applications respecting oil and gas lease operations and related operations on Federal land pending before the Secretary on the date on which authority is transferred under section 101 shall be immediately transferred to the oil and gas conservation authority of the State in which the lease is located.

(2) ACTION BY THE STATE.—The oil and gas conservation authority shall act on the application in accordance with State laws (including regulations) and requirements.

TITLE II—USE OF COST SAVINGS FROM STATE REGULATION

SEC. 201. COMPENSATION FOR COSTS.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall compensate any State for costs incurred to carry out the authorities transferred under section 101.

(b) PAYMENT SCHEDULE.—Payments shall be made not less frequently than every quarter.

(c) COST BREAKDOWN REPORT.—Each State seeking compensation shall report to the Secretary a cost breakdown for the authorities transferred.

(d) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—Compensation to a State may not exceed 50 percent of the Secretary's allocated cost for oil and gas leasing activities under section 35(b) of the Act of February 25, 1920 (commonly known as the ''Mineral Leasing Act'') (30 U.S.C. 191(b)) for the State for fiscal year 1997.

(2) ADJUSTMENT.—The Secretary shall adjust the maximum level of cost compensation at least once every 2 years to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor, using 1997 as the baseline year.

SEC. 202. EXCLUSION OF COSTS OF PREPARING PLANNING DOCUMENTS AND ANALYSES.

Section 35 of the Act of February 25, 1920 (30 U.S.C. 191(b)) is amended by adding at the end the following:

''(6) The Secretary shall not include, for the purpose of calculating the deduction under paragraph (1), costs of preparing resource management planning documents and analyses for areas in which mineral leasing is excluded or areas in which the primary activity under review is not mineral leasing and development.''.

SEC. 203. RECEIPT SHARING.

Section 35(b) of the Act of February 25, 1920 (30 U.S.C. 191(b)) is amended by striking ''paid to States'' and inserting ''paid to States (other than States that accept a transfer of authority under section 101 of the Federal Oil and Gas Lease Management Act of 1999)''.

TITLE III—STREAMLINING AND COST REDUCTION

SEC. 301. APPLICATIONS.

(a) LIMITATION ON COST RECOVERY.—Notwithstanding sections 304 and 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734, 1764) and section 9701 of title 31, United States Code, the Secretary shall not recover the Secretary's costs with respect to applications and other documents relating to oil and gas leases.

(b) COMPLETION OF PLANNING DOCUMENTS AND ANALYSES.—

(1) IN GENERAL.—The Secretary shall complete any resource management planning documents and analyses not later than 90 days after receiving any offer, application, or request for which a planning document or analysis is required to be prepared.

(2) PREPARATION BY APPLICANT OR LESSEE.—If the Secretary is unable to complete the document or analysis within the time prescribed by paragraph (1), the Secretary shall notify the applicant or lessee of the opportunity to prepare the required document or analysis for the agency's review and use in decisionmaking.

(c) REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.—If—

(1) adequate funding to enable the Secretary to timely prepare a project-level analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to an oil or gas lease is not appropriated; and

(2) the lessee, operator, or operating rights owner voluntarily pays for the cost of the required analysis, documentation, or related study;

the Secretary shall reimburse the lessee, operator, or operating rights owner for its costs through royalty credits attributable to the lease, unit agreement, or project area.

SEC. 302. TIMELY ISSUANCE OF DECISIONS.

(a) IN GENERAL.—The Secretary shall ensure the timely issuance of Federal agency decisions respecting oil and gas leasing and operations on Federal land.

(b) OFFER TO LEASE.—

(1) DEADLINE.—The Secretary shall accept or reject an offer to lease not later than 90 days after the filing of the offer.

(2) FAILURE TO MEET DEADLINE.—If an offer is not acted upon within that time, the offer shall be deemed to have been accepted.

(c) APPLICATION FOR PERMIT TO DRILL.—

(1) DEADLINE.—The Secretary and a State that has accepted a transfer of authority under section 101 shall approve or disapprove an application for permit to drill not later than 30 days after receiving a complete application.

(2) FAILURE TO MEET DEADLINE.—If the application is not acted on within the time prescribed by paragraph (1), the application shall be deemed to have been approved.

(d) SURFACE USE PLAN OF OPERATIONS.—The Secretary shall approve or disapprove a surface use plan of operations not later than 30 days after receipt of a complete plan.

(e) ADMINISTRATIVE APPEALS.—

(1) DEADLINE.—From the time that a Federal oil and gas lessee or operator files a notice of administrative appeal of a decision or order of an officer or employee of the Department of the Interior or the Forest Service respecting a Federal oil and gas Federal lease, the Secretary shall have 2 years in which to issue a final decision in the appeal.

(2) FAILURE TO MEET DEADLINE.—If no final decision has been issued within the time prescribed by paragraph (1), the appeal shall be deemed to have been granted.

SEC. 303. ELIMINATION OF UNWARRANTED DENIALS AND STAYS.

(a) IN GENERAL.—The Secretary shall ensure that unwarranted denials and stays of lease issuance and unwarranted restrictions on lease operations are eliminated from the administration of oil and gas leasing on Federal land.

(b) LAND DESIGNATED FOR MULTIPLE USE.—

(1) IN GENERAL.—Land designated as available for multiple use under Bureau of Land Management resource management plans and Forest Service leasing analyses shall be available for oil and gas leasing without lease stipulations more stringent than restrictions on surface use and operations imposed under the laws (including regulations) of the State oil and gas conservation authority unless the Secretary includes in the decision approving the management plan or leasing analysis a written explanation why more stringent stipulations are warranted.

(2) APPEAL.—Any decision to require a more stringent stipulation shall be administratively appealable and, following a final agency decision, shall be subject to judicial review.

(c) REJECTION OF OFFER TO LEASE.—

(1) IN GENERAL.—If the Secretary rejects an offer to lease on the ground that the land is unavailable for leasing, the Secretary shall provide a written, detailed explanation of the reasons the land is unavailable for leasing.

(2) PREVIOUS RESOURCE MANAGEMENT DECISION.—If the determination of unavailability is based on a previous resource management decision, the explanation shall include a careful assessment of whether the reasons underlying the previous decision are still persuasive.

(3) SEGREGATION OF AVAILABLE LAND FROM UNAVAILABLE LAND.—The Secretary may not reject an offer to lease land available for leasing on the ground that the offer includes land unavailable for leasing, and the Secretary shall segregate available land from unavailable land, on the offeror's request following notice by the Secretary, before acting on the offer to lease.

(d) DISAPPROVAL OR REQUIRED MODIFICATION OF SURFACE USE PLANS OF OPERATIONS AND APPLICATION FOR PERMIT TO DRILL.—The Secretary shall provide a written, detailed explanation of the reasons for disapproving or requiring modifications of any surface use plan of operations or application for permit to drill.

(e) EFFECTIVENESS OF DECISION.—A decision of the Secretary respecting an oil and gas lease shall be effective pending administrative appeal to the appropriate office within the Department of the Interior or the Department of Agriculture unless that office grants a stay in response to a petition satisfying the criteria for a stay established by section 4.21(b) of title 43, Code of Federal Regulations (or any successor regulation).

SEC. 304. REPORTS.

(a) IN GENERAL.—Not later than March 31, 2000, the Secretaries shall jointly submit to the President of the Senate and the Speaker of the House of Representatives a report explaining the most efficient means of eliminating overlapping jurisdiction, duplication of effort, and inconsistent policymaking and policy implementation as between the Bureau of Land Management and the Forest Service.

(b) RECOMMENDATIONS.—The report shall include recommendations on statutory changes needed to implement the report's conclusions.

SEC. 305. SCIENTIFIC INVENTORY OF OIL AND GAS RESERVES.

(a) IN GENERAL.—Not later than March 31, 2000, the Secretary of the Interior, in consultation with the Director of the United States Geological Survey, shall publish, through notice in the Federal Register, a science-based national inventory of the oil and gas reserves and potential resources underlying Federal land and the outer Continental Shelf.

(b) CONTENTS.—The inventory shall—

(1) indicate what percentage of the oil and gas reserves and resources is currently available for leasing and development; and

(2) specify the percentages of the reserves and resources that are on—

(A) land that is open for leasing as of the date of enactment of this Act that has never been leased;

(B) land that is open for leasing or development subject to no surface occupancy stipulations; and

(C) land that is open for leasing or development subject to other lease stipulations that have significantly impeded or prevented, or are likely to significantly impede or prevent, development; and

(3) indicate the percentage of oil and gas resources that are not available for leasing or are withdrawn from leasing.

(c) PUBLIC COMMENT.—

(1) IN GENERAL.—The Secretary of the Interior shall invite public comment on the inventory to be filed not later than September 30, 2000.

(2) RESOURCE MANAGEMENT DECISIONS.—Specifically, the Secretary of the Interior shall invite public comment on the effect of Federal resource management decisions on past and future oil and gas development.

(d) REPORT.—

(1) IN GENERAL.—Not later than March 31, 2001, the Secretary of the Interior shall submit to the President of the Senate and the Speaker of the House of Representatives a report comprised of the revised inventory and responses to the public comments.

(2) CONTENTS.—The report shall specifically indicate what steps the Secretaries believe are necessary to increase the percentage of land open for development of oil and gas resources.

TITLE IV—FEDERAL ROYALTY CERTAINTY

SEC. 401. DEFINITIONS.

In this title:

(1) MARKETABLE CONDITION.—The term ''marketable condition'' means lease production that is sufficiently free from impurities and otherwise in a condition that the production will be accepted by a purchaser under a sales contract typical for the field or area.

(2) REASONABLE COMMERCIAL RATE.—

(A) IN GENERAL.—The term ''reasonable commercial rate'' means—

(i) in the case of an arm's-length contract, the actual cost incurred by the lessee; or

(ii) in the case of a non-arm's-length contract—

(I) the rate charged in a contract for similar services in the same area between parties with opposing economic interests; or

(II) if there are no arm's-length contracts for similar services in the same area, the just and reasonable rate for the transportation service rendered by the lessee or lessee's affiliate.

(B) DISPUTES.—Disputes between the Secretary and a lessee over what constitutes a just and reasonable rate for such service shall be resolved by the Federal Energy Regulatory Commission.

SEC. 402. AMENDMENT OF OUTER CONTINENTAL SHELF LANDS ACT.

Section 8(b)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(b)(3)) is amended by striking the semicolon at the end and adding the following:

''*Provided*: That if the payment is in value or amount, the royalty due in value shall be based on the value of oil or gas production at the lease in marketable condition, and the royalty due in amount shall be based on the royalty share of production at the lease; if the payment in value or amount is calculated from a point away from the lease, the payment shall be adjusted for quality and location differentials, and the lessee shall be allowed reimbursements at a reasonable commercial rate for transportation (including transportation to the point where the production is put in marketable condition), marketing, processing, and other services beyond the lease through the point of sale, other disposition, or delivery;''.

SEC. 403. AMENDMENT OF MINERAL LEASING ACT.

Section 17(c) of the Act of February 25, 1920 (30 U.S.C. 226(c)) (commonly known as the ''Mineral Leasing Act''), is amended by adding at the end the following:

''(3) ROYALTY DUE IN VALUE.—

''(A) IN GENERAL.—Royalty due in value shall be based on the value of oil or gas production at the lease in marketable condition, and the royalty due in amount shall be based on the royalty share of production at the lease.

''(B) CALCULATION OF VALUE OR AMOUNT FROM A POINT AWAY FROM A LEASE.—If the payment in value or amount is calculated from a point away from the lease—

''(i) the payment shall be adjusted for quality and location differentials; and

''(ii) the lessee shall be allowed reimbursements at a reasonable commercial rate for transportation (including transportation to the point where the production is put in marketable condition), marketing, processing, and other services beyond the lease through the point of sale, other disposition, or delivery;''.

SEC. 404. INDIAN LAND.

This title shall not apply with respect to Indian land.

TITLE V—ROYALTY REINVESTMENT IN AMERICA

SEC. 501. ROYALTY INCENTIVE PROGRAM.

(a) IN GENERAL.—To encourage exploration and development expenditures on Federal land and the outer Continental Shelf for the development of oil and gas resources when the cash price of West Texas Intermediate crude oil, as posted on the Dow Jones Commodities Index chart is less than $18 per barrel for 90 consecutive pricing days or when natural gas prices as delivered at Henry Hub, Louisiana, are less than $2.30 per million British thermal units for 90 consecutive days, the Secretary shall allow a credit against the payment of royalties on Federal oil production and gas production, respectively, in an amount equal to 20 percent of the capital expenditures made on exploration and development activities on Federal oil and gas leases.

(b) NO CREDITING AGAINST ONSHORE FEDERAL ROYALTY OBLIGATIONS.—In no case shall such capital expenditures made on Outer Continental Shelf leases be credited against onshore Federal royalty obligations.

SEC. 502. MARGINAL WELL PRODUCTION INCENTIVES.

To enhance the economics of marginal oil and gas production by increasing the ultimate recovery from marginal wells when the cash price of West Texas Intermediate crude oil, as posted on the Dow Jones Commodities Index chart is less than $18 per barrel for 90 consecutive pricing days or when natural gas prices are delivered at Henry Hub, Louisiana, are less than $2.30 per million British thermal units for 90 consecutive days, the Secretary shall reduce the royalty rate as production declines for—

(1) onshore oil wells producing less than 30 barrels per day;

(2) onshore gas wells producing less than 120 million British thermal units per day;

(3) offshore oil well producing less than 300 barrels of oil per day; and

(4) offshore gas wells producing less than 1,200 million British thermal units per day.

SEC. 503. SUSPENSION OF PRODUCTION ON OIL AND GAS OPERATIONS.

(a) IN GENERAL.—Any person operating an oil well under a lease issued under the Act of February 25, 1920 (commonly known as the ''Mineral Leasing Act'') (30 U.S.C. 181 et seq.) or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) may submit a notice to the Secretary of the Interior of suspension of operation and production at the well.

(b) PRODUCTION QUANTITIES NOT A FACTOR.—A notice under subsection (a) may be submitted without regard to per day production quantities at the well and without regard to the requirements of subsection (a) of section 3103.4–4 of title 43 of the Code of Federal Regulations (or any successor regulation) respecting the granting of such relief, except that the notice shall be submitted to an office in the Department of the Interior designated by the Secretary of the Interior.

(c) PERIOD OF RELIEF.—On submission of a notice under subsection (a) for an oil well, the operator of the well may suspend operation and production at the well for a period beginning on the date of submission of the notice and ending on the later of—

(1) the date that is 2 years after the date on which the suspension of operation and production commences; or

(2) the date on which the cash price of West Texas Intermediate crude oil, as posted on the Dow Jones Commodities Index chart is greater than $15 per barrel for 90 consecutive pricing days.

S. 1050

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Energy Security Tax Policy Act of 1999''.

SEC. 2. ELIMINATION OF CERTAIN AMT PREFERENCES FOR OIL AND GAS ASSETS.

(a) DEPLETION.—Section 57(a)(1) of the Internal Revenue Code of 1986 (relating to depletion) is amended by striking the second sentence and inserting the following: ''This paragraph shall not apply to any deduction for depletion computed in accordance with section 613A.''

(b) INTANGIBLE DRILLING COSTS.—Section 57(a)(2)(E) of the Internal Revenue Code of 1986 (relating to exception for independent producers) is amended to read as follows:

''(E) TERMINATION OF APPLICATION TO OIL AND GAS PROPERTIES.—In the case of any taxable year beginning after December 31, 1998, this paragraph shall not apply in the case of any oil or gas property.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 3. DEPRECIATION ADJUSTMENT NOT TO APPLY TO OIL AND GAS ASSETS.

(a) IN GENERAL.—Subparagraph (B) of section 56(a)(1) of the Internal Revenue Code of 1986 (relating to depreciation adjustments) is amended to read as follows:

''(B) EXCEPTIONS.—This paragraph shall not apply to—

''(i) property described in paragraph (1), (2), (3), or (4) of section 168(f), or

''(ii) property used in the active conduct of the trade or business of exploring for, extracting, developing, or gathering crude oil or natural gas.''

(b) DEPRECIATION ADJUSTMENT FOR PURPOSES OF ADJUSTED CURRENT EARNINGS.—Paragraph (4)(A) of section 56(g) of such Code (relating to adjustments based on adjusted current earnings) is amended by adding at the end the following new clause:

''(vi) OIL AND GAS PROPERTY.—In the case of property used in the active conduct of the trade or business of exploring for, extracting, developing, or gathering crude oil or natural gas, the amount allowable as depreciation or amortization with respect to such property shall be determined in the same manner as for purposes of computing the regular tax.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 4. REPEAL CERTAIN ADJUSTMENTS BASED ON ADJUSTED CURRENT EARNINGS RELATING TO OIL AND GAS ASSETS.

(a) INTANGIBLE DRILLING COSTS.—Clause (i) of section 56(g)(4)(D) of the Internal Revenue Code of 1986 (relating to certain other earnings and profits adjustments) is amended by striking the second sentence and inserting the following: ''In the case of any oil or gas well, this clause shall not apply to amounts paid or incurred in taxable years beginning after December 31, 1998.''

(b) DEPLETION.—Clause (ii) of section 56(g)(4)(F) of the Internal Revenue Code of 1986 (relating to depletion) is amended to read as follows:

''(ii) EXCEPTION FOR OIL AND GAS WELLS.—In the case of any taxable year beginning after December 31, 1998, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 5. ENHANCED OIL RECOVERY CREDIT AND CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE ALLOWED AGAINST MINIMUM TAX.

(a) ENHANCED OIL RECOVERY CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) ALLOWING CREDIT AGAINST MINIMUM TAX.—Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR ENHANCED OIL RECOVERY CREDIT.—

''(A) IN GENERAL.—In the case of the enhanced oil recovery credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the enhanced oil recovery credit).

''(B) ENHANCED OIL RECOVERY CREDIT.—For purposes of this subsection, the term 'enhanced oil recovery credit' means the credit allowable under subsection (a) by reason of section 43(a).''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) of such Code is amended by inserting ''or the enhanced oil recovery credit'' after ''employment credit''.

(b) CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.—

(1) ALLOWING CREDIT AGAINST MINIMUM TAX.—Section 29(b)(6) of the Internal Revenue Code of 1986 is amended to read as follows:

''(6) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed—

''(A) the regular tax for the taxable year and the tax imposed by section 55, reduced by

''(B) the sum of the credits allowable under subpart A and section 27.''

(2) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) of such Code is amended by inserting ''as in effect on the date of the enactment of the Energy Security Tax Policy Act of 1999,'' after ''29(b)(6)(B),''.

(B) Section 55(c)(2) of such Code is amended by striking ''29(b)(6),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 6. TAX CREDIT FOR MARGINAL DOMESTIC OIL AND NATURAL GAS WELL PRODUCTION.

(a) CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business credits) is amended by adding at the end the following new section:

''SEC. 45D. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $14 ($1.56 for qualified natural gas production), bears to

''(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price for the calendar year preceding the calendar year in which the taxable year begins.

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2000, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '1999' for '1990').

''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) DEFINITIONS.—

''(A) MARGINAL WELL.—The term 'marginal well' means a domestic well—

''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

''(ii) which, during the taxable year—

''(I) has average daily production of not more than 25 barrel equivalents, and

''(II) produces water at a rate not less than 95 percent of total well effluent.

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversion ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.''

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the marginal oil and gas well production credit determined under section 45D(a).''.

(c) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax), as amended by section 5(a)(1), is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—

''(A) IN GENERAL.—In the case of the marginal oil and gas well production credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the marginal oil and gas well production credit).

''(B) MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—For purposes of this subsection, the term 'marginal oil and gas well production credit' means the credit allowable under subsection (a) by reason of section 45D(a).''.

(2) CONFORMING AMENDMENTS.—

(A) Subclause (II) of section 38(c)(2)(A)(ii) of such Code, as amended by section 5(a)(2), is amended by striking ''or the enhanced oil recovery credit'' and inserting ''the enhanced oil recovery credit, or the marginal oil and gas well production credit''.

(B) Subclause (II) of section 38(c)(3)(A)(ii) of such Code, as added by section 5(a)(1), is amended by inserting ''or the marginal oil and gas well production credit'' after ''recovery credit''.

(d) COORDINATION WITH SECTION 29.—Section 29(d) of the Internal Revenue Code of 1986 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(9) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) with respect to production from any marginal well (as defined in section 45D(c)(3)(A)) if the taxpayer elects to not have this section apply to such well.''

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''45D. Credit for producing oil and gas from marginal wells.''

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years ending after the date of the enactment of this Act.

SEC. 7. ALLOWANCE OF ADDITIONAL ENHANCED OIL RECOVERY METHOD.

(a) IN GENERAL.—Clause (i) of section 43(c)(2)(A) of the Internal Revenue Code of 1986 (defining qualified enhanced oil recovery project) is amended to read as follows:

''(i) which involves the application (in accordance with sound engineering principles) of—

''(I) one or more tertiary recovery methods (as defined in section 193(b)(3)) which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered, or

''(II) a qualified horizontal drilling method which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered or lead to the discovery or delineation of previously undeveloped accumulations of crude oil,''

(b) QUALIFIED HORIZONTAL DRILLING METHOD.—Section 43(c)(2) of the Internal Revenue Code of 1986 (relating to qualified enhanced oil recovery project) is amended by adding at the end the following new subparagraph:

''(C) QUALIFIED HORIZONTAL DRILLING METHOD.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified horizontal drilling method' means the drilling of a horizontal well in order to penetrate hydrocarbon bearing formations located north of latitude 54 degrees North.

''(ii) HORIZONTAL WELL.—The term 'horizontal well' means a well which is drilled—

''(I) at an inclination of at least 70 degrees off the vertical, and

''(II) for a distance in excess of 1,000 feet.''

(c) CONFORMING AMENDMENT.—Clause (iii) of section 43(c)(2)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

''(iii) with respect to which—

''(I) in the case of a tertiary recovery method, the first injection of liquids, gases, or other matter commences after December 31, 1990, and

''(II) in the case of a qualified horizontal drilling method, the implementation of the method begins after December 31, 1998.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1998.

SEC. 8. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

''(ii) any natural gas gathering line, and''.

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(15) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead to the point at which such gas first reaches—

''(A) a gas processing plant,

''(B) an interconnection with an interstate natural-gas company (as defined in section 2(6) of the Natural Gas Act (15 U.S.C. 717a(6))), or

''(C) an interconnection with an intrastate transmission pipeline.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service before, on, or after the date of the enactment of this Act.

By Mr. MURKOWSKI (for himself and Mr. BINGAMAN (by request)):

S. 1051. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes; to the Committee on Energy and Natural Resources.

ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

Mr. MURKOWSKI. Mr. President, pursuant to an executive communication referred to the Committee on Energy and Natural Resources, at the request of the Department of Energy, I introduce a bill cited as the ''Energy Policy and Conservation Act Amendments.'' The bill would amend and extend certain authorities in the Energy and Policy Conservation Act which either have expired or will expire September 30, 1999. I would like to submit a copy of the transmittal letter and the text of the bill and ask that it be printed in the RECORD. I do this on behalf of myself and Senator BINGAMAN.

The Act was passed in 1975. Title I of the Act authorized the creation and maintenance of the Strategic Petroleum Reserve that would be used to mitigate shortages during an oil supply disruption. Title II contains authorities essential for meeting key United States obligations to the International Energy Agency.

The proposed legislation would extend the Strategic Petroleum Reserve and International Energy Program authorities to September 30, 2003. It would also delete or amend certain provisions which are outdated or unnecessary.

I ask unanimous consent that the bill and the executive communication which accompanied the proposal be printed in the RECORD.

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

S. 1051

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

SECTION 1. This Act may be cited as the ''Energy Policy and Conservation Act Amendments''.

SEC. 2. Section 2 of the Energy Policy and Conservation Act (42 U.S.C. 6201) is amended—

(a) in paragraph (1) by striking ''standby'' and '', subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and''; and

(b) by striking paragraphs (3) and (6).

SEC. 3. Section 3 of the Energy Policy and Conservation Act (42 U.S.C. 6202) is amended in paragraph (8) by inserting ''or international'' before ''energy supply shortage''.

SEC. 4. Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(a) by striking section 102 (42 U.S.C. 6211) and its heading;

(b) by striking section 104(b)(1);

(c) in section 105 (42 U.S.C. 6213)—

(1) by amending subsection (e) to read as follows—

''On or after December 31, 2000, the Secretary shall establish a program for setting the terms of joint bidding by any person for the right to explore for and develop crude oil, natural gas, natural gas liquids, sulphur, and other minerals located on Outer Continental Shelf lands. The program shall consider the goals of ensuring a fair return, encouraging timely and efficient resource development, and other goals as the Secretary deems appropriate. Conditions under which joint bidding will be permitted or restricted will be established through regulation.'';

(2) by adding subsection (f) to read as follows—

''(f) Subsections (a) though (d) of this section shall expire on the effective date of the program established by the Secretary pursuant to subsection (e).''.

(d) by striking section 106 (42 U.S.C. 6214) and its heading;

(e) by amending section 151(b) (42 U.S.C. 6231) to read as follows:

''(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products, to carry out obligations of the United States under the international energy program, and for other purposes as provided for in this Act.'';

(f) in section 152 (42 U.S.C. 6232)—

(1) by striking paragraphs (1), (3) and (7), and

(2) in paragraph (11) by striking '';such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve''.

(g) by striking section 153 (42 U.S.C. 6233) and its heading;

(h) in section 154 (42 U.S.C. 6234)—

(1) by amending subsection (a) to read as follows:

''(a) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part.'';

(2) by amending subsection (b) to read as follows:

''(b) The Secretary, in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve.''; and

(3) by striking subsections (c), (d), and (e);

(i) by striking section 155 (42 U.S.C. 6235) and its heading;

(j) by striking section 156 (42 U.S.C. 6236) and its heading;

(k) by striking section 157 (42 U.S.C. 6237) and its heading;

(l) by striking section 158 (42 U.S.C. 6238) and its heading;

(m) by amending the heading for section 159 (42 U.S.C. 6239) to read, ''Development, Operation, and Maintenance of the Reserve'';

(n) in section 159 (42 U.S.C. 6239)—

(1) by striking subsections (a), (b), (c), (d), and (e);

(2) by striking subsections (f), to read as follows:

''(f) In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may:

''(1) issue rules, regulations, or orders;

''(2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

''(3) construct, purchase, lease, or otherwise acquire storage and related facilities;

''(4) use, lease, maintain, sell or otherwise dispose of land or interests in land, or of storage and related facilities acquired under this part, under such terms and conditions as the Secretary considers necessary or appropriate;

''(5) acquire, subject to the provisions of section 160, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;

''(6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;

''(7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;

''(8) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land;'' and

(3) in subsection (g)—

(A) by striking ''implementation'' and inserting ''development''; and

(B) by striking ''Plan'';

(4) by striking subsections (h) and (i);

(5) by amending subsection (j) to read as follows:

''(j) If the Secretary determines expansion beyond 680,000,000 barrels of petroleum product inventory is appropriate, the Secretary shall submit a plan for expansion to the Congress.''; and

(6) by amending subsection (l) to read as follows:

''(l) During a drawdown and sale of Strategic Petroleum Reserve petroleum products, the Secretary may issue implementing rules, regulations, or orders in accordance with section 553 of title 5, United States Code, without regard to rulemaking requirements in section 523 of this Act, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).'';

(o) in section 160 (42 U.S.C. 6240)—

(1) in subsection (a), by striking all before the dash and inserting the following—

''(a) The Secretary may acquire, place in storage, transport, or exchange'';

(2) in subsection (a)(1) by striking all after ''Federal lands'';

(3) in subsection (b), by striking, ''including the Early Storage Reserve and the Regional Petroleum Reserve'' and by striking paragraph (2); and

(4) by striking subsections (c), (d), (e) and (g);

(p) in section 161 (42 U.S.C. 6241)—

(1) by striking ''Distribution of the Reserve'' in the title of this section and inserting ''Sale of Petroleum Products'';

(2) in subsection (a), by striking ''drawdown and distribute'' and inserting ''draw down and sell petroleum products in'';

(3) by striking subsections (b), (c), and (f);

(4) by amending subsection (d)(1) to read as follows:

''(d)(1) Drawdown and sale of petroleum products from the Strategic Petroleum Reserve may not be made unless the President has found drawdown and sale are required by a severe energy supply interruption or by obligations of the United States under the international energy program.'';

(5) by amending subsection (e) to read as follows:

''(e)(1) The Secretary shall sell petroleum products withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts, for the period, and after a notice of sale considered appropriate by the Secretary, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

''(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and sale under this Section.''; and

(6) in subsection (g)—

(A) by amending paragraph (1) to read as follows—

''(g)(1) The Secretary shall conduct a continuing evaluation of the drawdown and sales procedures. In the conduct of an evaluation, the Secretary is authorized to carry out a test drawdown and sale or exchange of petroleum products from the Reserve. Such a test drawdown and sale or exchange may not exceed 5,000,000 barrels of petroleum products.'';

(B) by striking paragraphs (2) and (6A), striking the subparagraph designator ''(B)'' in paragraph (6), and by deleting the last sentence of paragraph (6);

(C) in paragraph (4), by striking ''90'' and inserting ''95'';

(D) in paragraph (5), by striking ''drawdown and distribution'' and inserting ''test''; and

(E) in paragraph (8), by striking ''drawdown and distribution'' and inserting ''test'';

(7) insubsection (h)—

(A) in paragraph (1) by striking ''distribute'' and inserting ''sell petroleum products from'';

(B) in paragraph (2) by striking ''In no case may the Reserve'' and inserting ''Petroleum products from the Reserve may not''; and

(C) in paragraph (3) by striking ''distribution'' each time it appears and inserting ''sale'';

(q) by striking section 164 (42 U.S.C. 6244) and its heading;

(r) by amending section 165 (42 U.S.C. 6245) and its heading to read as follows

''ANNUAL REPORT

''Sec. 165. The Secretary shall report annually to the President and the Congress on actions taken to implement this part. This report shall include—

''(1) the status of the physical capacity of the Reserve and the type and quantity of petroleum products in the Reserve;

''(2) an estimate of the schedule and cost to complete planned equipment upgrade or capital investment in the Reserve, including upgrades and investments carried out as part of operational maintenance or extension of life activities;

''(3) an identification of any life-limiting conditions or operational problems at any Reserve facility, and proposed remedial actions including an estimate of the schedule and cost of implementing those remedial actions;

''(4) a description of current withdrawal and distribution rates and capabilities, and an identification of any operational or other limitations on those rates and capabilities;

''(5) a listing of petroleum product acquisitions made in the preceding year and planned in the following year, including quantity, price, and type of petroleum;

''(6) A summary of the actions taken to develop, operate, and maintain the Reserve;

''(7) a summary of the financial status and financial transactions of the Strategic Petroleum Reserve and Strategic Petroleum Reserve Petroleum Accounts for the year.

''(8) a summary of expenses for the year, and the number of Federal and contractor employees;

''(9) the status of contracts for development, operation, maintenance, distribution, and other activities related to the implementation of this part;

''(10) a summary of foreign oil storage agreements and their implementation status;

''(11) any recommendations for supplemental legislation or policy or operational changes the Secretary considers necessary or appropriate to implement this part.'';

(s) in section 166 (42 U.S.C. 6246) by striking ''for fiscal year 1997.'';

(t) in section 167 (42 U.S.C. 6247)—

(1) in subsection (b)—

(A) by inserting ''for test sales of petroleum products from the Reserve,'' after ''Strategic Petroleum Reserve,'', and by inserting ''for'' before ''the drawdown'' and inserting '', sale,'' after ''drawdown'';

(B) by striking paragraph (1); and

(C) in paragraph (2), by striking ''after fiscal year 1982''; and

(2) by striking subsection (e);

(u) in section 171 (42 U.S.C. 6249)—

(1) by amending subsection (b)(2)(B) to read as follows:

''(B) the Secretary notifies each House of the Congress of the determination and identifies in the notification the location, type, and ownership of storage and related facilities proposed to be included, or the volume, type, and ownership of petroleum products proposed to be stored, in the Reserve, and an estimate of the proposed benefits.'';

(2) in subsection (b)(3), by striking ''distribution of'' and inserting ''sale of petroleum products from'';

(v) in section 172 (42 U.S.C. 6249a), by striking subsections (a) and (b);

(w) by striking section 173 (42 U.S.C. 6249b) and its heading; and

(x) in section 181 (42 U.S.C. 6251), by striking ''September 30, 1999'' each time it appears and inserting ''September 30, 2003''.

SEC. 5. Title II of the energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(a) by striking Part A (42 U.S.C. 6261 through 6264) and its heading;

(b) by adding at the end of section 256(h), ''There are authorized to be appropriated for fiscal years 1999 through 2003, such sums as may be necessary.''

(c) by striking Part C (42 U.S.C. 6281 through 6282) and its heading; and

(d) in section 281 (42 U.S.C. 6285), by striking ''September 30, 1999'' each time it appears and inserting ''September 30, 2003''.

SEC. 6. The Table of Contents for the Energy Policy and Conservation Act is amended—

(a) by striking the items relating to sections 102, 106, 153, 155, 156, 157, 158, and 164;

(b) by amending the item relating to section 159 to read as follows: ''Development, Operation, and maintenance of the Reserve.'';

(c) by amending the item relating to section 161 to read as follows: ''Drawdown and Sale of Petroleum Products''

(d) by amending the item relating to section 165 to read as follows: ''Annual Report''

THE SECRETARY OF ENERGY,
Washington, DC, March 15, 1999.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a legislative proposal cited as the ''Energy Policy and Conservation Act Amendments.'' This proposal would amend and extend certain authorities in the Energy Policy and Conservation Act (Act) which either have expired or will expire September 30, 1999. Not all sections of the current act are proposed for extension.

The Act was passed in 1975. Title I authorized the creation and maintenance of the Strategic Petroleum Reserve that would mitigate shortages during an oil supply disruption. Title II contains authorities essential for meeting key United States obligations to the International Energy Agency. This is our method of coordinating energy emergency response programs with other countries. These programs are currently authorized until September 30, 1999.

The proposed legislation would extend the Strategic Petroleum Reserve and International Energy Program authorities to September 30, 2003. It would also amend or delete certain provisions which are outdated or unnecessary.

The proposed legislation and a sectional analysis are enclosed.

The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President. We look forward to working with the Congress toward enactment of this legislation.

Sincerely,

BILL RICHARDSON.

By Mr. MURKOWSKI (for himself, Mr. AKAKA, and Mr. BINGAMAN):

S. 1052. A bill to implement further the Act (Public Law 94–241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes; to the Committee on Energy and Natural Resources.

NORTHERN MARIANA ISLANDS COVENANT IMPLEMENTATION ACT

• Mr. MURKOWSKI. Mr. President, today I am introducing a modified version of legislation that the Committee on Energy and Natural Resources reported to the Senate last Congress to address various problems that have arisen in the Commonwealth of the Northern Mariana Islands. As reported by the Committee last Congress, the legislation would have created an industry committee to establish minimum wage levels similar to committees that had been created for other territories and that still exist for American Samoa. The legislation would also have established a mechanism for the extension of federal immigration laws if the government of the Northern Marianas proved unable or unwilling to adopt and enforce an effective immigration system. The legislation that I am introducing today does not include any provisions dealing with wages. I continue to believe that an industry committee is preferable to outright extension of federal wage rates, but the Northern Marianas, the Administration, and some of my cosponsors would prefer to have that debate on another vehicle.

Immigration, however, is at the heart of the problems facing the Northern Marianas. This legislation reflects the recommendation of the Committee on Energy and Natural Resources last Congress. What appears on the surface to be a prosperous diversified economy in the Northern Marianas, is in fact a far more fragile economy that is becoming ever more dependent on a system of imported labor. Unemployment among US residents remains high and the public sector is rapidly becoming the only source of employment for US citizens residing in the Marianas. The public sector workforce has doubled over the past several years and payroll is the largest expense of the government. The recent downturn in tourism as a result of economic problems in Asia has only served to aggravate the situation in the Marianas, increase the pressures on public sector employment, and tighten the dependence of the Marianas on imported labor for the private sector, mainly garment manufacturing.

The Commonwealth of the Northern Mariana Islands (CNMI) is a three hundred mile archipelago consisting of fourteen islands stretching north of Guam. The largest inhabited islands are Saipan, Rota, and Tinian. Magellan landed at Saipan in 1521 and the area was controlled by Spain until the end of the Spanish American War. Guam, the southernmost of the Marianas, was ceded to the United States following the Spanish-American War and the balance sold to Germany together with the remainder of Spain's possessions in the Caroline and Marshall Islands.

Japan seized the area during World War I and became the mandatory power under a League of Nations Mandate for Germany's possessions north of the equator on December 17, 1920. By the 1930's Japan had developed major portions of the area and begun to fortify the islands. Guam was invaded by Japanese forces from Saipan in 1941. The Marianas were secured after heavy fighting in 1944 and the bases on Tinian were used for the invasion of Okinawa and for raids on Japan, including the nuclear missions on Hiroshima and Nagasaki. In 1947, the Mandated islands were placed under the United Nations trusteeship system as the Trust Territory of the Pacific Islands (TTPI) and the United States was appointed as the Administering Authority. The area was divided into six administrative districts with the headquarters located in Hawaii and then in Guam. The TTPI was the only ''strategic'' trusteeship with review by the Security Council rather than the General Assembly of the United Nations. The Navy administered the Trusteeship, together with Guam, until 1951, when administrative jurisdiction was transferred to the Department of the Interior. The Northern Marianas, however, were returned to Navy jurisdiction from 1952–1962. In 1963, administrative headquarters were moved to Saipan.

With the establishment of the Congress of Micronesia in 1965, efforts to reach an agreement on the future political status of the area began. Attempts to maintain a political unity within the TTPI were unsuccessful, and each of the administrative districts (Kosrae eventually separated from Pohnpei District in the Carolines) sought to retain its separate identity. Four of the districts became the Federated States of Micronesia, the Marshalls became the Republic of the Marshall Islands, and Palau became the Republic of Palau, all sovereign countries in free association with the United States under Compacts of Free Association. The Marianas had sought reunification with Guam and US territorial status from the beginning of the Trusteeship. Separate negotiations with the Marianas began in December, 1972 and concluded in 1975.

In 1976, Congress approved a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States (PL 94–241). The Covenant had been approved in a United Nations observed plebescite in the Northern Mariana Islands and formed the basis for the termination of the United Nations Trusteeship with respect to the Northern Mariana Islands in 1986 together with the Republic of the Marshall Islands and the Federated States of Micronesia. Prior to termination, those provisions of the Covenant that were not inconsistent with the status of the area (such as extension of US sovereignty) were made applicable by the US as Administering Authority. Upon termination of the Trusteeship, the CNMI became a territory of the United States and its residents became United States citizens. Under the terms of the Covenant certain federal laws would be inapplicable in the CNMI, including minimum wage to take into consideration the relative economic situation of the islands and their relation to other east Asian countries.

Although the population of the CNMI was only 15,000 people in 1976 when the Covenant went into effect, the population now exceeds 60,000 and US citizens are a minority. The resident population is probably about 24,000 with about 28,000 alien workers and estimates of at least 10,000 illegal aliens. Permits for non-resident workers were reported at 22,500 for 1994, the largest category being for manufacturing. Tourism has climbed from about 230,000 visitors in 1987 to almost 600,000 in 1994. Total revenues for the CNMI for 1993 were estimated at $157 million.

The 1995 census statistics from the Commonwealth list unemployment at 7.1%, with CNMI born at 14.2% and Asia born at 4.5%. Since no guest workers should be on island without jobs, the 4.5% suggests a serious problem in the CNMI. The 14.2% local unemployment suggests that either guest workers are taking jobs from local residents, or the wage rates or types of occupation are not adequate to attract local workers.

The Covenant established a unique system in the CNMI under which the local government controlled immigration and minimum wage levels and also had the benefit of duty and quota free entry of manufactured goods under the provisions of General Note 3(a) of the Harmonized Tariff Schedules. The Section by Section analysis of the Committee Report on the Covenant provides in part:

> Section 503.—This section deals with certain laws of the United States which are not now applicable to the Northern Mariana Islands and provides that they will remain inapplicable except in the manner and to the extent that they are made applicable by specific legislation enacted after the termination of the Trusteeship. These laws are:
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> The Immigration and Naturalization Laws (subsection (a)). The reason this provision is included is to cope with the problems which unrestricted immigration may impose upon small island communities. Congress is aware of those problems. . . . It may well be that these problems will have been solved by the time of the termination of the Trusteeship Agreement and that the Immigration and Nationality Act containing adequate protective provisions can then be introduced to the Northern Mariana Islands. . . .
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> The same consideration applies to the introduction of the Minimum Wage Laws. (Subsection (c)). Congress realizes that the special conditions prevailing in the various territories require different treatment. . . . In these circumstances, it would be inappropriate to introduce the Act to the Northern Mariana Islands without preliminary studies. There is nothing which would prevent the Northern Mariana Islands from enacting their own Minimum Wage Legislation. Moreover, as set forth in section 502(b), the activities of the United States and its contractors in the Northern Mariana Islands will be subject to existing pertinent Federal Wages and Hours Legislation. (S. Rept. 94–433, pp.77–78)

The Committee anticipated that by the termination of the Trusteeship, the federal government would have found some way of preventing a large influx of persons into the Marianas, recognizing the Constitutional limitations on restrictions on travel. In part, the Covenant attempted to deal with that possibility by enacting a restraint on land alienation for twenty-five years, subject to extension by the CNMI. The minimum wage issue was more difficult, especially in light of the Committee's experience in the Pacific. The extension of minimum wage to Kwajalein was a proximate cause of the overcrowding at Ebeye in the Kwajalein Atoll as hundreds of Marshallese moved to the small island in hope of obtaining a job at the Missile Range. The CNMI, at the time the Covenant was negotiated, had a limited private sector economy and was under the overall Trust Territory minimum wage, which was considerably lower than the federal minimum wage. The Marianas also had been a closed security area until the early 1960's, further limiting development. Congress fully expected that the Marianas would establish its own schedule and would, within a reasonable time frame, raise minimum wages as the local economy grew. At the time of the Covenant, Guam's local minimum wage exceeded the federal levels, and the Committee anticipated that the Northern Marianas would mirror the history of Guam.

Shortly after the Covenant went into effect, the CNMI began to experience a growth in tourism and a need for workers in both the tourist and construction industries. Interest also began to grow in the possibility of textile production. Initial interest was in production of sweaters made of cotton, wool and synthetic fibers. The CNMI, like the other territories, except for Puerto Rico, is outside the U.S. customs territory but can import products manufactured in the territory duty free provided that the products meet a certain value added amount under General Note 3(a) of the Tariff Schedules (then called Headnote 3(a)). The first company began operation in October, 1983 and within a year was joined by two other companies. Total employment for the three firms was 250 of which 100 were local residents. At the time, Guam had a single firm, Sigallo-Pac, also engaged in sweater manufacture with 275 workers, all of whom, however, were U.S. citizens.

Attempts by territories to develop textile or apparel industries have traditionally met resistence from Stateside industries. The use of alien labor in the CNMI intensified that concern, and efforts began in 1984 to sharply cut back or eliminate the availability of duty free treatment for the territories. The concerns also complicated Senate consideration of the Compacts of Free Association in 1985 and led to a delay of several months in floor consideration when some Members sought to attach textile legislation to the Compact legislation. By 1986, conditions led the Assistant Secretary, Territorial and International Affairs of the Department of the Interior to write the Governor on the situation and that ''[w]ithout timely and effective action to reverse the current situation, I must consider proposing Congressional enactment of U.S. Immigration and Naturalization requirements for the NMI''.

By 1990, the population of the CNMI was estimated at 43,345 of whom only 16,752 had been born in the CNMI. Of the 26,593 born elsewhere, 2,491 had entered from 1980–1984, 2,591 had entered in 1985 or 1986, 6,438 had entered in 1987 or 1988, and 12,955 had entered in 1989 or 1990. Of the population in 1990, 21,332 were classified as Asian. The labor force (all persons 16+ years including temporary alien labor) grew from 9,599 in 1980 to 32,522 in 1990. Manufacturing grew from 1.9% of the workforce in 1980 to 21.9% in 1990, only slightly behind construction which grew from 16.8% to 22.2% in the same time frame. The construction numbers track a major increase in hotel construction. At the same time, increases in the minimum wage were halted although wages paid to U.S. citizens (mainly public sector and management) exceeded federal levels.

In 1993, in response to Congressional concerns, the CNMI stated that it proposed to enact legislation to raise the wage rates from $2.15 to federal levels by stages and that legislation would be enacted to prevent any abuse of workers.

Repeated allegations of violations of applicable federal laws relating to worker health and safety, concerns with respect to immigration problems, including the admission of undesirable aliens, and reports of worker abuse, especially in the domestic and garment worker sectors, led to the inclusion of a $7 million set aside in appropriations in 1994 to support federal agency presence in the CNMI. The Administration was not prepared to commit agency resources to the CNMI absent the funding, but with an agreement for reimbursement, the Department of the Interior reported to the Committee on April 24, 1995 that:

1) $3 million would be used by the CNMI for a computerized immigration identification and tracking system and for local projects;

2) $2.2 million would be used by the Department of Justice to strengthen law enforcement, including the hiring of an additional FBI agent and Assistant US Attorney;

3) $1.6 million would be used by Labor for two senior investigators as well as for training; and

4) $200,000 would be used by Treasury for assistance in investigating violations of federal law with respect to firearms, organized crime, and counterfeiting.

In addition, the report recommended that federal law be enacted to phase in the current CNMI minimum wage rates to the federal minimum wage level in 30 cent increments (as then provided by CNMI legislation), end mandatory assistance to the CNMI when the current agreement was fulfilled, continue annual support of federal agencies at a $3 million/year level (which would include funding for a detention facility that meets federal standards), and possible extension of federal immigration laws.

During the 104th Congress, the Senate passed S. 638, legislation supported by the Administration, that in part would have enacted the phase in of the CNMI minimum wage rate to US levels in 30 cent increments. No action was taken by the House, and, in the interim, the CNMI delayed the scheduled increases and then instituted a limited increase of 30 cents/hour except for the garment and construction industries where the increase was limited to 15 cents/hour. The legislation also required the Commonwealth ''to cooperate in the identification and, if necessary, exclusion or deportation from the Commonwealth of the Northern Mariana Islands of persons who represent security or law enforcement risks to the Commonwealth of the Northern Mariana Islands or the United States.'' (Section 4 of S. 638) At the same time that Congress began to consider legislation on minimum wage and immigration issues, concern over the commitment of federal agencies to administer and enforce those federal laws already applicable to the CNMI led the Committee to include a provision in S. 638 that the annual report on the law enforcement initiative also include: ''(6) the reasons why Federal agencies are unable or unwilling to fully and effectively enforce Federal laws applicable within the Commonwealth of the Northern Mariana Islands unless such activities are funded by the Secretary of the Interior.'' (Section 3 of S. 638)

In February, 1996, I led a Committee trip to the CNMI. We met with local and federal officials as well as inspecting a garment factory and meeting with Bangladesh security guards who had not been paid and who were living in substandard conditions. Their living conditions were intolerable. There was no running water, no workable toilets, the shack—and that is being kind—was in deplorable condition. As I said at the time, this was a condition that should never exist on American soil. It existed in the shadow of the Hyatt Hotel.

I raised my concerns with the Governor and with other officials in Saipan. We were assured that corrective action would be taken. Those assurances, especially those dealing with minimum wages, seem to have disappeared as soon as our plane was airborne. As a result of the meetings and continued expressions of concern over conditions, the Committee held an oversight hearing on June 26, 1996 to review the situation in the CNMI. At the hearing, the acting Attorney General of the Commonwealth requested that the Committee delay any action on legislation until the Commonwealth could complete a study on minimum wage and promised that the study would be completed by January. That timing would have enabled the Committee to revisit the issue in the April-May 1997 period after the Administration had transmitted its annual report on the law enforcement initiative. While the CNMI Study was not finally transmitted until April, the Administration did not transmit its annual report, which was due in April, until July. On May 30, 1997, the President wrote the Governor of the Northern Marianas that he was concerned over activities in the Commonwealth and had concluded that federal immigration, naturalization, and minimum wage laws should apply.

Given the reaction that followed the President's letter, I asked the Administration to provide a drafting service of the language needed to implement the recommendations in the annual report and informed the Governor of the Commonwealth of the request and that the Committee intended to consider the legislation after the Commonwealth had an opportunity to review it. The drafting service was not provided until October 6, 1997 and was introduced on October 8, 1997, shortly before the elections in the CNMI. The Committee deferred hearings so as not to intrude unnecessarily into local politics and to allow the CNMI an opportunity to review and comment on the legislation after the local elections.

The U.S. Commission on Immigration Reform conducted a site visit to the Northern Marianas in July 1997 and issued a report which, in general, supports the need to address immigration. The report, however, also raises some concerns with the extension of US immigration laws. The report found problems in the CNMI ''ranging from bureaucratic inefficiencies to labor abuses to an unsustainable economic, social and political system that is antithetical to most American values'' but ''a willingness on the part of some CNMI officials and business leaders to address the various problems''. The report expressed some concerns over the extension of federal immigration laws, but that absent the threat of federal extension, ''the CNMI is unlikely on its own to correct the problems inherent in its immigration system''. The report recommended that specific benchmarks for an effective immigration system be negotiated and that the ''benchmarks should be codified in statute, with provision for immediate imposition of federal law if the benchmarks are not met within the prescribed time.'' Specifically the report recommended that ''[s]hould the CNMI fail to negotiate expeditiously and in good faith, or renege on the negotiated agreements, we agree that imposition of federal law by Congress would be required.'' (Emphasis in original)

While the outright exception from the minimum wage provisions of federal law in the Covenant is an anomaly, so also was the direct phase in to federal levels contained in the legislation as transmitted by the Administration. Congress has generally recognized the different economic circumstances of the territories and provided for a ''special industry committee''. The objective of an industry committee is to set wage rates by industry ''to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the [federal] minimum wage rate'' (29 U.S.C. 208(a)). The committees may make classifications within industries. Such committees were established for Puerto Rico and the Virgin Islands in 1940 and continued until Congress provided for step increases in 1977 for the remaining covered industries. An industry committee has been applicable in American Samoa since 1956. In 1992, the Department of the Interior provided formal Administration opposition to legislation that would have extended federal minimum wage rates to Samoa stating that ''[i]mposition of the United States mainland minimum wage on American Samoa would have a serious, perhaps devastating effect on the territorial economy and jobs''. The industry committee for Samoa set rates for 1996 that ranged from $2.45/hour for local government employees to $3.75/hour for the subclass of stevedoring and lighterage. Wages for the canneries was set at $3.10/hour.

While the economic situation of the CNMI is considerably different from that of American Samoa, it is not absolutely clear that all segments of all industries in the CNMI are capable of sustaining federal minimum wage rates. Unlike American Samoa, the minimum wage issue in the CNMI appears to involve only temporary non-immigrant workers. All U.S. citizens resident in the CNMI appear to be earning at or above federal minimum wage levels. The CNMI completed a minimum wage analysis in April 1997 by the HayGroup. The analysis recommended against a change in current wage rates for at least three years and planning to accommodate growth. An industry committee would be able to assess the merits of claims by individual industries and structure a system that takes into account the individual needs of particular industries or sub-classes.

As I stated earlier, I believe that an industry committee is the proper approach. I have not included the provision in this legislation due to the opposition of the Northern Marianas, the Administration, and several of my colleagues. The Northern Marianas believes that it can avoid becoming entangled in the federal minimum wage legislation pending in Congress. I don't share their belief, but this is their choice.

The Committee conducted a hearing on March 31, 1998 on S. 1275 and S. 1100, similar legislation introduced by Senator AKAKA and others. The Committee heard from the Administration, the government of the CNMI, workers and representatives of the local industry, as well as public witnesses. At a business meeting of the Committee on May 20, 1998, the legislation was amended and then ordered to be favorably reported to the Senate. Unfortunately, the Senate did not take action on the measure prior to adjournment.

The portion of the Committee amendment that I am introducing today provides for full extension of the Immigration and Nationality Act contingent on the Attorney General finding that 1) the Northern Marianas does not possess the institutional capacity to administer an effective system of immigration control or 2) the Northern Marianas does not have a genuine commitment to enforce the system. Neither I nor the Committee question the commitment of the current administration of the Northern Marianas to attempt to rectify the problems that led to this legislation, but we are mindful that commitments have been made in the past and then ignored. We also recognized that the Commisssion on Immigration Reform and others have concluded that some of the problem is structural and that a local government simply may not have the capability to maintain an effective immigration program within our federal system. As a result, the Committee adopted a provision that will take effect without further Congressional action if the requisite findings are made. The Committee viewed this as a last opportunity for the local government and provided that the Attorney General must promptly issue standards so that the Marianas is on full notice of what will be required.

If, however, it does become necessary to extend federal law, the Committee also adopted amendments to the bill as introduced to ensure that those industries, especially construction, that depend on temporary workers for temporary jobs will have full access to alien labor as necessary. The Committee was mindful of the concern by the hotel industry over access to workers, and accordingly adopted a provision that would permit the transition provisions to be extended for additional five year periods as long as necessary. The Committee amendment required the Attorney General and the Secretary of Labor to consult with the Northern Marianas one year prior to the expiration of the transition period, and at 5-year intervals thereafter, to determine whether the provisions will continue to be needed. The Committee and I fully expect that any uncertainty be resolved in favor of the Northern Marianas. If the provisions are extended, a similar consultation will occur in the fourth year of the extension to decide if further extensions are warranted.

The Committee reluctantly adopted these provisions because it believes that conditions in the Northern Marianas leave no alternative. Extension of additional federal laws, however, will not resolve the problems if federal agencies do not maintain their present commitment to administration and enforcement of federal law. A continuation of local efforts by the present administration of the Northern Marianas will also be necessary.

Although the legislation contains the one-year grace period contained in the Committee amendment from last Congress, the one year has expired. The record of the Northern Marianas, and the status of local legislation, will determine whether and on what terms federal laws should be extended. The action earlier this year by the Northern Marianas to lift the moratorium on entry permits for new workers is particularly troubling.

There are legitimate questions concerning immigration and minimum wage. We should now have sufficient experience to assess whether the Marianas is capable of providing the preclearance for any persons who attempt to enter the Marianas. The Immigration Commission concluded that they are not capable of undertaking such prescreening and clearance because they do not have the resources of the federal government through the State Department. The United States routinely does prescreening in foreign countries as part of our visa process. The situation that I saw with the Bangladesh workers should never have happened and would not have happened had federal immigration laws and procedures been in place and enforced. Reports of other workers who arrive only to find no jobs would also never happen. A particularly troubling aspect of the current situation in the Northern Marianas is the level of unemployment among guest workers. There should be no unemployment among the guest workers. If there are no jobs, then the workers should not be present. These are legitimate immigration related issues. They do not necessarily lead to a federal takeover, but they are legitimate issues and it serves no purpose to distort history and pretend that the current situation was the goal of the Covenant negotiators. That does not make the Marianas corrupt, but if accurate, it points out that this Committee was correct when it stated that we would need to make changes in the immigration laws prior to termination of the Trusteeship so that they could be extended to the Marianas.

The report of the Immigration Commission also raises legitimate questions about the availability of asylum and the lack of civil rights since the Marianas is using temporary workers for permanent jobs, thereby denying workers the rights they would have if admitted into the US with a right of residency. That needs to be addressed. The Commission also expresses some grave concerns over outright extension of the Immigration laws and questions the willingness or commitment of the INS to devote the personnel or resources to effective administration. While I fully expect the INS to support the Administration position in our hearings on this legislation, I also share that concern. We do not need to make a bad local problem an equally bad federal one.

I also think that the focus on the garment industry by the Administration and most of the critics of the situation in the Northern Marianas is somewhat shortsighted. The advantages that the Marianas can provide garment manufacturers in terms of duty and quota free treatment expire with the implementation of the multi-fibre agreement. The suggestion in the Administration's task force report last year that these jobs will move to the mainland if the garment industry is curtailed in the Marianas is simply wrong. Those jobs in all likelihood are temporary until they move back to the Asian mainland in about five years. That, by the way, is well within the transition period contemplated under the legislation submitted by the Administration last year. The legislation will actually have little or no effect on the industry that the Administration is targeting. I should also note that the Bank of Hawaii, in its economic study also concluded that the garment industry in the Marianas was not likely to last. Other studies have also come to that conclusion. The Administration has made it clear that they hope the effect of this legislation will be the end of the garment industry in the Marianas. Given both the studies and the Administration's objective, I do have a question about why the President's budget claims about $187 million per year in additional revenues from the enactment of the amendments to General Note 3(a). If there is no industry, there will be no imports, and there will be no revenues.

The problem is that the Administration does not seem to comprehend that the Marianas is the United States. It is not a foreign country. The failure of the Administration to enforce federal laws has led to a climate conducive to worker abuse and to some sense within the Marianas that federal laws will not be applied. On the other side, a large population of workers without full civil rights also offers the opportunity for people to exploit the situation. I am not happy with either side of this debate. The cries for federal takeover are too strident and too partisan to ring true. The defense is simply unacceptable. In the middle are the workers who apparently no one cares about, except for their value in being put on display in the media.

Complicating consideration of this legislation, however, is the Administration's somewhat lackluster response to the flood of illegal entries into Guam from China. These individuals are being smuggled into Guam by boat. Most of the aliens come from the China mainland from Fujian Province, but some have sought entry from the Northern Marianas. So far this year, over 800 illegal aliens have been apprehended either in Guam or attempting to reach Guam.

Earlier this year I met with the Governor of Guam. He expressed his frustration with the Immigration and Naturalization Service for diverting revenues from Guam to the mainland. The result was that Guam had to assume the costs of incarceration for these aliens. An article in the Pacific Daily News on Sunday May 9 suggested that as many as 2,000 illegal aliens may already be in Guam. Only after the situation became even worse and the national media began to draw attention to what was happening, did the White House become involved. As a result of that involvement, the Administration has finally begun to pay some attention and is beginning to dedicate resources to the interdiction of these aliens. The Administration plans to send three more Coast Guard vessels and two C–130 aircraft to Guam and apparently will reimburse the local government for its expenditures on behalf of federal agencies. That response was too long in coming. Parenthetically, I would note that INS did not care about extending immigration laws to the Northern Marianas until after the Readers Digest and other publications began to question the Administration's commitment to human rights and the White House became concerned with its image.

A continuing concern for my Committee over the years has been the reluctance of Executive Branch agencies, specifically the INS, to treat the Marianas as part of the United States. Up until last Congress, the INS resisted any attempt to extend the immigration laws to the Northern Mariana Islands. That resistance was not based on policy grounds or from a belief that the Northern Marianas was operating an effective immigration system, but from the narrow administrative concern of not wanting to dedicate the personnel and resources. I must admit that I have some apprehension over how solid the recent conversion of the INS is. Last Congress, they testified in support of the Administration's proposal to extend the immigration laws. They promised the Committee that they would dedicate the necessary resources to ensure successful implementation. Now we see that they are unwilling to dedicate the resources in Guam, where federal immigration laws already apply, until they are directed to do so by the White House. The situation in the Marianas may be sufficiently problematic that we will have to go forward with the legislation despite my reservations. I intend to closely examine the INS when we schedule hearings on this legislation.

I also am concerned over the Administration's decision to use the Northern Marianas as a holding area for illegal aliens who are intercepted at sea. On May 8, the Coast Guard intercepted a Taiwanese vessel with 80 people suspected of trying to illegally enter Guam. The vessel was escorted to Tinian in the Northern Mariana Islands. Apparently the Administration made that decision because the federal immigration laws do not apply in the Marianas and that makes it easier to repatriate the aliens and prevent them from claiming asylum. If we extend the immigration laws, as one portion of the Administration wants, we will frustrate the interdiction and repatriation program being pursued by another portion of the Administration. The Committee will need to sort this out during our hearings. I also will look forward to an explanation of why the use of Tinian in the Northern Marianas avoids claims of asylum. The asylum requirements are matters of international obligation and federal policy. In fact, the failure of the Northern Marianas to deal with asylum issues as a matter of local legislation was one of the arguments that the Administration made in support of the extension of federal legislation. That contradiction will also need to be explored. It appears from press reports that the Administration plans to consider claims of asylum, but given the peculiar situation of refugees from mainland China, it will be interesting to see how those claims are processed.

I am also aware of suggestions in Guam that we need to amend the immigration laws to prevent the claim of asylum on Guam. Congressman Underwood has introduced legislation to that effect already. I think we need to be very careful in considering legislation to extend the immigration laws to the Northern Marianas that we do not create an even larger problem than the one we already have in Guam. Guam is a single island, about 33 miles by 12 miles. The Commonwealth of the Northern Mariana Islands is an archipelago of fourteen islands three hundred miles long. If we can not adequately patrol Guam, how are we going to patrol the entire Marianas? That also is a question that will need to be answered before we move this legislation.

Before the opponents of this legislation start their celebration, I want to repeat that I find the conditions and circumstances in the Northern Marianas to be unacceptable. I have serious concerns over this legislation, but something needs to be done. I am willing to consider modifications to the legislation. Last year I included provisions to guarantee both construction and tourism sectors access to sufficient workers, and I am willing to revisit those provisions or consider other changes to support the economy of the Northern Marianas. At some point, however, the Marianas needs to take a hard look at the structure of their economy. They can not continue indefinitely with the public sector being the only source of employment for US residents. They need to provide a future for their children. The federal government needs to ensure that federal laws are enforced and that they are applied in a manner that recognizes the unique circumstances of this island community. I support as much local authority and control as is possible. There are certain functions, however, that only the federal government can effectively perform. There are also certain rights that every individual who works and resides in the United States should expect to be guaranteed. This legislation will provide an opportunity for the Committee to see that those responsibilities are performed and that those rights are protected.●

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. CAMPBELL, the names of the Senator from Pennsylvania [Mr. SANTORUM] and the Senator from Kentucky [Mr. BUNNING] were added as cosponsors of S. 38, a bill to amend the Internal Revenue Code of 1986 to phase out the estate and gift taxes over a 10-year period.

S. 39

At the request of Mr. STEVENS, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 39, a bill to provide a national medal for public safety officers who act with extraordinary valor above the call of duty, and for other purposes.

S. 61

At the request of Mr. DEWINE, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 61, a bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions.

S. 219

At the request of Mr. MOYNIHAN, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 219, a bill to authorize appropriations for the United States Customs Service.

S. 313

At the request of Mr. SHELBY, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 313, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1999, and for other purposes.

S. 395

At the request of Mr. ROCKEFELLER, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 395, a bill to ensure that the volume of steel imports does not exceed the average monthly volume of such imports during the 36-month period preceding July 1997.

S. 409

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 409, a bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes.

S. 472

At the request of Mr. GRASSLEY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 472, a bill to amend title XVIII of the Social Security Act to provide certain medicare beneficiaries with an exemption to the financial limitations imposed on physical, speech-language pathology, and occupational therapy services under part B of the medicare program, and for other purposes.

S. 566

At the request of Mr. LUGAR, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 566, a bill to amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from