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Senate

The Senate met at 9 a.m. and was called to order by the Honorable LINCOLN CHAFEE, a Senator from the State of Rhode Island.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Very Rev. James L. Nadeau, S.T.L., Cathedral of the Immaculate Conception, Portland, ME.

PRAYER

The guest Chaplain, Very Rev. James L. Nadeau, offered the following prayer:

Gracious Father, Almighty Sovereign of our beloved Nation, and Lord of our lives, You have revealed Your glory to all the nations. But You have called this Nation in particular to be a sign of freedom and opportunity, a sign of righteousness and justice for all. Help us to be faithful to our destiny.

Let us pray. Almighty Lord, God of us all, assist, with Your spirit of counsel and fortitude, the women and men of this Senate. As they begin this session, they turn to You, Lord of all righteousness and justice. May You fill their hearts as they seek to preserve peace, promote national harmony, and continue to bring us the blessings of liberty and equality for all.

We make this prayer to You, who are Lord and God, forever and ever. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LINCOLN CHAFEE led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 22, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LINCOLN CHAFEE, a Senator from the State of Rhode Island, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I see on the Senate floor the distinguished Senator from Maine who wants to address the Senate. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. I thank the Senator from Kentucky for allowing me to proceed.

FATHER JAMES NADEAU

Ms. COLLINS. Mr. President, I am delighted that our opening prayer this morning was so eloquently delivered by my good friend, Father James L. Nadeau, the rector of the Cathedral of the Immaculate Conception in Portland, ME, and a native of my hometown of Caribou, ME.

Father Jim is an inspiring testament to the power of faith and education. My family takes special pride in Father Jim because of our close connections growing up in Northern Maine. Both our families attended the same church in Caribou, Holy Rosary, where my mother was the director of religious education. Father Jim and his brother have both become priests. So we take special pride.

Father Jim has a truly inspiring story. He was the first member of his family to graduate from college, and he credits this accomplishment to the academic preparation and support he received from the Upward Bound program at Bowdoin College.

I wish to quote from Father Jim's own words, which describe his family background:

Growing up in a rural Franco-American background, I was expected to follow my ancestors who for over 250 years were farmers and woodsmen. . . . I recall my parents not even wanting me to think about college. They could not afford it; plus, no one had gone to college in my family. In fact, my mother and father only studied to 8th grade. My mother, the oldest girl of 15 children, had to stay home and take care of her brothers and sisters. My father, when just a teenager, began working on the farms and at a french fry processing plant.

For young Jim Nadeau, everything changed in his life when he first met the director of the Bowdoin College Upward Bound program in 1977. She encouraged him to go to college, and, indeed, after graduating from Caribou High School as valedictorian, he enrolled at Dartmouth College in the fall of 1979. With Pell grants and other financial aid making his education possible, he excelled in his studies.

After graduating from college, Father Jim studied at Gregorian University in Rome for 5 years where he received two graduate degrees in theology. Father Jim also worked with Mother Teresa of Calcutta in her Roman missions and was ordained a Roman Catholic priest in 1988. Father says that he truly can credit the Upward Bound program with changing his life.

We are, indeed, fortunate that the power of God and education transformed the life of young Jim Nadeau. He is an inspiration to us all and continues his important work today as rector of the Cathedral of the Immaculate Conception in Portland, ME. There he has guided many financially disadvantaged students and encouraged them to go to college.

I am delighted to have him with us today. It is a great honor and privilege

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

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to have this outstanding priest join us and offer to us his inspiring opening prayer.

I thank the Chair, and I thank my colleague.

Mr. DODD. If my colleague will yield for a minute, I had the pleasure of briefly meeting Father Jim Nadeau this morning downstairs. I welcome him to the Senate. I thank him for his beautiful prayer this morning. It is good to have a New Englander opening the Senate with us this morning.

I thank our distinguished colleague from Maine for extending the invitation and sharing with us an inspiring story about Father Nadeau's family and his contributions to the State of Maine and this country. We thank him immensely for all the wonderful work he has done. I thank my colleague from Maine.

Ms. COLLINS. I thank the Senator from Connecticut for his kind words.

Mr. MCCONNELL. Mr. President, I associate myself with the observations of the Senator from Connecticut and congratulate the Senator from Maine for bringing this outstanding citizen of her State here this morning to open the Senate with a prayer. I wish him well in his endeavors.

SCHEDULE

Mr. MCCONNELL. Mr. President, today the Senate will immediately resume consideration of the Hatch disclosure amendment to the campaign finance reform legislation. There will be up to 30 minutes of debate, with the vote to occur shortly after 9:30 a.m. Additional amendments will be offered throughout this day. It is hoped that some time on each amendment can be yielded back to accommodate all Senators who intend to offer their amendments. Senators will be notified as votes are scheduled, and also as a reminder votes will occur during tomorrow's session.

Mr. President, I see Senator HATCH is present to discuss his amendment.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

BIPARTISAN CAMPAIGN REFORM ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 27, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 27) to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

Pending:

Hatch amendment No. 136, to add a provision to require disclosure to shareholders and members regarding use of funds for political activities.

AMENDMENT NO. 136

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the Hatch amendment No. 136 on which there shall be 30 minutes of debate equally divided in the usual form.

The Senator from Utah.

Mr. HATCH. Mr. President, I hope we will not take the whole 30 minutes. I understand some of our colleagues need to make some special appointments. I will try to be brief.

I hope all of my colleagues will support this modest, straightforward amendment. We are here this week and next, debating so-called campaign finance reform. I do not understand how anyone can purport to favor any reform of our current system without being willing to offer the most basic right of fairness to the hard-working men and women of this country.

Let's be clear about what we are talking about. We are talking about letting workers who pay dues and fees to labor organizations be informed about what portions of the money they pay to unions are being spent on political activities. In my view, that is basic fairness.

Is there some big secret here? Is there some reason workers should not be told how their money is being spent?

The hypocrisy of the opposition is quite extraordinary. The underlying bill severely limits the ability of political parties to engage in the types of activities that this amendment simply asks unions to inform their members about. How can someone on the one hand argue for a restriction on these activities by parties and then secure a free pass and not even disclose the same information by others? This is simply remarkable.

Then we hear the argument that this simple disclosure requirement is too burdensome. Give me a break. During these weeks in March and April when hard-working Americans are hovering over their tax forms, how can anyone call this straight-forward disclosure requirement on the unions too onerous? What is going on?

Labor organizations collect dues and fees from American workers. Can anyone tell me they are not already keeping track of this money? If this disclosure amendment is too onerous, that suggests to me there might be an even bigger issue of accountability on how and where this money is being spent.

I trust my colleagues will remember these arguments about ''onerous burdens'' when we are trying to do regulatory reform.

The issue in this simple amendment is, do America's hard-working men and women have the right to know whether and how the dues and fees they pay are being used for political activities, or don't they? It is that simple. This ought to be the most basic of worker rights and protections.

I hope my colleagues cast their votes in favor of the right of American workers to know how their money is being spent.

Finally, let me emphasize, this amendment does not require the consent of employees. It simply requires disclosure. That is all, pure and simple, disclosure to the hard-working teachers, janitors, electricians, carpenters, and others on what the union leadership is actually spending these workers' hard earned money. It doesn't seem to me to be much of a burden or requirement. It seems to me if we are interested in having true campaign finance reform, this is one of the basic reforms.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DODD. Mr. President, I ask unanimous consent I be allowed to proceed for about 3 minutes. If the Chair will advise me when 3 minutes expires.

Mr. MCCONNELL. I inquire how much time remains on this side.

The ACTING PRESIDENT pro tempore. Eleven and a half minutes.

Mr. DODD. Mr. President, yesterday the Senate appropriately rejected the original amendment requiring corporations and labor organizations to get prior consent from shareholders and their members in order to use their general treasury funds for political activities. That proposal was appropriately rejected rather overwhelmingly—69–31—in this body for reasons explained in a bipartisan fashion.

The Senator from Oklahoma, Mr. NICKLES, and Senator KENNEDY pointed out this was a cumbersome, almost unworkable proposal that would have literally placed businesses and unions in a very precarious position. We made the suggestion if the amendment was going to be seriously considered by this body, of which corporations and business would have vehemently opposed, it would have required them to engage and perform certain functions and duties that never before had been required of them.

There is no parity for a democratic organization such as a labor union, where Federal laws require the opening of books, the revealing of financial data information, the free election and secret balloting of officers, and a corporation where none of those union requirements pertain to a corporation management structure.

The same could be said in many ways about this amendment. While this amendment is simpler than the original amendment, the failure or the problems with this one are not much different. This is a tremendously cumbersome mandate that will make it very difficult for some of these businesses and corporations to comply. There are different levels of activities as well.

According to the Federal Election Commission, in the area of contributions since 1992, as a general matter, corporations have outspent labor unions in Federal elections by almost 16–1. So there has been a huge disparity in the amount of money contributed to candidates.

On the other hand, we have labor unions and labor organizations, and

their members engage in grassroots political activities, and corporations historically do not.

This amendment is not a balanced in its approach to corporations and labor organizations. All of a sudden, this amendment attempts to penalize organizations that are trying to get people to participate in the political life of the country. It says to them, we are going to start demanding this kind of minutia and disclosure of information. As a matter of fact, there is no parity in asking corporations to do the same kind of disclosure when they don't engage in the activities that require the disclosure at issue. This amendment is truly not a balanced request or approach.

Second, there are many other types of organizations that engage in political activities. While the Federal campaign law governs these organizations to a certain extent, this amendment completely excludes them. Membership Organizations, such as the National Rifle Association, the National Right to Life organizations, Sierra Clubs, and other groups are also subject to certain provisions of the FECA. This amendment does not address those organizations nor require them to disclose any detailed information regarding disbursements, contributions or expenditures with respect to their political activities.

This amendment is impermissible ''selective application.'' It would only apply to one group of people, those involved in organized labor in the country.

I understand my friend from Utah doesn't like organized labor. He doesn't like labor unions or labor organizations. He disagrees. These are people who take positions on the Patients' Bill of Rights, prescription drug benefits, and minimum wage, and a whole host of issues involving child care. I have a long list of items that working families, through their leadership, support. My good friend from Utah has usually disagreed with them on these matters. However, you don't go out and discriminate against one organization that is engaged in encouraging people to participate in the political life of the country by attaching a set of obligations and burdens on them that has the effect of discouraging political participation. We ought to be encouraging more participation.

Finally, this amendment should be primarily opposed because it serves as a ''poison pill'' for the entire McCain-Feingold campaign finance reform legislation.

For those reasons and others my colleagues will identify, we strongly oppose this amendment. This destroys the McCain-Feingold bill.

I see my colleague from Wisconsin. I yield to him 3 minutes.

Mr. FEINGOLD. Mr. President, I will vote against the Hatch amendment and I urge all supporters of the McCain-Feingold bill to do the same. Once again, the effort of the Senator from Utah to treat unions and corporations equally sounds good but just doesn't work.

There is no doubt that increased disclosure of election spending is a laudable goal. The Buckley decision explicitly upheld the disclosure provisions in the Federal Election Campaign Act. Disclosure is aimed at increasing the information available to the voter. That is a good thing. No one questions the benefits of disclosure.

But disclosure requirements have to be clear and well drafted. They have to actually work. They can't be too burdensome or they will chill constitutionally protected speech. And they can't be one-sided, aimed at one player in the election system and not at others.

I am sorry to say that the provision offered by Senator HATCH fails all of these tests. First of all, his provision only applies to unions and those corporations that have shareholders. It doesn't cover businesses that don't have shareholders. It doesn't cover membership organizations such as the NRA, the Sierra Club, National Right to Life, or NARAL. Why should unions have to report to their members how much they are spending on get-out-the-vote drives, while all of these advocacy groups do not?

The disclosure requirements are also incredibly burdensome and confusing. A union is required to send a report to all of its members, and nonmember employees every year on the spending not only of the union itself but all international, national, State, and local affiliates. And this is not a one-way chain either. Nationals have to report everything that locals do, and locals have to report everything that nationals do. A corporation has to report on the activities of all of its subsidiaries.

Now remember, this amendment is not a requirement that these entities file a report once a year to the FEC. No, the reports have to be sent to every union member or corporate shareholder. A corporate PAC has to send a report every year to all of the shareholders of the corporation that is connected to the PAC. The content of the report is mostly going to be what the PAC has always reported to the FEC. What is the point of that?

Now as to what has to be reported, the amendment is vague, almost unintelligible. Direct activities such as contributions to candidates and political parties have to be reported. I understand what contributions are, but what else does the term ''direct activities'' contemplate? The amendment is silent on that. In the definition of ''political activities,'' which is what the general disclosure requirement covers, the amendment includes the following language—''disbursements for television or radio broadcast time, print advertising, or polling for political activities.'' That is a circular definition. What broadcast expenditures have to be reported?

Certainly not commercials for products, but the amendment gives us no real guidance. Public communications that refer to and expressly advocate for or against candidates are covered, but corporations and unions are prohibited from making those kinds of communications, and PACs already disclose their spending to the FEC.

Finally, Mr. President, no matter how hard the Senator from Utah has tried to make this amendment seem evenhanded, there can be no doubt that the real purpose of this amendment is to try to get information from unions about their political spending. There is nothing inherently wrong with that, but any such disclosure requirements just have to be evenhanded. These are not, so I must oppose the amendment and ask my colleagues who support reform to join me in voting to table it.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, every public company with shareholders is mandated to send financial disclosures to every shareholder—every public company. This is not a burden, it is done so they know how their money is spent.

Labor union financial disclosures—you would think they were already giving disclosures to their members, but they are not at all. The labor union financial disclosures only go to the Department of Labor and not to a single union member. And for union men to get those disclosures, they have to show cause. That is how bad it is, and that is how one sided it is.

I have heard these arguments that the Hatch amendment does not go far enough.

Some are trying to avoid disclosure of corporate and union political expenditures to shareholders and union members on the grounds that the Hatch amendment doesn't make ideological groups, such as NRA, Sierra Club, and other nonprofit advocacy groups disclose their donors or expenditures.

In response to that, I first note that it is a clever ruse to try and change the argument from disclosing expenditures to disclosing donors.

As a constitutional matter, disclosure of expenditures is fundamentally different than disclosure of donors, supporters, or members. Disclosure of expenditures implicates no one's freedom of association. Senator HATCH understands that and this is why he limited his amendment to disclosure of expenditures only.

Moreover, the Hatch amendment limits disclosure of expenditures to only corporations and unions, and makes sure that such disclosure only goes to union members and shareholders, not the general public.

He does not apply disclosure of political expenditures to ideological groups such as the Sierra Club or the NRA because people who join or contribute to those groups know what those groups advocate. This is not always so with corporations and unions.

Moreover, Federal law mandates certain democratic procedures for the governance of public companies under the

Securities and Exchange Act and the labor laws. Federal law does not mandate the internal governance of ideological groups. Under securities law and labor law Congress has set up a regime that imposed fiduciary duties on union and corporate leaders to members and shareholders and the Hatch amendment helps ensure those duties are fulfilled by shedding light on an area of corporate and union activity that supporters of McCain-Feingold are intent on keeping in the dark.

Thus, my amendment is merely seeking to improve the flow of information in federally regulated entities that Congress has already decided should function as democratic institutions. And we all know that transparency is good for any democracy. But supporters of McCain-Feingold are strangely opposed to more transparency and improved democracy in labor unions—that I think flies in the face of the rights of workers.

The argument that the requirements of my disclosure amendment are too vague—this is my favorite argument. Supporters of McCain-Feingold say that the descriptions in the Hatch amendment of activity that must be disclosed are too vague and thus unfair.

The Hatch amendment requires corporations and unions to disclose expenditures for ''political activity'' which is defined as:

Voter registration;

Voter identification or get-out-the-vote activity;

A public communication that refers to a clearly identified candidate for Federal office that expressly advocates support for or opposition to a candidate for Federal office; and

Disbursements for TV, radio, print ads, or polling for any of the above.

Now that doesn't seem that unclear to me, but it is too vague for supporters of McCain-Feingold. I find that fascinating.

It is fascinating because when I read McCain-Feingold, which they think is perfectly fine, I see that it requires State and local party committees to not only report, but to pay for entirely with hard money, the following in even numbered years: ''generic campaign activity'' which is defined as ''an activity that promotes a political party and does not promote a candidate or nonfederal candidate.

Although it is far from clear to me, it must be perfectly clear to supporters of McCain-Feingold what constitutes ''an activity that promotes a political party'' since they are not complaining about vagueness in the underlying bill.

Under S. 27, State parties must report and use hard money for

> A public communication that refers to a clearly identified candidate for federal office . . . that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office.

Again, I find it interesting that no one is complaining about how vague this provision is. It does not say how to figure out when an ad ''promotes or supports'' or attacks or opposes'' a candidate. McCain-Feingold doesn't even say who is supposed to figure that out. But this is just fine. Only the Hatch amendment is too vague.

I think it is pretty clear what is going on here.

Let's be clear about what my amendment does. It requires unions and corporation to disclose their political expenditures. It does not require the disclosure of any contributors or the name of a single union member or shareholder. By focusing solely on disclosure of expenditures, the Hatch amendment avoids the constitutional infirmities of Snowe-Jeffords and other legislation that requires disclosure of donors to advocacy groups. Merely disclosing an organization's political expenditures implicates no one's free association rights.

Moreover, this amendment is narrowly tailored insofar as it requires disclosure of union political expenditures only to union members and fee payers and disclosure of corporate political expenditures only to corporate shareholders. So it is not even disclosure of expenditures to the general public.

It simply ensures that shareholders and union members will have clear, understandable information about how their agents—union officials and corporate executives—are using the money they entrust to them.

Under existing law, neither shareholders nor union members get such information. Why should they not have it, it is their money. Why can't they see how it is being spent.

Let's examine the arguments being used by proponents of McCain-Feingold against this amendment:

First, it is not fair because only unions engage in the types of political activity covered: Many have said only unions and no corporations do GOTV activity, voter identification, voter registration, leafletting, phone bank, volunteer recruitment and training, and myriad of other party building activities that would have to be disclosed under this legislation. Thus, they say the amendment is not balanced.

They are right that no corporation does these basic party building activities the way unions do them for Democrats.

Corporations give PAC contributions, which are already subject to limits and fully disclosed under existing law. They also give soft money contributions to political parties that are fully disclosed under existing law and will be eliminated under McCain-Feingold. Corporations also run some issues ads around election time, that will be banned for 60 days before a general election or 30 days before a primary, as will union issue ads.

So McCain-Feingold already pretty well takes care of what corporations do, but does not touch the key things that unions do for Democrats—the groundgame. On our side, no corporations do or ever will do the kind of GOTV, and other groundgame activities unions do for Democrats.

But all Democrats support banning party soft money, which is the only resource Republicans have to counter the massive groundgame unions do for Democrats. Without soft money, the Democrats ground game will go on thanks to their unions allies, but the Republican counter to the unions groundgame is eviscerated.

This amendment wouldn't stop or otherwise hinder the unions ground game, it would just bring it out into the light of day and disclose to union members who pay for it. But no, we can't do that, it's not fair to attach that to McCain-Feingold. That would not be fair and balanced. But disarming the GOP in the face of the union groundgame is fair to supporters of McCain-Feingold?

Second, disclosure under this amendment would discourage participation through GOTV activity and voter registration and other activities these entities do. This argument only makes sense if we assume that when union members or corporate shareholders learn about the political activities unions and corporations engage in that they will be outraged and rise up using the mechanisms of corporate and union democracy to oust the union and corporate officials using their money for GOTV and other political activities.

To this I can only say that if union members and corporate shareholders would react in this way, so what. They have a right to pass judgment on how their money is spent and if they disagree to ensure that it is used for purposes with which they agree. Why keep them in the dark about how much of their money is used for various kinds of political activity? If unions are the happy, democratic institutions Democrats claim, what do union leaders have to fear from sunlight?

The only other argument for saying that disclosure of expenditures would diminish such activity is that it is overly burdensome.

This argument has little merit. We just passed a law last year that requires even the puniest section 527 organization to disclose any ''expenditure'' for any purpose in excess of $200. No one claimed it was too great a burden for them. These groups are managing and they do not have nearly the resources of the AFL–CIO, Teamsters, NEA, and other unions.

Unions and corporation would just do what section 527 groups already do, and what political parties already do—hire an extra accountant and maybe a lawyer. That is not too much when you are the Teamsters and you take in over $300,000,000 a year.

If opponents of this amendment were truly concerned about voter turnout, voter education, and voter participation, they would rail against the fact that McCain-Feingold requires the national as well as State and local political parties to use 100 percent hard

money, thereby eliminating most of the resources available to our parties for their GOTV, voter identification, voter registration, and other activities that increase participation and turnout.

How is mere disclosure of union and corporate political activity more damaging to voter participation and education than elimination of over one-third of the resources our parties have to do this?

Maybe gutting the parties isn't so bad because Democrats know that unions will carry the water for them on all of these groundgame activities while McCain-Feingold will ensure that the Republican Party cannot match the unions' effort.

This is a one-sided bill that basically is not fair, and it is certainly not fair to union men and women. These workers deserve to know for just what their union dues are being spent. All we are asking for is disclosure, something in this computer age they can do with ease if they want to, something in this computer age they ought to do because it is essential, something in this computer age they must do because it is not fair not to. To try to cloud the issue by saying we should disclose the donors—that is not the issue. The issue is expenditures, expenditures, expenditures; and the issue, the real issue, if we really want to do something about campaign finance reform, is disclosure, disclosure, disclosure. That is all I am asking for.

I reserve the remainder of time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I am about to yield to my colleague from Michigan. We on this side, the opponents, have been talking about labor unions. I want to make a point as I read this amendment. People buy and sell stock with some regularity. You can buy one share of stock, as I read this amendment, for one day and technically be defined as a shareholder of a corporation, even if you held the stock for only 15 minutes. As this amendment is crafted, if there was then an internal communication by that corporation during that year of some political message, despite the fact that I may have held one stock for 15 minutes as a shareholder, that corporation is then required to send me all this disclosure information about that corporation's political activity.

That is incredible to me. It doesn't distinguish how long you are a shareholder, so a shareholder for 15 minutes, who bought and held the stock for 15 minutes and then sold the stock again, would be required to get this information.

We talk about the negative effect on organized labor. If you are a corporate shareholder and this amendment is adopted, you ought to shudder, in terms of the amount of information you will be getting.

But let me yield 3 minutes to my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this amendment is indeed onerous, cumbersome, and confusing. It not only chills first amendment association rights, it makes a mockery of those rights.

I want to use a few of the words from the amendment, words that were left out by my good friend from Utah who, by the way, is celebrating his birthday today. I think we all want to congratulate him. I heard it on the radio today. Senator HATCH, I won't disclose the age—except to say it is a few months older than I—and I would like to wish happy birthday to our good friend from Utah.

Let me take one example of the confusing words in this amendment which make it impossible, it seems to me, to be implemented: An expenditure which directly or indirectly—directly or indirectly—is made for an internal communication that relates to a political cause.

I cannot imagine how any corporation or union could conceivably keep track of the direct or indirect expenditure that relates to an internal communication that relates to a political cause. ''Political cause'' is not defined, by the way. We have the words ''political activity'' defined in ways which, for the most part, only apply to unions and not to corporations. But that is a different problem. That is the problem of the paper parity—an amendment which appears to apply to corporations. If it did, it would be totally impossible for a corporation to comply with, as our good friend from Connecticut just said. But it is really aimed at labor unions because the activities which are identified are mainly the political activities in which unions engage.

But the point is, these words are so extraordinarily vague. Imagine a union at every level trying to keep track of the indirect costs of an internal communication that relates to a political cause—whatever all of that means. This is a burdensome and onerous requirement. I think it is confusing, and it is cumbersome.

Again, it is devastating to a right which all of us—Democrats and Republicans—ought to protect, which is the right of free association.

I close by reminding our colleagues that this applies to members of labor unions who join that union, and not to nonmembers. This is intended to control the rights of voluntary association and its members. This is an intrusion, and a heavy interference in the rights of association. It places impossible burdens on an association to keep track of every single expenditure and every internal communication that could indirectly—I am using the words of the amendment—relate to a political cause.

None of those words are defined.

It is an onerous interference with the first amendment right of association.

Mr. MCCONNELL. Mr. President, how much time is remaining?

The PRESIDING OFFICER (Mr. CRAPO). Five minutes.

Mr. MCCONNELL. Mr. President, I commend the Senator from Utah for offering this amendment. This does not have anything to do with how the unions raise their money. We already voted down yesterday the opportunity for union members to get a refund of union dues spent on causes with which they don't agree.

So the AFL–CIO is essentially batting 1,000 so far.

All this is about is simple disclosure.

I remember last year when the section 527 bill came up. We did not hear anybody saying that it was a poison pill or that it was too burdensome. Why is all of a sudden a simple disclosure burdensome, as Senator HATCH pointed out. For a union member to find out how the money of his or her union is spent, he has to go over to the Department of Labor and establish just cause to be permitted to see how the funds have been spent.

Every corporation in America does more disclosure than that. They send out annual reports to shareholders. No union does that.

This is about as mild as it gets. All we are asking is for a simple disclosure to the public and to union members of how this money is spent.

It doesn't restrict their spending of the money. It doesn't in any way hamper their ability to raise the money. Simple disclosure is all the Hatch amendment is about, disclosure and sunlight.

What is there to hide? After all, this money comes from union members. Why are they not entitled, without having to buy a plane ticket and fly to the Department of Labor and convince some bureaucrat they have just cause to be permitted to see the records of how their union spent their money last year?

It seems to me that this is very basic and not very onerous.

It is interesting to listen to the opponents of this amendment try to think of arguments against it. About all they can come up with is it is burdensome.

It is also burdensome to have your dues taken and spent in ways that you are not entitled to find out unless you buy a plane ticket to come to the Department of Labor and sit down with some bureaucrat and establish just cause.

I do not know what the AFL-CIO is afraid of on this.

I assume the votes will not be there to approve this amendment because it is pretty clear that anything that has any impact whatsoever on organized labor—anything, any inconvenience, and now even simple disclosure and sunlight—is perceived as a poison pill. That is where we are in this debate.

I hope the Hatch amendment will be agreed to.

The reason paycheck protection didn't get more votes last night, of course, is because it also applied to corporations. And there are a number

of Members on our side who didn't want to apply that to corporations.

This is plain. It is simple. It is understandable, and it is essential to a functioning democracy.

It seems to me that this is an opportunity for the Senate, if it is serious about disclosure, to give union members and the public an opportunity to understand how union dues are spent.

Mr. DODD. Mr. President, I will yield back time, but I wish to read what the amendment says: Itemize all spending, internal communications to members or shareholders, external communications to anyone else by any means of transmission for any purpose on any topic that relates to any Member of Congress or person who is a Federal candidate, any political party or any political cause total.

This is so broad that I can't imagine anyone, whether from a business perspective or labor perspective, would vote for this amendment. It is not appropriate to include such an over broad and vague amendment on a constitutionally sensitive campaign finance reform bill.

Mr. LEVIN. Just add the words ''directly or indirectly.''

Mr. DODD. That is right.

We urge rejection of this amendment. I am happy to yield back all of our time.

Mr. MCCONNELL. Mr. President, this is an opportunity for members of unions to find out how their dues are being spent without buying a plane ticket, going to the Department of Labor, and trying to find out through that difficult process.

I yield my time.

The PRESIDING OFFICER. All time having been yielded, the question is on agreeing to the amendment.

Mr. MCCAIN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 60, nays 40, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—60

Akaka	Dayton	Lieberman
Baucus	Dodd	Lincoln
Bayh	Dorgan	McCain
Biden	Durbin	Mikulski
Bingaman	Edwards	Miller
Boxer	Ensign	Murray
Breaux	Feingold	Nelson (FL)
Byrd	Feinstein	Nelson (NE)
Campbell	Graham	Reed
Cantwell	Harkin	Reid
Carnahan	Hollings	Rockefeller
Carper	Inouye	Sarbanes
Chafee	Jeffords	Schumer
Cleland	Johnson	Snowe
Clinton	Kennedy	Specter
Cochran	Kerry	Stabenow
Collins	Kohl	Thompson
Conrad	Landrieu	Torricelli
Corzine	Leahy	Wellstone
Daschle	Levin	Wyden

NAYS—40

Allard	Bennett	Brownback
Allen	Bond	Bunning
Burns	Hatch	Santorum
Craig	Helms	Sessions
Crapo	Hutchinson	Shelby
DeWine	Hutchison	Smith (NH)
Domenici	Inhofe	Smith (OR)
Enzi	Kyl	Stevens
Fitzgerald	Lott	Thomas
Frist	Lugar	Thurmond
Gramm	McConnell	Voinovich
Grassley	Murkowski	Warner
Gregg	Nickles	
Hagel	Roberts	

The motion was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I want to take a minute to say that I think we all agree we are making very good progress. I also want to point out that we don't have any idea yet how many amendments remain. It is about time now in this process that we get an idea of how many remaining amendments there are.

The majority leader is trying to figure out whether we should stay in tomorrow, and even Saturday, in order to complete our work. I am not sure I can agree to us not remaining in session, unless we have some idea as to the number of remaining amendments and how we continue to address those.

Look, everybody knows the Senator from Alaska is going on a trip to Alaska next Thursday night and is intent on doing that. I don't want to interfere with that. I don't want us to go out early tomorrow, or at any time, until we have some idea as to how we can bring this to an end, hopefully, by next Thursday or Friday.

I hope Members will let Senators MCCONNELL and DODD know of their amendments. That doesn't mean there won't be one or two additional amendments or additional second degrees. But we ought to know about how many amendments remain so we can have an idea as to how much time we need to use over the weekend.

I thank my friend from Mississippi for a very important amendment that will take advantage of the new technology we have, as far as increasing full disclosure and informing the American people.

Mr. DODD. If the Senator will yield, I want to underscore what the Senator from Arizona has said. We have considered, I think, eight amendments since we began on Tuesday. Now, we have taken a lot of time. Some of them have been lengthy debates. The amendment we are about to consider will be finished in about a half hour. It is a noncontroversial amendment, one that will add substantially to the bill. But we have about 30, at least, amendments on the Democratic side. While many amendments probably will not be offered, I don't know that yet.

I underscore what the Senator said, that we need to take advantage of this opportunity. Several Members have said, ''I will do it next week.'' That crowd is beginning to grow for next week. If we only handle 8 or 10 amendments this week, I am not overly optimistic that we will be able to handle the numbers I see in 4 or 5 days next week. It will be important to pare the list down. I urge Members to do so.

With that, I thank my colleague from Mississippi for yielding. I support his amendment. There are several people who want to speak on it. Senator LANDRIEU from Louisiana would like to be heard as well on this amendment.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 137

(Purpose: To provide for increased disclosure)

Mr. COCHRAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 137:

On page 38, after line 3, add the following:

TITLE V—ADDITIONAL DISCLOSURE PROVISIONS

SEC. 501. INTERNET ACCESS TO RECORDS.

Section 304(a)(11)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(B)) is amended to read as follows:

''(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (24 hours in the case of a designation, statement, report, or notification filed electronically) after receipt by the Commission.''.

SEC. 502. MAINTENANCE OF WEBSITE OF ELECTION REPORTS.

(a) IN GENERAL.—The Federal Election Commission shall maintain a central site on the Internet to make accessible to the public all election-related reports.

(b) ELECTION-RELATED REPORT.—In this section, the term ''election-related report'' means any report, designation, or statement required to be filed under the Federal Election Campaign Act of 1971.

(c) COORDINATION WITH OTHER AGENCIES.—Any executive agency receiving an election-related report shall cooperate and coordinate with the Federal Election Commission to make such report available for posting on the site of the Federal Election Commission in a timely manner.

Mr. COCHRAN. Mr. President, I allowed the clerk to read the entire amendment so the Senate would be fully informed of the exact provisions of this amendment.

It does, purely and simply, what it says it does. It requires the filing of the posting by the Federal Election Commission of any filing made with the Commission on the Internet. In the case of filings made electronically, the posting will be done under the terms of this amendment within 24 hours. As far as other filings are concerned, those that may be filed without electronic dissemination through the Commission, or receipt in any other way, shall be posted within 48 hours.

We have discussed the amendment and the question of enforceability and

compliance with the Federal Election Commission representatives. We have been assured that this can be managed, it can be administered by the Federal Election Commission.

It is also important to note there are a number of reports required under this act we are taking up now, an amendment to the 1971 act that would require filings by other than candidates for Federal office. At this time, most of the filings that are done are for candidates. I am hopeful that under the terms of this act we are considering now, the amendment to the Federal Election Campaign Act, we will have much more disclosure. I think, for example, the amendment we have already adopted, offered by the distinguished Senators from Maine and Vermont, Ms. SNOWE and Mr. JEFFORDS, will require more disclosure to be made about who is spending money to influence the outcome of Federal elections, and how that money is being spent.

These disclosures will be made under the McCain-Feingold bill. They will be subject to the posting provisions of this amendment.

It is my hope, too, that other Federal agencies which may receive election-related reports, as defined in section 502 of this amendment, will cooperate with the Federal Election Commission and make those reports available to the Federal Election Commission so it may post on a central Internet Web site all election-related reports relating to Federal election campaigns.

This will make it a lot simpler and easier for the general public. It will make it easier for candidates, anybody interested in Federal election campaigns, to go to one site and find there, through links maybe to other agencies or otherwise on this Internet site, all of the receipts, disbursements, and disclosures required by the Federal Election Campaign Act.

We hope this is a step toward fuller disclosure, disclosure that really does create greater access by the public to what is going on in Federal election campaigns. I am hopeful the Senate will agree to the amendment.

Mr. CRAIG. Will the Senator yield?

Mr. COCHRAN. Mr. President, I am happy to yield to my friend from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I am looking at section 502 of the Senator's amendment, subsection (B), in how he defines all election-related reports. I know the Senator's intent, and I applaud it. I think it would be absolutely desirable to have a central point, a repository totally transparent to the public.

The Senator's amendment says that all election-related reports are those required ''to be filed under the Federal Election Campaign Act of 1971.''

I am wondering if the Senator's intent is to require the reports of section 527 groups whose reports are already posted on the Internet separately. Those are a requirement of the IRS Code.

Also, does it require the FEC to put on the Internet what we call LM–2 forms filed with the Department of Labor, since all of these forms acknowledge labor PACs? In my mind, they fall under the all election-related reports. It just so happens there are others outside the 1971 law.

There is another, and this is one I find interesting. It is related to municipal securities dealers pursuant to what is known as the MSRB rule G–37, which I know absolutely nothing about, other than to say there is a requirement for filing under that law because Federal candidates sometimes can have bond-related responsibilities.

George W. Bush, as Governor of Texas, had bond-related responsibilities and probably had to do filings. Those are election-related filings, but because they are not under the 1971 law, they would not necessarily fall under the Senator's definition.

I know the intent of the Senator from Mississippi, and I applaud his intent. The question is, Is it as all inclusive as he intends it to be because the Senator has limited it to the 1971 law, and there are now other laws we have grown through over the last good number of years that indicate other election-related activities?

Mr. COCHRAN. Mr. President, I thank the Senator for his question and also for his comments to further explain the possible inclusiveness of paragraph (c) of section 502. This is not an absolute requirement of law under paragraph (c). It is an encouragement. It is almost like a sense-of-Congress resolution when we encourage the cooperation and coordination with the Federal Election Commission. We use the word ''shall.''

I do not know that in a contest in litigation this would be enforced by the courts, but we hope the spirit of it is conveyed by the use of the words ''cooperate and coordinate with'' the Federal Election Commission.

I do not want to create within the Federal Election Commission the idea that they are superimposed over all other Federal agencies and departments and can summons them or require of them transferring information and documents to the FEC for exhibition on this Internet site, but it is our hope that this language will encourage the cooperation and coordination of these other Federal agencies that might receive reports, such as the ones described by the Senator from Idaho, so the FEC can put all of these in one central location on a Web site. They can do this through linking to other agencies and departments on the Internet.

As the Senator knows, that is one way to deal with this, on the centralized Web site of the FEC to provide opportunities and cross-references to other agencies and identify documents that are election-related reports. That is our hope.

The wording of it might be a little awkward. I am happy for the Senator to suggest a better way to say it, but that is the intent.

Mr. CRAIG. Will the Senator yield for one last question?

Mr. COCHRAN. I am happy to yield to the distinguished Senator.

Mr. CRAIG. Mr. President, FEC reports are only filed with the FEC and the Secretary of the Senate. They are filed nowhere else in our Government. In subsection (c), the Senator talks about coordinating with other agencies:

> Any executive agency receiving an election-related report shall cooperate and coordinate with the Federal Election Commission. . . .

I sense a confusion there in how that gets supplied. You file with no one else but the FEC as a Federal candidate. The FEC files with no one else, and there is no relationship to these filings now of the kind I have mentioned—the bond brokerage issue with the broker having to file and the IRS-related issue. Those are all stand-alones, if you will, and also the Internet LM–2 form filed with the Department of Labor.

I want to agree with the Senator in creating a central repository.

Mr. COCHRAN. If the Senator will yield to me and let me ask for his reaction to this, can we put in the first section ''included, but not limited to, election-related reports''? Paragraph (b) means any report, designation, or statement required to be filed with the Commission—included but not limited to. Let's put that in between ''election-related report'' and the word ''means.''

Mr. CRAIG. We are all concerned about clarity, and I was concerned——

Mr. COCHRAN. I would not want to limit it just to the Federal Election Campaign Act, but I did not want anybody to think we were giving the FEC the authority to require other agencies to file their reports with the FEC. We wanted to use ''cooperate and coordinate.''

Mr. CRAIG. But, of course, if the Senator is intent on creating a central repository with true transparency and these are other valuable reports—for example, the report filed with the Labor Department is labor unions and PACs and their filings which have valuable disclosure information in them.

I am not sure we want to be that vague. That is my frustration.

Mr. COCHRAN. I also do not want to presume to list every report that is an election-related report, hence the use of a general description of what we are talking about. We do want to include any and all reports that are required to be filed under the Federal Election Campaign Act of 1971 and the amendments to that.

We think the amendments are included in the words ''Federal Election Campaign Act of 1971,'' including the amendments of 1974 and the one we are considering in the Senate today, which is an amendment to the 1971 act. We want to include all filings required by that law and all amendments to that law. That is understood.

We also want to include, by way of suggesting cooperation and coordination with other Federal agencies and departments, any other election-related reports, and the Senator has correctly identified several. Those all should be included, in my view, in the meaning and the intent of this amendment and should be so construed by any court of law or any administrative agency with responsibility for enforcing this amendment.

Mr. CRAIG. Will the Senator yield?

Mr. COCHRAN. I am happy to yield.

Mr. CRAIG. To our knowledge, there are only the three we have mentioned. Absolute clarity suggests you put those three in the text of your amendment and then say ''and any additional'' or others that may come along.

Obviously, if your amendment becomes the law and other reports are required that might be outside the scope of the 1971 law, you would identify them with your law and make them a requirement of that filing for purposes of Internet access.

Mr. COCHRAN. I thank the Senator. I think his suggestions have been helpful.

We have staff on the floor who have been working on the drafting of the amendment for several days and consulting with the FEC and representatives of the committee of jurisdiction.

Let me have a chance to address the concerns of the Senator with some suggested modification language and discuss this with him and the chairman and ranking member of the Rules Committee, which has jurisdiction over this subject.

Mr. CRAIG. I thank the Senator.

Ms. LANDRIEU. Will the Senator yield?

Mr. COCHRAN. I am happy for the Senator to be recognized in her own right and speak to the issues.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I come to the floor to support Senator COCHRAN in his amendment. I think it is an excellent amendment and goes a long way toward moving to a more full and complete disclosure.

I understand some of the questions that have been raised. But as I read this amendment, it is very good. We are doing this in Louisiana and perhaps other States, learning how to use this new technology in many good ways.

It helps our campaign finance system be more transparent. For instance, the Senator is correct; you can take a State such as Louisiana and simply make this requirement for our State agency to make all of these reports available over the Internet on one Web site so people don't have to search through a variety of Web sites.

I commend the Senator for his amendment. I support his amendment and urge the Senator, unless absolutely necessary, not to adjust the amendment. It is very clear. It simply takes the law and all the reports and urges the FEC to put them in one central site. It will make it easier for our constituents, easier for the news media, easier for us to follow those reports.

I will have an amendment later taking this a step further and requiring the FEC to develop standardized software which will make it much easier for everyone to file the required reports in a timely fashion. My amendment will take this a step further by requiring it to be almost instantaneously reported. Deposit a check in your bank account, and it will appear on the Internet. People can follow the flow of money.

There are many disagreements about limits and whether there should be caps or no caps, and should broadcasters have to give special rates or reasonable rates—since I voted for that amendment, ''reasonable rates''—for political candidates.

Frankly, in my general discussions with Senator MCCAIN and Senator FEINGOLD and many people on both sides who support campaign finance reform, the one area on which we all agree is more disclosure. The one thing everybody says, opponents of McCain-Feingold as well as proponents, is that we should be coming forward more aggressively in our disclosure.

That is what the amendment of Senator COCHRAN does. I compliment him for that. I urge my colleagues to look favorably upon it. I thank him for the work he is doing in regard to campaign finance reform. I hope we don't change this amendment too much. It is quite simple and very good in its current form.

Later on today, I will propose my amendment that will make it a virtual reality check on all campaign contributions coming in from a variety of different sources and make it much easier for Members to be held accountable for moneys we are collecting and the votes we cast. The Cochran amendment is very good, and I hope we will adopt it.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

(The remarks of Mr. MURKOWSKI are located in today's RECORD under ''Morning Business.'')

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

The Senator from North Dakota.

Mr. DODD. Mr. President, I ask unanimous consent my colleague proceed as in morning business so the time will not come off consideration of the amendment.

Mr. CONRAD. Mr. President, I request I be permitted to speak as in morning business.

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

Mr. DODD. I thank my colleague.

Mr. COCHRAN. I ask the distinguished Senator how much time he wishes to speak because we are working on an amendment we hope can be adopted pretty soon.

Mr. CONRAD. Maybe 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for approximately 5 minutes.

THE BUDGET

Mr. CONRAD. Mr. President, yesterday in my role as ranking member on the Senate Budget Committee, I met with Senator DOMENICI, the chairman of the Senate Budget Committee. He informed me he intended not to have a markup of the budget in the Budget Committee but to come directly to the floor of the Senate. This was pursuant to a request I had made that we proceed to schedule a markup in the committee. I told him I thought a decision not to have a markup in the Budget Committee would be a mistake.

We have never had a circumstance in which we have tried to bring a budget for the United States to the floor of the Senate without the Budget Committee, which has the primary responsibility, meeting first to hammer out an agreement. Senator DOMENICI, the chairman of the Budget Committee, told me he believes it will be impossible for us to reach an agreement. I don't know how anyone can be certain of that before we have tried.

I hope very much that he will—and I asked Senator DOMENICI yesterday to reconsider to give us a chance to debate and discuss the budget in the Budget Committee and to have votes.

That is how we make decisions.

I still hold some optimism that after discussion and debate we might find agreement. It might not be on precisely what the President has proposed. Someone recommended yesterday that we try to agree on a 1-year budget.

But we have a country that has some serious challenges. Anybody who has been watching the markets knows they continue to decline, and decline precipitously. While it is true that the best immediate response is monetary policy and the Federal Reserve Board lowering interest rates, that has now been done three times, and still the slide continues, and still we see warning signals about the economy. We see Japan in a perilous position. We have had a serious energy shock in this country. We see high levels of individual debt in America. We see very dramatic weakness in the financial markets.

I personally believe we have an obligation and a responsibility to try to respond as quickly as possible. I think

that means, on the fiscal policy side, we fast-forward the parts of the President's proposed tax cut to try to provide some stimulus to this economy.

We can wait, and we can doddle and deliberate, or we can act. I hope very much that we take the opportunity to work in the Budget Committee to try to find common ground, to try to find a basis on which we can agree so we can get a swift response on the fiscal side to provide some confidence to the American people, to provide some confidence that their Government is responding to what is happening in their daily lives.

Some have said, well, if you agree on something that is other than precisely what the President has proposed, that will be seen as a defeat for the President. I don't think we need to be in that position. I think we can find perhaps an overall global agreement that would be seen as a win for the country, a win for the President, and a win for the Congress. Nobody is defeated, nobody is hurt, but that collectively we have worked together to do what is best for the country.

I really think we can do that, and at the end of the day it might be precisely what the President has proposed. But it may well enjoy his support. The fact is, circumstances have changed. He made a proposal during the campaign. I didn't agree with every part of it, but I respect him for doing it. The question now is, What do we do in light of what we face today? It does not need to be exactly what was proposed more than a year ago. Circumstances have changed. We have a requirement and a responsibility to respond to what is occurring.

I am again asking Senator DOMENICI to reconsider. I am asking colleagues on both sides to urge Senator DOMENICI to reconsider. The Members on the Budget Committee have been very diligent in their responsibilities. We had an outstanding set of hearings. We ought to debate and discuss a budget resolution for this country before it comes to the floor of the Senate. I think it really invites chaos to come out here with the Budget Committee for the first time ever failing to even meet and failing to even try. What kind of procedure is that?

I hope very much that Members of goodwill will get together in this Chamber and try to do what is best for the country and try to go through the kind of process we normally do to reach agreement. This idea that we predict failure before we have tried I think is a mistake. We ought to try debate and we ought to discuss and vote and provide some leadership so that we have a budget resolution out on the floor that has been carefully vetted by the Members who have the primary responsibility—the Senate Budget Committee.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, this has been cleared with the managers of the bill, Senators DODD and MCCONNELL.

I ask unanimous consent that the Senator from Wisconsin, Mr. FEINGOLD, be recognized for 5 minutes as if in morning business, and following that Senator HOLLINGS be recognized for 10 minutes as if in morning business, and the time not count against the amendment that has been filed by the Senator from Mississippi.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Thank you, Mr. President.

I am pleased that the distinguished ranking member of the Budget Committee is still on the floor because I rise at this point not to talk about campaign finance reform but to strongly agree with the comments he has made.

I am very pleased to be a member of the Budget Committee. It is something I wanted to have an opportunity to do when I came here because it was the issue on which I ran originally—and I believe the issue on which the Senator from North Dakota ran—getting this country's fiscal situation under control. That is actually the most important thing we can do. If you care passionately about campaign finance reform, nothing is more important than the appropriate and thoughtful budgeting of the people's resources. I am grateful for his extremely skilled leadership on our side in the Budget Committee.

I am pleased to join with the ranking member of the Budget Committee and my colleagues on the committee to talk about the need for the markup in our committee of the concurrent budget resolution.

I, too, was disappointed to hear our chairman indicate that he may not convene a markup. I believe his stated reason is that he does not want to conduct a markup unless he can be assured the resulting product will have the support of a majority of the committee.

I very much hope the chairman will reconsider his decision.

The principal work of a member of that committee and the reason we are so eager to be a part of that committee and, frankly, one of the best parts of being in the Senate for me has been the experience of going through the markup of a budget resolution. It is extremely interesting, and it is extremely important in terms of the priorities of our country. Forgoing a markup renders membership on that committee much less meaningful.

As many of my colleagues may know, the inability of the Budget Committee to muster a majority to report out a bill would not prevent the Senate from considering a budget resolution. The precedents of the Senate provide for just such gridlock.

Unfortunately, it appears that this very precedent will be used to circumvent the committee entirely, leaving the writing of the budget resolution to unelected staff.

While this might have little practical effect on just about any other bill where debate and amendment are much more open, debate on the budget resolution is severely constrained.

We are warning our few colleagues, including the Presiding Officer, that we are about to experience ''vote-arama'' where we vote on scores of amendments with just a few minutes' notice because of the inability to find time and to have time for people to actually fully debate amendments on the budget resolution.

Stringent germaneness standards severely restrict the ability of the body to amend the resolution, and those standards flow form the baseline resolution that comes to the Senate.

This makes the work of the Budget Committee on the resolution all the more important. The threshold for adopting an amendment can be a simple majority, or a supermajority, depending on the underlying structure of the concurrent resolution crafted by the Budget Committee.

The chairman has considerable say in the way the concurrent resolution is structured even with a committee markup. But others on the Budget Committee should have a say as well.

We are in an unusual posture with an evenly divided Senate and evenly divided committees. Perhaps we are the victims of some ancient curse, having to ''legislate in interesting times.''

But these ''interesting times'' are all the more reason to respect the rights of Members to participate fully in their respective committees.

I simply wanted to rise to strongly agree with the ranking member that we need to have a markup in the Budget Committee.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. I thank the Chair and my distinguished colleague from Arizona.

Mr. President, I just want to reemphasize the point made by the Senators from North Dakota and Wisconsin relative to a markup of the budget in the Budget Committee.

Yesterday morning, Marjorie Williams had an intriguing op-ed piece in the Washington Post emphasizing that the key watchword of the Bush administration is ''transparency,'' ''transparency.'' Apparently, at every turn, the emphasis has been: We're transparent. We're transparent. We're open.

This bemuses this particular Senator because the one thing they are absolutely nontransparent about is the budget. I have been trying, as a former chairman of the Budget Committee—and working here now for 25 years on this particular problem—to get the President's budget figures. We have had different people make some very interesting, amusing, and entertaining appearances on C–SPAN, but nobody has pointed out the actual outlays and the spending in the President's budget.

We are on a collision course. What will happen come April 1st, under the

budget rule, the majority leader can propose and lay down a budget, and start debating. If that is the game plan, we are headed now on a course of a train wreck. That is not going to fly.

We do not have any idea of the figures. And to just vote willy-nilly as an exercise, to bypass all proceedings of the budget in the Budget Committee, just to get it to a conference, and then to mark up, for the first time, what the President wants, is really the process of arrogance.

It is disturbing how little confidence the market has in us—in the Congress and the President—at this particular time. They see the Congress headed in one direction, and the President running around, continuing in his campaign, talking about the budget. He is out selling his so-called tax cut and budget everywhere but in the Budget Committee. We do not know exactly what he wants for defense, education, housing, and transportation. These are all important items to be discussed.

At the beginning—weeks back—not having a real detailed budget, I thought we should take this year's budget—that we passed only in December—and just more or less have a budget freeze like you would have as a Governor. You would just take the President's budget and debate what cuts you had on there, and say, for any increases—the so-called pay-go rule—that you had to have offsets, and then hold up on the tax cuts until it became apparent whether it was going to be a soft or hard landing.

I have to say in the same breath, this is a hard enough landing for this Senator. And rather than hold up, I have amended my initiative to put in an immediate economic stimulus package in the Finance Committee. But my budget is in the Budget Committee. I have written the chairman and asked him to please let me know when we are going to have a markup so we can discuss my budget, the President's budget, and any and all budgets.

This is, as I say, the process of arrogance in which the debate and the consideration of the individual Senators and their opinions makes no difference in the committee. It is a ritual: Now that we have the bare majority, what we have to do is ram through—right now—what we want, irrespective of any debate or consideration. That is going to erode the confidence we have in the White House and the confidence the White House has in the Congress itself.

The market sees this. I think we really are eroding confidence. You are going to see more downturns in the economy, and everything else, until we quit running around and come back home and start working together on the nation's problems.

I see the distinguished President out talking about the Patients' Bill of Rights. That is not before the Congress right now. But we are out politicking on different campaign issues. But if we could show a willingness to work together, I think we would be much better off. I have not seen the likes of this in my years, and particularly with respect to the budget.

The budget process was instituted as a result of some 13 appropriations bills, and we did not have one look-see at the Government spending in its entirety. So we put in these particular rules so that we could facilitate a complete and comprehensive debate and treatment of the Government's financial needs.

Those rules are restrictions to help move it along—a mammoth Government budget of all departments—but they are being used to obscure any consideration rather than give comprehensive treatment and consideration.

So instead of knowing what the President intends on education, housing, crime or with respect to the Justice Department, we just operate in the dark, in a casual fashion, and use the limited rules of the budget process—not for a comprehensive treatment and consideration—but, on the contrary, to obscure any consideration, any treatment, any markup, any understanding. That is fundamentally bad Government.

I appreciate the distinguished leaders on the opposite side of the aisle giving me time to comment on this particular matter because I do have a budget. It is a good one. It really responds to our country's needs. But I have not been able to get a markup of my budget. We cannot consider the President's budget.

We are going to take up the budget, willy-nilly, under a limited time—with the leadership relinquishing back most of its time and saying: All right, you Democrats, we have the votes. This is what we are going to pass. Go ahead and put your amendments on, and your time will run out by Wednesday and we will start the ''vote-a-rama'' around the clock. And the more amendments there are, the longer we will stay. We will stay here Thursday, we will stay here Friday, we will stay here Saturday—and we will stay here Palm Sunday—and just continue to vote if that is what you all want to do, making it appear that there is obstructionism on this side of the aisle, wherein the truth is, we have not had a chance to consider anything and to find out the merit or demerit of the bill or the feelings of the other side on anything.

This is just bad congressional process legislating. I hope the chairman of the Budget Committee and the leadership on the other side of the aisle will say: All right, let's start Monday, meet in formal session and start marking up this budget.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BIPARTISAN CAMPAIGN REFORM ACT OF 2001—Continued

AMENDMENT NO. 137, AS MODIFIED

Mr. COCHRAN. Mr. President, after consultation with the managers of the bill and their staffs, we have agreed to a modified amendment providing additional disclosure provisions to the bill. I ask unanimous consent to modify my amendment and send the modification to the desk.

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

The amendment, as modified, is as follows:

On page 38, after line 3, add the following:

TITLE V—ADDITIONAL DISCLOSURE PROVISIONS

SEC. 501. INTERNET ACCESS TO RECORDS.

Section 304(a)(11)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(B)) is amended to read as follows:

''(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (24 hours in the case of a designation, statement, report, or notification filed electronically) after receipt by the Commission.''.

SEC. 502. MAINTENANCE OF WEBSITE OF ELECTION REPORTS.

(a) IN GENERAL.—The Federal Election Commission shall maintain a central site on the Internet to make accessible to the public all publicly available election-related reports and information.

(b) ELECTION-RELATED REPORT.—In this section, the term ''election-related report'' means any report, designation, or statement required to be filed under the Federal Election Campaign Act of 1971.

(c) COORDINATION WITH OTHER AGENCIES.—Any federal executive agency receiving election-related information which that agency is required by law to publicly disclose shall cooperate and coordinate with the Federal Election Commission to make such report available through, or for posting on, the site of the Federal Election Commission in a timely manner.

Mr. COCHRAN. Mr. President, this simply clarifies the amendment with appropriate legal language. I hate to use that reference because these are lawyers writing these provisions and experienced staff members maybe who aren't lawyers who help them. It does improve the clarity of the language, and it does ensure that election-related reports, those provided for in the Federal Election Campaign Act of 1971 and amendments thereto, be provided as quickly and as completely on an Internet site as they can by the FEC.

We think this will improve the disclosure of important information to the public about who is financing election campaigns, how they are being financed, where the money is coming from that the candidates are spending, that are required to be filed under current reports and the additional requirements that will be in effect after this legislation is agreed to.

We believe this is an improvement. It supplements and complements the Snowe-Jeffords amendment which has

already been adopted by the Senate. We are hopeful the Senate will be able to accept this amendment as modified.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I commend my friend and colleague from Mississippi. This is a good amendment. I appreciate the efforts of the staff who worked on this over the last half an hour or so.

What I thought we might do, for those who want to understand this better, the Senator from Mississippi and I, along with my colleague from Kentucky, will have a colloquy that we will write up providing more specificity on exactly what changes we made here and the rationale. Basically, this is a coordinating effort. We are saying that under existing law, where there are requirements of public disclosure, there ought to be a way to coordinate that information so that it is more transparent, more readily available for those who seek that information. It does not expand the requirements in law beyond those that already exist for public disclosure.

I thank my colleague from Mississippi and my colleague from Kentucky. I know of no reason that we need a recorded vote.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I, too, commend the Senator from Mississippi for his amendment and thank the various staffs who have been working on the clarifications. I am in support of the amendment and see no particular reason we should have a rollcall vote.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank Senator COCHRAN. He has worked long and hard. It is a chance for us to take advantage of new technology so that literally 100 million Americans will be able to receive this information in a timely and informative fashion. This is in keeping with what all of us are attempting to do with campaign finance reform; that is, increase disclosure. We are working on an additional amendment to help on the disclosure issue. I thank Senator COCHRAN for his involvement. I thank Senator DODD and Senator MCCONNELL as well.

I yield the floor.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the amendment, as modified.

Without objection, the amendment is agreed to.

The amendment (No. 137), as modified, was agreed to.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, I believe the next amendment will come from the other side.

Mr. DODD. Senator WYDEN and Senator COLLINS have an amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. MIKULSKI. Mr. President, today I rise in support of S. 27, the Bipartisan Campaign Finance Reform Act of 2001. I would like to take this opportunity to congratulate both Senators MCCAIN and FEINGOLD on developing such an excellent bipartisan bill and also to Senators DODD and MCCONNELL for bringing this bill to the Senate floor. I hope we can consider it expeditiously and pass it.

I absolutely support this legislation. Even if it is a disadvantage for incumbents, I believe, we, the Senate, should be more worried about protecting democracy than protecting ourselves. I want a Congress that is unbought and unbossed. Our current campaign finance system contributes now to a culture of cynicism. It hurts our institutions, it hurts our government, and it is an attack on the integrity of our political process.

When big business blocks agencies such as the Department of Labor from issuing important regulations on ergonomics, it adds to the culture of cynicism. I am not saying there is a quid pro quo, but what are the American people to think when some of the biggest campaign contributors were able to stop legislation that they oppose? Is it any wonder Americans don't trust their elected officials to act in the public interest; instead, they believe Congress is preoccupied with pandering to the special interest.

That's why I support the following principles for campaign finance reform, regardless of what bill is before the Senate: I want to stop the flood of unregulated and unreported money in campaigns. I want to eliminate the undue influence of special interests in elections. I want to encourage strong grassroots participation. I would like to return power to where it belongs —with the people. This is why I support the McCain-Feingold bill.

My support for this legislation is nothing new. During my entire political career, both in the House and the Senate, I have always supported campaign finance reform and other measures to open up our democratic process.

The McCain-Feingold bill does several things. It bans soft money raised by national parties and by candidates for Federal office. It ends issue ads, which are really attack ads under the guise of ''issues.'' I want to close the loophole which allows groups to skirt the current election laws - and this bill does just that. Finally, it clarifies what election activities non-profits can do on behalf of our candidates for Federal office.

Why should we ban soft money? We hear ''soft'' money. Is it like a soft pretzel? What does ''soft'' mean? Is it soft currency? Really, it is a backdoor way to avoid the contribution limits that are now placed on candidates. Right now soft money is influencing our process almost as much as direct contributions to candidates do. Republicans and Democrats raised over $460 million in last year's soft money race or, soft money chase. Right now, Federal candidates spend so much time and so much attention raising money that we sometimes wonder if we have the time to do the work of our constituents. Candidates must constantly work to raise money.

Special interest groups that contribute large sums have an influence on the political process. Let's face it, those people with the golden Rolodex who can approach a candidate and say, ''I'll be able to get 100 people in the room and raise $1,000 for you,'' have influence. Those who then say, ''I'll get 10 people in the room and have 10,000 people give soft money,'' which is the unregulated but legal way of giving money to parties, funding the issue ads that are really attack ads, are also in high demand.

This is why we need to pass McCain-Feingold because I think it deals with these issues and deals with them in a constructive way.

Thirty years ago I decided to run for political office. I was a social worker who was strongly considering a doctorate in public health. I joined a wonderful group of people in Baltimore to fight a highway. The more we knocked on doors, the more we saw that the doors were closed to us. At that time, Baltimore was dominated by political machines. It was dominated by political bosses. Grassroots, nonprofit organizations couldn't break into that process. I was so tired of banging on doors I decided to open doors, and that's when I announced I was going to run for the Baltimore city council. The smart money was against me. How could a woman run in an ethnic blue-collar neighborhood, someone who had a strong record in civil rights and also had no personal money? While they were so busy laughing at me, I got to work. Because I had no money, I had no choice, I organized a group of volunteers and we went door-to-door, one hot summer in Baltimore, and I knocked on over 10,000 doors. By knocking on those doors with my volunteers, I rolled over the political machine and I beat those two political bosses.

That is how I got into politics. And because of how I started, I want the voices and votes of strong grassroots volunteers still to count. I want the small contributor to still count. I found ways to bring people into the process. Using not only door-to-door but techno door-to-door, using the Internet, chatrooms for discussions on issues, new forms of town halls. But we can't do that if every single day our

focus is on raising big money, soft money, or any kind of money that we can get our hands on.

Does McCain-Feingold solve all the problems of this situation? No. Is it more than a downpayment on reform? You bet. What McCain-Feingold does is dry up the soft money and focus on getting real contributors. I hope we can even do more reform and innovative thinking, such as broadcast vouchers, for the small contributors. The more people we can bring in, the more people are participating in the process. The best cure for democracy is more democracy and more participation. That is why I am so strong about McCain-Feingold. We need to stop worrying about protecting incumbents and start worrying about protecting democracy.

Last year we spent $3 billion on election activities. The average Senate race now costs $6 million. That is compared to $1 million over 20 years ago. It seems like the cost of campaigns is going up more than health care costs. Just look at my own State of Maryland where advertising is big business. For me to go on TV in the Baltimore-Washington corridor, it is about $300,000 or $350,000 a week.

Let's look at what it takes to raise $6 million—the average cost of a Senate campaign. When you think about a 6-year term, that means you have to raise $1 million a year. You take 2 weeks off for religious holidays or vacation; that is $20,000 a week. That means a Senator has to think about raising $20,000 a week.

Can you really believe we can focus all the time we need to on our national security interests, raising 20 grand a week? Can you really devote all of your time to thinking about how we can solve the health care crisis? Can we really think about how we could end the trafficking in drugs when we are in the trafficking of fundraisers? It weakens our institution.

Let's look at it among ourselves. Why romanticize the old days of the Senate or talk about the club?

The club has a new look. There are 13 women in the Senate, people coming from a variety of backgrounds, some very wealthy and some who got here because of strong grassroots support, all bringing their passion to engage in public debate and fashion public policy. That is what we want to do. But where are we now? When we used to engage in conversation, the things that promote civility and creative thinking, now we are all dashing to either our own fundraisers or someone else's.

This is why I hope we pass McCain-Feingold. For all of you who do not like campaign finance reform, be worried, as I am, that the largest voting block in America now is the no-shows. The way we can deal with the cynicism is to be able to clean up our own act, do some of the election reforms on which Senators DODD and MCCONNELL are working. They are very able Senators. Let's continue to open up the process but don't think about opening up the process where we have to pursue open wallets. I would rather pursue open minds and keep knocking on those doors.

I urge my colleagues in the strongest way I can to pass McCain-Feingold. It will be one of the best things we can do for democracy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I am very pleased I was on the floor to hear the remarks of the Senator from Maryland. She has been incredibly helpful on this issue of campaign finance reform.

I had the honor last Friday, with Senator MCCAIN, to go to her State and visit Annapolis. The mere mention of her name in general produced a tremendous response, but in particular, when I shared with the audience how she has been with us every minute of the way for all these years on this issue, with such enthusiasm, there was a great response. I thank my colleague and appreciate so much the fact that she is helping us get the bill through.

Ms. MIKULSKI. I thank the Senator and I salute him and Senator MCCAIN.

The PRESIDING OFFICER. The Senator from Oregon.

AMENDMENT NO. 138

Mr. WYDEN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. WYDEN] for himself, Ms. COLLINS, and Mr. BINGAMAN, proposes an amendment numbered 138.

Mr. WYDEN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide that the lowest unit rate for campaign advertising shall not be available for communications in which a candidate directly references an opponent of the candidate unless the candidate does so in person)

On page 37, between lines 14 and 15, insert the following:

SEC. ____. LIMITATION ON AVAILABILITY OF LOWEST UNIT CHARGE FOR FEDERAL CANDIDATES ATTACKING OPPOSITION.

(a) IN GENERAL.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)), as amended by this Act, is amended by adding at the end the following:

''(3) CONTENT OF BROADCASTS.—

''(A) IN GENERAL.—In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this Act, unless such reference meets the requirements of subparagraph (C) or (D).

''(B) LIMITATION ON CHARGES.—If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

''(C) TELEVISION BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds—

''(i) a clearly identifiable photographic or similar image of the candidate; and

''(ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast.

''(D) RADIO BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

''(E) CERTIFICATION.—Certifications under this section shall be provided and certified as accurate by the candidate (or any authorized committee of the candidate) at the time of purchase.

''(F) DEFINITIONS.—For purposes of this paragraph, the terms 'authorized committee' and 'Federal office' have the meanings given such terms by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).''.

(b) CONFORMING AMENDMENT.—Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as amended by this Act, is amended by inserting ''subject to paragraph (3),'' before ''during the forty-five days''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to broadcasts made after the date of enactment of this Act.

Mr. WYDEN. Mr. President, I come to the floor this morning with Senator COLLINS of Maine to offer a bipartisan amendment that we believe will help slow the explosive growth of negative political commercials that are corroding the faith of individuals in the political process. I also thank my colleague from New Mexico, Senator BINGAMAN, and Congressman GREG WALDEN of Oregon on the House side, who has also been extremely interested in this issue over the years.

Negative commercials are clearly fueling citizens' cynicism about politics. Those negative commercials are depressing voter participation and, in my view, they are demeaning all who are involved in the political process.

The amendment I have prepared with Senator COLLINS is a straightforward one. In order to qualify for the advertising discounts that Federal law requires candidates for Federal office receive, those candidates would have to personally stand by any mention of an opponent in a radio or television advertisement.

We have asked the Congressional Research Service to do an analysis of our proposal. In their view, they believe it would be upheld as constitutional. I am of the view that they came to that conclusion because the fact is there is no

constitutional right to a subsidized dirty political campaign. Everybody in this body knows and knows full well that when candidates mention their opponent in an advertisement, they are not spending those campaign funds to state that their opponent is the greatest thing since night baseball. They are going to be spending, in so many instances, advertising money where, in effect, the candidate would hide behind grainy photographs of the opponent, pictures that make that opponent look pretty much like a criminal, and often there is this bloodcurdling music that portrays the whole thing in such an ominous way that the children sort of run for another room.

What Senator COLLINS and I are seeking to do in this amendment is to make it tough for candidates to disown their negative political commercials. We say that candidates can say anything they want. We are not trampling on the first amendment. A candidate is free, totally free, completely unfettered, under our bipartisan proposal, to say anything about their opponent.

But what we say, however, is if you are going to mention your opponent, you have to own up to it. You cannot hide any longer.

The fact is, negative campaigning is done to obscure ownership. It is done to obscure who is actually going to be held personally accountable.

A number of analysts have looked at negative commercials over the years and the fact is, as they have noted, it is almost always done by advertising. It is almost impossible to do a negative exchange if you are in a debate because the candidate on the other side has an opportunity to answer. The sneak punches, the low blows, are easily delivered through TV and radio, especially radio.

As our colleagues know, a lot of the newspapers at home will do these ad watches. So very often it is possible to blow the whistle on a television commercial. But with respect to radio, that so often is completely under the radar so there is absolutely no accountability.

What Senator COLLINS and I seek to do is to make it clear that it is not going to be so easy to skulk around, to sneak around and engage in these negative ads and pretend they are not yours.

You can say anything you want about your opponent under our proposal, but there is not going to be a subsidized rate if you don't own up to it. It just doesn't seem right to me to say the car dealer or the local restaurant or the hardware store should have to pay a higher rate while you get a discounted rate for running a negative advertisement.

A lot of our colleagues want to speak on this. I believe we have an hour and a half for this debate. I am very appreciative that Senator COLLINS is on the floor. She has a long history of being involved in reform efforts.

I also thank Senator BINGAMAN who has had a great interest in this issue over the years. Senator DODD, Senator FEINGOLD, Senator MCCAIN, Senator LEVIN—all of them have worked with us on this proposal in recent days.

I see Senator DODD on the floor, and I commend him for the superb way in which he handled this debate. Nobody ever said this topic was going to be a walk in the park. He has handled it superbly, in my view.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I am delighted to join the Senator from Oregon in sponsoring this important legislation.

The premise of our amendment is clear. Candidates who run negative television and radio ads against their opponents should have to stand by their ads. That is the premise of our amendment.

The Wyden-Collins amendment would require the candidate to clearly identify himself or herself as the sponsor of the ad. No more stealth campaign negative ads.

There are many legitimate policy disputes between candidates and certainly an ad airing these differences is perfectly legitimate and, indeed, contributes to the political debate.

But when a candidate launches an ad that talks about his opponent—whether it is a high-minded discussion of policy differences or a vicious attack on an opponent's character—a candidate should be required to own up to its sponsorship.

The public should not have to guess or decipher as to who is the sponsor of the ad. The candidate's sponsorship should be absolutely clear. Our amendment would accomplish that goal by requiring a clearly identifiable picture of the candidate and statement of sponsorship for the TV ad. The statement would require the candidate to say that he or she has approved the broadcast.

Similarly, for radio, the candidate would have to identify himself, the office he is seeking, and state that he has approved the radio broadcast.

We recognize that our amendment tackles only part of the problem of the deluge of negative attack ads since so many of them are sponsored not just by candidates but by outside special interest groups. Nevertheless, the Wyden-Collins amendment is an important first step. It would help curb the abuse of self-negative ads sponsored by candidates, and it would strengthen the underlying McCain-Feingold bill.

I hope it will be approved. I urge my colleagues to support the amendment.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I commend both of my colleagues. Senator BYRD of West Virginia is also a cosponsor of this amendment.

Mr. WYDEN. Mr. President, if my colleague will yield, because we have gone through various versions, he has indicated that he is strongly in support of this effort and is still looking at some of the specifics.

The Senator is absolutely right. I think the Senator from West Virginia has made a real contribution because he has seen from a historical standpoint how there has been such an explosion of these negative commercials.

I want our colleagues to know that we are very appreciative of the input of the Senator from West Virginia in fighting these negative ads.

Mr. DODD. I thank my colleague for that clarification.

Let me emphasize again how much I appreciate his efforts and the efforts of the Senator from Maine and others who have been so involved in putting this amendment together.

At first blush you might say this ad is designed to probably help an incumbent because it is the incumbent's record that can be attacked. It is not a question of people disagreeing with our existing voting records. It is the personal attacks that so often are the most disturbing, not to the candidates themselves but the voters.

We have seen too often that the effect of negative ads isn't so much to do damage, although it does to the reputations of good people by distorting some minor difference and magnifying it beyond all sense of proportion, but the larger harm done is that it has a tendency to discourage people from voting.

There is ample data in various races around the country where there has been a deluge of negative campaigning that voter participation declines. People get disgusted by it. They do not necessarily blame one candidate or another when they see negative ads. It has the effect of saying: Politics is such a dirty business that I don't want anything to do with it. I am not going to encourage it, but I am not even going to vote.

That is my great concern and why I believe this amendment has such value. It is not to protect people who hold themselves out for public office from being criticized. We understand that occurs if you hold yourself up for public office. We have hundreds of votes, and there are many which divide us as to what is the proper course of action to take. Someone may stand up and say: I disagree with Senator DODD on how he stands on child care, or education issues. It is a perfectly legitimate activity in a campaign.

We need the debate so people can have a better clarification. The authors of this amendment, as I understand it, are in no way suggesting that healthy debate and criticism of candidates ought to be removed from politics. They are saying, if you are going to do that, those who are making the criticism need to let people know from where it is coming. They believe—and I think they are correct—that this will have the dual effect of people being less inclined to attack people on a personal level where their picture is going to be displayed; secondly, it will encourage

more constructive criticism, which is perfectly legitimate and which we ought to invite in a good campaign.

The effect of that goes to the very heart of what this amendment is likely to do; that is, to encourage people to vote and participate.

I applaud both of my colleagues for this amendment because I think it will encourage more people in the final analysis to engage in the political life of our country.

I mentioned yesterday how we were applauding, in a sense, that we had done better than anticipated when 50 percent of the eligible voters in this country voted in the last Presidential election. We thought that was good news because it was better than what we had anticipated. What a sad commentary it is that 50 percent of the eligible Americans who have a right to choose who will be the President of the United States do not participate despite all of the ads and activities. I suspect that a significant percentage of that 50 percent stayed away not because they forgot, not because they were not interested in the decisions that the next President might make, but I think they didn't participate because they were so disgusted by what they saw on television, what they heard on radio, and what they saw being spent, which goes to the heart of what Senator FEINGOLD and Senator MCCAIN are talking about and why we are debating campaign finance reform. To have that discussion and not include this element would be a mistake.

I, again, applaud my colleagues for adding this. Again, I can't say for certainty this will increase participation. But I think the American public will applaud this effort and politics will be the better for it, in my view. Maybe we will see more people voting in the next election because candidates will be more reluctant about saying some of these things they wouldn't dare say otherwise about themselves, and articulate it in a sense by requiring that a photograph be included in that ad. I think they will be a little more cautious about the things that have been said in campaigns in the past.

I applaud my colleagues' efforts. I am happy to yield to my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend and thank our friends from Oregon and Maine for their amendment.

The bill before us is aimed at trying to close a soft money loophole, which has fueled the kind of negative TV ads which do not do justice to our democracy.

The unlimited contributions which have come into campaigns, directly and indirectly, have been one of the major sources for the horrendous amount of negative attack ads which are inflicted upon our constituents in most of these elections.

The McCain-Feingold bill is trying to do something about closing that soft money loophole. If we are going to restore credibility to the electoral process, it is vitally important we close that soft money loophole. Hopefully, we will. Part of the answer, ultimately, is that we require candidates for office who take out ads, if they want the lowest unit rate which is provided for in this McCain-Feingold legislation, if they want to take advantage of that benefit which is conferred, that guarantee that is in the McCain-Feingold bill—they at least put their name and their face at the end of the ad they are funding.

To ask a candidate to do so is pretty fundamental for a benefit which is being conferred.

This is a very modest amendment. It is a very carefully crafted amendment. It is not aimed at intruding on the message that is in that commercial. It doesn't create a problem in terms of the message. It doesn't seek to control that message. It says, if you want that lowest rate provided for in this law that we are guaranteeing to you, then you must put your name and your face at the end of this ad for a few seconds so the people know who is paying for this ad; so that you can't have some name of some citizens group put at the end of the ad which masks or disguises who is paying for this ad. It is a very reasonable kind of requirement in exchange for that lowest unit rate.

I commend the sponsors of this amendment for the amendment. I want to say one other thing.

I only wish it were possible to extend this to the ads that are put on by outside groups—it is not possible constitutionally. I don't think we are able to do that. I wish we could because so many of the ads that are on television these days are not paid for by candidates but are paid for with soft money, and are paid for by outside groups in the form of so-called issue ads, which more often than not, about 98 percent of the time, indeed, are not issue ads at all but are ads that are clearly aimed at electing candidates and giving advantages to candidates or attacking candidates.

This will do some significant good, in my judgment, because it at least gets to the ads that are paid for by a candidate, or a candidate's committee.

My only regret is—and I can't figure out a constitutional way yet—we do not apply this same logic to the ads which are funded by outside groups that are intended to help candidates get elected or to defeat other candidates. But, again, we should be grateful for the good that can be accomplished while we seek to find ways to accomplish the same result relative to the so-called issue ads of the outside groups.

So I commend my good friends from Oregon and Maine and the other cosponsors.

Mr. President, I ask unanimous consent that I be added as a cosponsor.

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

Mr. DODD. Mr. President, I yield whatever time he may need to the Senator from Wisconsin, Mr. FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Senator from Connecticut. And I especially thank the Senators from Oregon and Maine for offering this amendment. It is a pleasure to see this back because this is one of the original provisions and ideas we tried to put forth in the original McCain-Feingold bill many years ago. In the process of negotiating and trying to get votes, it was one of the casualties that came off the bill as we tried to simplify it. But that was not because it was not a good idea. It was always a good idea.

The Senator from Oregon has been diligent in mentioning this and arguing for this over the years. I am extremely pleased that we finally got the process where Senators, such as the Senator from Oregon, can offer his amendment. Finally—and it took us 5 years—here we are talking about one of the three things that I find constituents complain about in relation to campaigns.

First of all, they obviously say they are too expensive. We all know that is one of the reasons we are doing this bill. Secondly, they say the campaigns go on too long; you have to have ads all year, all the time. But the third thing they say to me—and I assume the Senator from Maine and the Senator from Oregon have had the same experience—is they are so negative.

Of course, I believe fundamentally in the free speech right of people to say something negative anytime they want. But what this amendment does is make sure there is some accountability for that. So I welcome it. It is bipartisan. It is offered by two of the strongest reformers in the entire Senate. The voters deserve the chance to see the candidates and know that the candidates sponsoring the ads support the content and the tone of the ad. So it is an excellent bipartisan amendment.

Just as we predicted, Senator MCCAIN and I offered a bill that not only is not a perfect bill, but it is a bill we hope will be improved and made better, more important, and more valuable by the amending process. This amendment does exactly that.

Mr. WYDEN. Will the Senator yield?

Mr. FEINGOLD. For a question.

Mr. WYDEN. I appreciate the Senator yielding. I will be very brief.

I say to the Senator, I thank him for all the years he has toiled in the vineyards on this issue. He and Senator MCCAIN have been out week after week for years. I was sworn in as Oregon's first new Senator in more than 30 years on February 6, 1996, around noon. The first official action I took, as Oregon's first new Senator in more than 30 years, was to be a cosponsor of the McCain-Feingold legislation.

I just want the record to note that this Senator knows we do not get to this kind of opportunity by osmosis. It does not happen by accident. It happens because we get two Senators such

as the Senator from Wisconsin and the Senator from Arizona who, week after week, year after year, do so much to make this action possible.

I want the Senator to know how much I appreciate all his leadership.

Mr. FEINGOLD. I appreciate that, Mr. President. I thank the Senator from Oregon.

As I look at these two Senators—Senator COLLINS from Maine and Senator WYDEN from Oregon—there was a time when people were saying: You only have two Republicans on the bill. It was a critical moment in the history of this legislation when the Senator from Maine came on the bill. I remember when the Senator from Oregon came, and he made this his first piece of legislation he would cosponsor. It actually gave me a chance, for the first time in my life campaigning for this bill, to go to Portland, OR, a beautiful city.

If I could somehow get myself to Maine for the first time, I could go to the other Portland and we could have this be the Portland-to-Portland amendment which, of course, reflects the tremendous reform tradition of both States, Maine and Oregon, in which Wisconsin joins as well.

So, again, my thanks to both Senators.

I yield the floor.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Wisconsin for his very gracious comments. We would not be where we are today without his tenacity in pushing for true campaign finance reform.

I want to respond, also, to the comments made by the Senator from Connecticut and the Senator from Michigan and thank them for their support of the Wyden-Collins proposal. Senator DODD and Senator FEINGOLD also raised a very important point, and that is, the deluge of negative attack ads discourages people from voting and really turns off the American public. This is exacerbated by the fact that a lot of times it is not evident who is sponsoring these ads, who is behind these charges and allegations that are hurled particularly in the final days of the campaign.

I believe the Snowe-Jeffords amendment will help in that regard and that the amendment Senator WYDEN and I are sponsoring today will make very clear that when a candidate launches a negative ad attacking his opponent, that candidate will have to take responsibility for that ad.

It is important to note, however, that there is nothing wrong with a candidate running an ad that discusses policy differences. Indeed, that is valuable to the political discourse and debate. And, indeed, as Senator LEVIN pointed out, there is nothing in our amendment that prevents a candidate from running an irresponsible attack ad that perhaps is a vicious attack on an opponent's character. But if that is done—in either case—the candidate has to take responsibility for the ad.

Under our proposal, the candidate's picture would appear at the end of the ad and the candidate would have to have a statement saying he or she approved the ad in order to get the lowest broadcast rate. So we are not, in any way, attempting to regulate speech or attempting to impose our ideas of what constitutes an appropriate ad. Rather, all we are doing is saying that if a candidate runs an ad that talks about his opponent, he has to own up to that ad. He has to clearly state that he paid for the ad, that he is responsible for its content.

I think that would have the very beneficial effect of making candidates think twice before hurling accusations that perhaps are exaggerated or unfounded against an opponent. I believe it would help elevate the political debate and it would help curb some of the egregious negative ads that offend all of us.

So I thank the Senator from Michigan, the Senator from Connecticut, and the Senator from Wisconsin for their support of this proposal. In particular, I thank my colleague from Oregon for the opportunity to work with him to craft what I think is a reasonable proposal, a modest but important first step that will help improve the quality of our campaigns.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I suggest the absence of a quorum and ask unanimous consent the time be charged equally.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FEINGOLD. Mr. President, are we under controlled time at this point?

The PRESIDING OFFICER. The Senator from Kentucky and the Senator from Oregon control the time.

Mr. FEINGOLD. I yield myself 10 minutes on our side of the amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FEINGOLD. Mr. President, we have had a good debate on a number of amendments this week. It has been very pleasant to cover a lot of ground. We have made good progress on the bill. I hope we can finish work on this bill next week, as our agreement in February contemplated, and as the majority leader has said he wanted. Getting a final up-or-down vote on this legislation is what we set out to do, and it is what we will do once Senators have had a chance to offer amendments and improve the bill.

Sometimes when we spend a few hours on an amendment, we can get bogged down in the minutia. When I say ''minutia,'' I don't mean any disrespect. This is very important. This is how the laws actually work. This is how campaigns will be conducted. So we have to go through this action. But I think sometimes when people observe us from afar, or on television, they wonder, what are we talking about? What is the big picture?

I want to take us back to why we are here in the first place. Why are we spending 2 weeks on this issue? What is this bill all about? We are here because we have a crisis of confidence in this country and in this Congress. We labor long and hard on legislation, and I am afraid the public doesn't trust us to do the right thing. For example, here is a headline in Business Week's February 26 issue: ''Tougher Bankruptcy Laws—Compliments of MBNA?''

The article says:

> MBNA is about to hit pay dirt. New bankruptcy legislation is on a fast track. Judiciary panels in the House and Senate held perfunctory hearings, and a bill could be on the House and Senate floors as early as late February.

The implication is clear that it is widely assumed the credit card issuers called the shots on the substance of the bankruptcy bill we passed right before we started this debate on campaign finance reform.

Isn't it troubling that people are so quick to assume the worst about the work we do on this floor? That is why we are taking up this bill; we have to repair some of that public trust. Our reputation is on the line. We aren't going to get a pass from the American people on this one and, frankly, we don't deserve one. The appearance of corruption is rampant in our system and it touches virtually every issue that comes before us.

I know my friend from Oregon is familiar with this because we have talked about it. That is why I have called the bankroll on the floor 30 times in less than 2 years. I do it because I think it is important when we debate a bill to acknowledge that millions and millions of dollars are given in an attempt to influence what we do. That is why people give soft money. I don't think anyone would seriously try to dispute that.

I won't detail every bankroll here. It would actually take me all day. But let me review some of the issues they address to show how far reaching the problem really is. I have called the bankroll on mining on public lands, the gun show loophole, the defense industry's support of the Super Hornet and the F–22, the Y2K Liability Act, Passengers' Bill of Rights, MFN for China, PNTR for China, and, of course, the tobacco industry. I have talked about agricultural interests, lobbying on an Agriculture appropriations bill, railroad interests, and lobbying on a Transportation appropriations bill. I have talked about contributions surrounding the Financial Services Modernization Act, nuclear waste policy,

the Arctic National Wildlife Refuge, and the ergonomics issue. I have also had the chance to call the bankroll on the Patients' Bill of Rights twice, the Africa trade bill twice, and the oil royalties amendment to the fiscal year 2000 Interior appropriations bill twice. I have called the bankroll on three tax bills, four separate times, and on our most recent legislation, the bankruptcy reform legislation.

People give soft money to influence the outcome of these issues. That is plain and simple. As long as we allow soft money to exist, we risk damaging our credibility when we make decisions about the issues the people elected us to make. They sent us here to wrestle with some very tough issues. They have vested us with the power to make decisions and to have a truly profound impact on their lives. That is a responsibility that every one of us takes seriously.

But, today, when we weigh the pros and cons of legislation, many people think we also weigh the size of the contributions we get from interests on both sides of the issue. When those contributions can be a million dollars, or even more, it seems obvious to most people that we will too often reward our biggest donors.

That is the assumption people make, and we let them make it. Every time we have had the chance to close the soft money loophole, this body has faltered. If we can't pass this bill, history will remember that this Senate faced a great test and we failed; that the people had accused us of corruption and, in our failure to pass a real reform bill, we actually confirmed their worst fear.

Fortunately, the bill before us today offers a different path. If we can support the modest reforms in this bill, we can show the public we understand that the current system does not do our democracy justice. This is just a modest bill. It is not sweeping. It is not comprehensive reform. It only seeks to address the biggest loopholes in our system.

The soft money ban is the centerpiece of this bill. Our legislation shuts down the soft money system, prohibiting all soft money contributions to the national political parties from corporations, labor unions, and wealthy individuals. State parties that are permitted under State law to accept these unregulated contributions would be prohibited from spending them on activities relating to federal elections, and federal candidates and officeholders fortunately and finally, would be prohibited from raising soft money under our bill. That is a very significant provision because the fact that we in the Congress, those who are elected to Congress, are doing the asking is what I believe and many people believe gives this system an air of extortion, as well as bribery.

McCain-Feingold-Cochran also addresses the issue ad loophole, which corporations and unions use to skirt the federal election law. This provision, originally crafted by Senator SNOWE and Senator JEFFORDS, treats corporations and unions fairly and equally. I want to be clear. Snowe-Jeffords does not prohibit any election ad, nor does it place limits on spending by outside organizations, but it will give the public crucial information about the election activities of independent groups, and it will prevent corporate and union treasury money from being spent to influence elections.

Senators SNOWE and JEFFORDS described this provision of their bill earlier in the week. As this debate proceeds, we may debate whether it should be strengthened or even removed from the bill altogether. I believe the Snowe-Jeffords provision is a fair compromise and the right balance. It fairly balances legitimate first amendment concerns with the goal of enforcing the law that prohibits unions and corporations from spending money in connection with Federal elections.

I am sure most of my colleagues are aware of the serious political crisis underway as we speak in the nation of India. Journalists posing as arms dealers shot videos with hidden cameras on which politicians and defense officials were seen accepting cash and favors in return for defense contracts. Those pictures have caused a huge scandal. The Indian defense minister has resigned, and we do not know yet how great the repercussions will be.

One thing that struck me as I read the news reports of these events was two of the people caught on tape were party leaders, including the leader of the ruling party, the BJP, Mr. Bangaru Laxman. Let me read from an AP story of March 16:

> Laxman denied that the journalists identified themselves to him as defense contractors or discussed weapons sales. He said they were presented as businessmen and that accepting money for the party is not illegal in India.

I am not going to say that what is happening in India is the same as the system we have in the United States, and I am certainly not going to comment on the guilt or innocence of any party leader or political official in that sovereign country. But the Government of India is hanging by a thread based on possibly corrupt payments of a few thousand dollars by people posing as defense contractors.

In our country, we have literally hundreds of millions of dollars flowing to our political parties from business and labor interests of all kinds. And our defense, like Mr. Laxman's is, ''it's legal.'' We have a system of legalized bribery, a system of legalized extortion, in this country. But legal or not, like the videotaped payments in India, this system look awful. It may be legal, but it looks awful.

Our debate this week has shown time and time again that we have a strong majority in this body that wants to pass reform. We are ready to do it. I am eager to continue our work, and get the job done.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, Senator DODD is not here. How much time does the Senator request, 5 minutes?

Ms. COLLINS. I request not more than 5 minutes.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 138, AS MODIFIED

Ms. COLLINS. Mr. President, I thank the Senator from Kentucky for pointing out to the Senator from Oregon and myself that in drafting this amendment we erred.

I ask unanimous consent to modify my amendment to correct the mistake, and I send the modification to the desk.

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

The amendment, as modified, reads as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. ____. LIMITATION ON AVAILABILITY OF LOWEST UNIT CHARGE FOR FEDERAL CANDIDATES ATTACKING OPPOSITION.

(a) IN GENERAL.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)), as amended by this Act, is amended by adding at the end the following:

''(3) CONTENT OF BROADCASTS.—

''(A) IN GENERAL.—In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this Act, unless such reference meets the requirements of subparagraph (C) or (D).

''(B) LIMITATION ON CHARGES.—If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

''(C) TELEVISION BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds—

''(i) a clearly identifiable photographic or similar image of the candidate; and

''(ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast.

''(D) RADIO BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

''(E) CERTIFICATION.—Certifications under this section shall be provided and certified as

accurate by the candidate (or any authorized committee of the candidate) at the time of purchase.

''(F) DEFINITIONS.—For purposes of this paragraph, the terms 'authorized committee' and 'Federal office' have the meanings given such terms by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).''.

(b) CONFORMING AMENDMENT.—Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as amended by this Act, is amended by inserting ''subject to paragraph (3),'' before ''during the forty-five days''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to broadcasts made after the date of enactment of this Act.

Ms. COLLINS. Mr. President, I will briefly explain. The Senator from Kentucky pointed out that in drafting the amendment, we inadvertently deleted the requirement that there be a disclaimer that the ad is paid for by the candidate's authorized committee. We did not in any way intend to remove that disclaimer requirement.

The legislation I sent to the desk makes it clear that the candidate's ad has to include the statement that the ad was paid for by the candidate's authorized committee.

I thank the Senator from Kentucky for pointing out that error and allowing us to correct it.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I say to the Senator from Maine and the Senator from Oregon, we have had an opportunity to review the amendment and discuss it on the floor. As everyone knows, current law already requires certain things of the candidates, but this amendment is a useful addition that codifies and clarifies the law.

Consequently, I am happy to support it and see no particular need for a roll-call vote unless there is a desire to do so on the other side.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I yield to the Senator from Oregon 5 minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 5 minutes.

Mr. WYDEN. I thank the Chair.

Mr. President, I will be brief. It has been interesting that on the floor of the Senate today no one has spoken in defense of negative ads. The very ads that the media consultants believe are most successful or most likely to win elections have not won a defense. I guess the media consultants in this country are going to have to go back to school if this proposal, as it makes its way down the gauntlet, becomes law, as the Senator from Maine and I hope to make possible.

The fact is that this is a stand-by-your-ad requirement. This is a proposal that makes it clear that to get that lowest unit rate, you have to be held personally accountable.

What the Senator from Maine did is useful. We believed we had made it clear in terms of linking it to the appropriate Federal election statute. What we just did makes it even more so.

I, too, thank the Senator from Kentucky. This is an area in which I have had a special interest since what I think was the harshest campaign in Oregon history in 1995 and 1996. My friend and colleague, Senator SMITH, and I believe that race was just completely out of hand. Neither of us could recognize the kinds of commercials that were being run by the end.

This is an opportunity to draw a line in the sand and to say the Senate wants to make it clear that we are not going to let candidates disown these corrosive, negative commercials. They are not going to be able to hide any longer if this becomes law.

I express my thanks again to the Senator from Maine.

There are a number of staff who have put in a huge number of hours: Jeff Gagne and Carole Grunberg of my staff, Michael Bopp with Senator COLLINS, Linda Gustitas with Senator LEVIN, Bob Schiff with Senator FEINGOLD, and Andrea LaRue with Senator DASCHLE. All of them contributed to this effort to make sure that in this country we are no longer subsidizing dirty campaigning. That is what happens today. We are subsidizing the local hardware store owner and the local restaurant owner is subsidizing dirty campaigns, and we are taking a step away from that.

With thanks to my colleague from Maine, with a pledge to the Senator from Kentucky to continue to work with him in this area, I express my thanks to him for taking this by voice vote.

I yield the floor.

Mr. MCCONNELL. I yield back the remainder of my time.

Mr. REID. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon, Mr. WYDEN, and the Senator from Maine, Ms. COLLINS, numbered 138, as modified.

The amendment (No. 138), as modified, was agreed to.

Mr. MCCONNELL. I move to reconsider the vote by which the amendment was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. The Senator from Kentucky and the Senator from Connecticut have graciously consented to allow the Senator from New Mexico until 1 o'clock for morning business for the introduction of legislation.

Mr. MCCONNELL. Let me say to all Members of the Senate, the next amendment will be on this side, offered by the assistant majority leader, Senator NICKLES. It will be laid down around 1 o'clock.

Mr. REID. I ask unanimous consent that the Senator from New Mexico be recognized.

The PRESIDING OFFICER. The Senator from New Mexico will be recognized for 20 minutes.

Mr. BINGAMAN. I thank my friend and colleague, Senator REID, from Nevada, and my friend and colleague from Kentucky, also, for their courtesy in allowing me to speak as in morning business.

THE PRESIDING OFFICER. The Senator from New Mexico is recognized.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 596 and S. 597 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Before the Senator leaves the floor, I extend my congratulations to him for the work that he has put into this legislation. I have been involved with just a little tiny bit of it. He has spent as much time with me as he has with other Members making sure that everyone who had questions about this legislation had their questions answered.

I feel very comfortable with Senator BINGAMAN being the ranking member of this most important committee. We in Nevada believe that problems in California are just a little ways behind us. We are hopeful and confident this much needed legislation will move quickly out of his committee on to the floor so we have an opportunity to debate it.

So, again, I appreciate very much the work of my friend from New Mexico.

Mr. President, there is no one on the floor in relation to the bill. If Senator NICKLES comes to offer his amendment, Senator STABENOW has indicated she would be most happy to give up the floor. She needs 5 minutes to speak as in morning business. I certainly do not want to take advantage of anyone. I do not think I am. I ask unanimous consent that she be allowed to speak for 5 minutes, or until the assistant majority leader comes to the floor to offer his amendment.

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

Ms. STABENOW. I thank the Chair and Senator REID. I echo Senator REID's comments of congratulations to Senator BINGAMAN for his excellent work in forging ahead a very visionary energy proposal covering so many important aspects for American families and businesses.

(The remarks of Ms. STABENOW are located in today's RECORD under ''Morning Business.'')

Ms. STABENOW. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 139

Mr. MCCONNELL. Mr. President, Senator NICKLES' amendment is next and he will be over in a while. In his absence, I send his amendment, on behalf of himself and Senator GREGG, to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. NICKLES, for himself and Mr. GREGG, proposes an amendment numbered 139.

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

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

The amendment is as follows:

(Purpose: To strike section 304)

Beginning on page 35, strike line 8 and all that follows through page 37, line 14.

Mr. MCCONNELL. Mr. President, the debate on this amendment will begin shortly. In the meantime, I suggest the absence of a quorum.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, I want to reserve time on this amendment because I don't know whether Senator NICKLES will want to use all of the time or not. I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

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

The clerk will call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent, after having checked with my friend from Kentucky, that the Senator from Washington be recognized for up to 10 minutes.

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

The Senator from Washington is recognized.

AMENDMENT NO. 138, AS MODIFIED

Ms. CANTWELL. Mr. President, I thank Senator WYDEN and Senator COLLINS for offering this amendment that I think truly improves the McCain-Feingold bill.

In the 2000 election, Seattle and Tacoma were the second and third largest markets for political advertising.

The Seattle Post Intelligencer noted earlier this week that campaign ads ''rained down on—or bludgeoned, according to some—viewers throughout the late summer and fall. And this wasn't an intermittent, drip torture kind of rain that Seattle residents know so well. It was a deluge, a constant unavoidable torrent, stretching across three solid months.''

With this constant torrent of negative advertising, it is no wonder that voting among 18 to 24 year olds has dropped from 50% to only 32%—a much steeper decline than overall turnout.

Part of the reason for this disaffection with voting and with politics is undoubtedly due to negative attack advertising.

This amendment makes candidates accountable for those ads.

By requiring a picture and a readable statement that the candidate approved the ad, it would certainly make candidates think twice before running negative ads.

By requiring candidates to take responsibility, the amendment also helps the viewer.

It lets the viewer know who is paying for those ads, not just text that they have to run up close to the screen to see.

It gives the viewer some of the information that they need as a voter to make a fully informed decision about the candidates.

Studies by the Annenberg Center for Communications have found that advertising that includes a personal appearance by the candidate is more accurate, less negative, and is received more positively by voters.

This amendment also only deals with ads paid for by candidates.

It does not address the problem of out of control issue ads.

But one of the things that will happen as a result of this amendment is that there will be a clear contrast created between ads sponsored by candidates and issue ads that are outside the candidates own control

This amendment is a step in the right direction. I am pleased to support it and I thank my colleagues for offering it today.

I yield back the remainder of my time.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 139

Mr. MCCONNELL. Mr. President, in the underlying bill it is suggested that there is a codification of the Beck decision. In fact, it is just the opposite. McCain-Feingold does not codify Beck; it eviscerates Beck. The so-called Beck codification in McCain-Feingold is a big win for big labor. It does two things the unions love: No. 1, it will let unions keep more of the fees nonunion members pay to unions, and, No. 2, it will make it much harder for those seeking a refund to get one because it takes away their existing right to pursue relief in Federal court and forces them into a burdensome, time-consuming, and hostile administrative process.

The Nickles amendment, of course, will simply take out the so-called Beck codification in the underlying McCain-Feingold bill and go back to the Supreme Court. In the Beck decision, the Supreme Court affirmed a fourth circuit opinion that objecting nonunion members required to pay agency fees as a condition of employment were entitled under section 8 of the National Labor Relations Act to receive a refund of the pro rata share of their fees expended on activities unrelated to the union's role as ''exclusive bargaining representative,'' which consisted of ''collective bargaining, contract administration, and grievance adjustment.''

The Supreme Court affirmed the fourth circuit ruling that, as a matter of law, the fees unrelated to ''collective bargaining, contract administration, and grievance adjustment'' that the unions had to refund to objecting nonunion members, along with any accrued interest, included not only fees for political and lobbying activities but also union community service projects, union charitable donations, union organizing, supporting strikes by other unions, and administrative costs related to the above activities. All of those items were entitled to be refunded to agency shop nonunion members who requested such a refund.

In the original Beck case, the court found that 79 percent of the objecting nonunion member's fees had to be refunded because only 21 percent was used for activities related to collective bargaining, contract administration, and grievance adjustment.

The Beck provision in McCain-Feingold limits objecting nonunion members to getting their fees reduced only by the pro rata share of such fees spent on political and lobbying activities that the union deems ''unrelated to collective bargaining.''

According to the unions, all of their activities related to legislation at the State and Federal level, including health care, judicial and executive appointments, as well as most State ballot initiatives, are ''related to collective bargaining.'' Thus, unions could continue to use nonmember dues for such activities under McCain-Feingold, which is great for them because they cannot use nonunion member fees for most of those things under existing law.

McCain-Feingold will also allow unions to keep and use the portion of an objecting nonmember's agency fees spent on other activities that the Beck court affirmed were unrelated to ''collective bargaining, contract administration, and grievance adjustment,'' such as a union's charitable contributions and a union's support of a strike by another union.

Thus, McCain-Feingold's Beck provision is really bogus. Instead of codifying Beck, it eviscerates Beck by diminishing the scope of the refund the

Supreme Court directed for objecting nonmembers required to pay agency fees as a condition of employment.

This is not the only way in which McCain-Feingold's bogus Beck provision is a big gift to big labor. Unions would also love it if we passed this bogus Beck provision because it would close the courthouse doors for nonunion members seeking relief from confiscation of their dues for purposes unrelated to collective bargaining, contract negotiation, and grievance adjustment.

It does this by stating that a union's failure to adhere to the bogus Beck provision ''shall be an unfair labor practice'' under the National Labor Relations Act. Unfair labor practice claims fall within the exclusive jurisdiction of the National Labor Relations Board.

A recent piece in Roll Call noted that:

> The National Labor Relations Board [has] for 13 years, under both Republican and Democratic administrations, displayed an intense bias against workers who assert their Beck Rights.

Make no mistake. Saying that nonunion members seeking to enforce their Beck rights can only pursue an unfair labor practices claim alters existing law. Under existing law, nonunion members can pursue an unfair labor practices claim or they can avoid the NLRB's time-consuming, hostile and burdensome administrative process by going directly to Federal court against a labor union.

If we enact the bogus Beck provision in McCain-Feingold nonunion workers will no longer be able to go directly to court and seek judicial enforcement of their rights as the plaintiff in the original Beck case did.

Instead, their only recourse would be to navigate a tedious, complex and hostile administrative process that, according to documents from the NLRB itself, regularly takes years.

Unions would love this because they know that giving nonunion members no alternative to this administrative process will greatly deter people's ability and willingness to seek refunds pursuant to Beck.

If we adopt McCain-Feingold's bogus-Beck provision, the other portions of Beck will not remain.

Advocates of McCain-Feingold are using a completely untrue and baseless argument to assuage people concerned about their big gift to big labor in the form of a bogus-Beck codification.

The argument is: Well, we just wanted to focus on the political part of Beck and, if we pass this, the rest of Beck will remain.

This is, of course, untrue because Beck was a decision in which the Supreme Court was interpreting a Federal statute, specifically section 8 of the National Labor Relations Act.

At the beginning of the Supreme Court's decision in Beck, Justice Brennan, the author of the decision, made clear it was statutory interpretation case, not a case about a constitutional right.

Quoting the decision:

> The statutory question presented in this case, then, is whether this financial core includes the obligation to support union activities beyond those germane to collective bargaining, contract administration, and grievance adjustment. We think it does not.

And at the end of the case, in stating the Court's holding, Justice Brennan again made clear that Beck was a statutory interpretation case. Again, quoting from the decision.

> We conclude that [section] 8(a)(3) [of the National Labor Relations Act] . . . authorizes the exaction of only those fees and dues necessary to performing the duties of an exclusive bargaining representative.

The significance of the indisputable fact that Beck was a case in which the Supreme Court interpreted a statute enacted by Congress rather than a portion of the Constitution is that any subsequent codification by Congress in light of the Court's interpretation will completely override the court interpretation.

Every lawyer knows that when a court interprets a statute and the legislature subsequently enacts a law clarifying what that statute means, as the bogus-Beck provision does, the court's interpretation is completely displaced by that statutory action.

Therefore, no serious person can give any weight to the assertion that somehow any part of the Supreme Court's interpretation of section 8 of the National Labor Relations Act in Beck will remain once we pass McCain-Feingold's big gift to big labor—the evisceration of Beck.

Senator NICKLES, as I indicated, will be over shortly to speak on this amendment. Even though he may demand a rollcall vote, we understand that the proponents of the underlying bill are prepared to accept or vote for this provision, and we are glad to hear that. We think restoring the Beck case to its original language is certainly appropriate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the manager of this bill, Senator DODD, is off the floor doing other Senate business. He told me before he left that he would not accept this amendment until there were negotiations. He has a statement he wishes to make, and there are others who wish to speak on this amendment.

In light of the fact that no one is here, I suggest the absence of a quorum and ask that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. NICKLES. Mr. President, I will speak briefly on the pending amendment. I thank my friend and colleague, Senator MCCONNELL, for sending this amendment to the desk on behalf of myself and Senator GREGG.

The purpose of this amendment is to strike the language that is in the bill on page 35, section 304. Under the bill, it says ''codification of the Beck decision.'' When I initially heard that Beck would be codified, I thought that was good. I support the Beck decision and would like to see it codified. When I read the language, I found out it did not codify the Beck decision. In fact, it rewrote the Beck decision, undermined it in many ways, and led me to the conclusion that we would be better off having no language rather than this language.

I very much appreciate the cooperation I have received from Senator MCCAIN and Senator FEINGOLD, who have agreed to drop this language, and as I also mentioned, Senator GREGG from New Hampshire, who has been working on this. Actually, we were both going to fight a big battle to strike this language. We thought that once people reviewed this language and contrasted it to the Beck decision, they would find out they are not the same and this wasn't actually a codification of the Beck decision in many different respects.

I am pleased. I think everybody will be on board for striking this language. I could go into the details regarding the difference in notification in Beck, because we think all employees, union and agency fee employees, should be notified. Under the pending language, it would only be those who are agency fee members who would be notified.

The Beck decision was very clear. The only instances in which a person would be compelled to contribute would be when they directly germane to collective bargaining, contract administration, and grievance adjustment. In other words, in those instances that are directly involved in negotiating contracts, solving enforcement of the contracts, and solving grievances, then a person would be compelled to contribute.

Under the language we had in the pending bill, it was much, much broader than that. Individuals could be compelled to pay in many instances determined by the union, and what might be regarded as unrelated to collective bargaining, they might define everything as related to collective bargaining and there would be no reimbursements for employees who went through the refund process.

Again, I think we are better off having no language in it than to have the language that is in section 304. The purpose of this amendment is to strike section 304, and I am pleased that our colleagues on both sides of the aisle have come to that conclusion.

I look forward to this section being removed from the bill, making, in my opinion, a significant improvement in the underlying legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Nevada.

Mr. REID. Mr. President, I suggest the absence of a quorum and ask time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that the senior Senator from West Virginia, Mr. BYRD, be recognized to speak as if in morning business for up to 30 minutes, and that the time be equally charged to both sides on the underlying amendment.

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

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the distinguished Democratic whip, Mr. REID, for his courtesy. He is always very courteous and attentive to the needs and wishes of his colleagues. I also thank the distinguished Senator from Kentucky, Mr. MCCONNELL, for his characteristic courtesy as well.

May I say I merely sought the floor because the Senate was in a quorum and had been in a quorum for quite a while; otherwise, I would not have come at this time.

Mr. President, I ask unanimous consent to speak out of order, if the time is being charged to both sides on the campaign finance legislation.

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

(The remarks of Mr. BYRD are located in Today's RECORD under ''Morning Business.'')

BIPARTISAN CAMPAIGN REFORM ACT OF 2001—Continued

Mr. LEVIN. Mr. President, I will be supporting the Nickles amendment because I think it is the wiser course to leave this issue at this time to the courts and to the NLRB.

I will say a few things about the Beck provision in the bill. I believe this is a different perspective than what we have heard from the Senator from Kentucky. However, we reached the same conclusion, that it is best to leave Beck to the courts and to the NLRB rather than to try to see if we can distill or characterize the Beck decision at this time.

Mr. President, it was said that the codification of Beck or the Beck provision in this bill is the opposite of a codification. But, Section 304 of McCain-Feingold goes to the heart of the Beck decision, that is, whether a nonunion member can opt out of paying dues for political activities. The Supreme Court says ''yes'' in Beck, and section 304 would make that right to opt out statutory law. That is the technical holding in Beck that a nonunion member in a bargaining unit can opt out. It is that holding which is at the heart of Beck which is also at the heart of the provision in section 304.

We don't believe section 304 would make it harder for nonunion members to exercise their Beck right; that, we believe, is not the case and we know it is not the intent.

The National Labor Relations Board has told unions how they can and should implement Beck. The NLRB said in the California Saw and Knife Works case, in 1995, the following: First, before a union can require a nonunion member to pay what is called an agency fee, which is similar to union dues for a union member, the union must tell the nonmember employee of his or her right to object to paying for activities ''not germane to the union's duties as bargaining agent,'' and his or her right to ''obtain a reduction in fees for such act.''

The nonmember employee can then file an objection, and the union must then charge the nonmember objecting employee an agency fee reflecting only that portion of the agency fee that represents the cost of activities related to collective bargaining.

The NLRB also requires that the nonmember objecting employee must also be given an explanation of the calculation made by the union, an opportunity to challenge the calculation, and an independent arbiter to determine the challenge.

These requirements have been in force since 1995 and have been vigorously enforced.

The McCain-Feingold bill incorporates both the Beck decision and that NLRB decision. The McCain-Feingold bill, first, makes it an unfair labor practice for a union not to provide the ''objection procedure'' laid out in the bill for nonmember employees. The objection procedure in the bill includes the same elements required by the NLRB, including annual notice to nonunion employees about the objection procedure; the persons eligible to invoke the procedure; and how, when, and where an objection can be filed. The bill provides an opportunity to file an objection to paying for union expenses ''supporting political activities unrelated to collective bargaining.'' One opportunity must include filing an objection by mail and, if an objection is filed, the reduction in the amount of the agency fee by an amount that ''reasonably reflects the ratio that the organization's expenditures supporting political activities unrelated to collective bargaining bears to such organization's total expenditure.''

The union must also provide, as the NLRB decisions have required, an explanation of the calculations made by the union, including calculating the amount of union expenditures supporting political activities unrelated to collective bargaining.

That is the provision in the McCain-Feingold bill.

Separate from the provision in the McCain-Feingold bill, any union employee who doesn't want to pay for a union's political activity through his or her membership dues can terminate his or her membership with the union and, like an objecting nonunion employee, seek a reduction in the agency fee of that sum which represents the amount spent on political activity.

So I wanted to clarify the provision in this bill. But our conclusion on the amendment of Senator NICKLES is really the same. It is best to leave this determination of the rights of nonunion members, and the meaning and fleshing out of the Beck decision relative to those rights, to the courts and to the NLRB. It doesn't belong on this bill.

So we reach the same conclusion. We don't have the same analysis of the wording of the bill and the meaning and the completeness of it or the accuracy of it, obviously. We have differences on that. But the conclusion is the same. The intent of the bill was to incorporate Beck, but, I think we will be better served if in fact the bill, then, is silent on this subject and we leave it up to the NLRB and the courts to make that determination, as to the meaning and implementation steps for Beck.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I believe after discussions with Senator DODD we are ready to announce that there will be a vote at 3:30. I ask unanimous consent that the time between now and 3:30 be equally divided and that a vote occur on the Nickles amendment at that time.

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

Mr. DODD. Mr. President, let me yield 4 minutes to my colleague from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I also have no problem with the amendment proposed by the Senator from Oklahoma. I appreciate the opportunity to meet with him today. He made his case, and, in a spirit that I hope will continue to permeate this Chamber, we listened to what he had to say and agreed that perhaps the best course, as the Senator from Michigan suggested, is to delete this provision from the bill.

I also appreciate the fact the Senator from Oklahoma has indicated to me, at least in terms of his amendments on the bill, that this will conclude the so-called paycheck protection part of this debate on campaign finance reform. It is in recognition of the fact that the votes are not there to include a paycheck protection provision that would be directed only at labor or even ones that would include both labor and corporations. I appreciate that assurance from the Senator from Oklahoma because I know he feels very strongly about this. But this is the nature of the process. We do need to move on to other issues.

There really is no need to debate the question of whether section 304 does or does not codify the Beck decision. The only reason this language is in the bill is that the Senator from Kentucky and the majority leader in the past have insisted for years that campaign finance reform legislation was not complete without a provision to deal with the activity of organized labor.

Proponents of that view, of course, offered the so-called paycheck protection provision as their solution. In fact, I remember a few years ago when we reached an agreement to debate campaign finance reform, the majority leader introduced a base bill for that debate, and his entire bill was the paycheck protection provision that is not prevailing in this discussion today.

No changes to our current corrupt soft money system were proposed—just paycheck protection. Paycheck protection—or, as I like to call it, paycheck deception—has always been a poison pill for reform. It is an unfair and unnecessary attack on organized labor. But we were willing to include in the bill a provision that purported to reflect current law with respect to fees paid by nonunion members in lieu of dues. So we added section 304.

Even though this has been in the McCain-Feingold bill for 3½ years, we are told that from the point of view of those who favor paycheck protection, the current law is preferable to this section in our bill.

In light of that history, I have no problem with removing the provision because the issue really doesn't belong, and never really belonged, in the campaign finance legislation. The whole question of how labor unions collect and use dues money from their members is a matter of Federal labor law, really, not Federal election law.

I am pleased to support the amendment of the Senator from Oklahoma. I think and hope this will bring an end to the amendments we have seen for years and years that are aimed at interfering with the internal workings of labor unions and the relationship between a union and its membership.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I support the amendment. I think it is a good thing to happen. I think maybe we have taken way too much time on it since basically everybody is in agreement.

I point out to my colleagues again, we still have a lot of pending amendments. We would like to get through them. There are some of them that will not take a maximum of 3 hours. There are some we can complete in a relatively short period of time.

The worst of all worlds is for us to continue to make the steady progress we have been making but run out of time because there are various commitments next week that people have. So I hope we can not only move forward with the amending process—we have spent a heck of a lot of time in quorum calls, and also with, albeit important, speeches and comments that do not have anything to do with the bill, the legislation we are addressing.

Again, I urge my colleagues who have amendments, please let Senator MCCONNELL and Senator DODD know so we can try to set up an orderly process for completion of the legislation at the appropriate time next week.

I thank my colleagues.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to thank Senator MCCAIN and Senator FEINGOLD for their acceptance of this amendment. I think it is important to strike this language, that section 304 which purports to codify the Beck decision. I will just read a direct quote from the Beck decision. It says:

> The statutory question presented in this case, is whether this ''financial core'' includes the obligation to support union activities beyond those germane to collective bargaining, contract administration, and grievance adjustment.

We think it does not. In other words, what Beck says is the only thing somebody would have to pay for—have their dues taken away from them without their consent—is to pay for negotiation for contract collective bargaining, contract administration, and grievance procedures, if someone has a grievance. That is the only thing. They were very clear what the language was. And the reason I and Senator GREGG—who, I might mention, is a key sponsor—objected was because this language went much further.

I didn't want people to misunderstand and say, well, we are codifying Beck, or we are clarifying and codifying Supreme Court decisions where basically we would be rewriting the Supreme Court decision. That is the reason I raised it. I very much appreciate the comments of our colleagues who have said that wasn't the intent and we can drop this language.

My colleague from Wisconsin asked me how many more paycheck amendments there would be. I wrote the paycheck protection amendment originally because a union person came to me and said: I don't want my money taken away from me and used for political purposes for which I totally disagree.

It happens to be that 40 percent of union members vote Republican who don't agree with some of the national agenda of their party. This individual from Claremore, OK, brought it to my attention. That is the reason I sponsored the amendment.

Yesterday there was an amendment proposed that had a paycheck protection provision, and, according to the media, it was completely unworkable. As Senator KENNEDY pointed out, dealing with corporations and shareholders is not the same thing. Being a shareholder is not the same thing as being a wage earner having money—maybe $25 a month—taken away from their paycheck. It is not the same thing, whether you buy shares of General Electric or Cisco, which may not have been a good idea the last few months. But, anyway, there is a difference in being a shareholder.

I didn't think that amendment was workable. Regretfully, I voted against it. I didn't want to, but I felt compelled to because I didn't think it was workable.

I am trying to look at bite-size improvements that can be made in this bill. I think removing this one section is an improvement in the bill, and I very much appreciate the cooperation of my colleagues to support this amendment. It is not my intention to offer any other paycheck-related amendments on this bill.

Mr. KENNEDY. Mr. President, my colleague, Senator NICKLES, has proposed that we remove Section 304 from McCain-Feingold. Senator NICKLES has further committed that this will be the last amendment he will offer on questions relating to union use of dues or fees for political purposes.

Section 304 of McCain-Feingold, entitled ''Codification of Beck Decision,'' would require unions to establish procedures for workers to object to paying dues that would go toward political activity. Unions would be required to notify workers of their rights; to reduce the fees paid by any worker who makes an objection; and to provide an explanation of their calculations.

Some of my colleagues claim that Section 304 expands upon and does not, in fact, codify Beck. My colleague, Senator McConnell, for example, asserts that McCain-Feingold goes beyond Beck by authorizing unions to charge objecting non-members for things that Beck clearly prohibited, such as community service projects, charitable donations, lobbying activities, and union organizing. Beck, however, did nothing of the sort.

The precise holding of Beck, and I quote, is that the National Labor Relations Act ''authorizes the exaction of only those fees and dues necessary to 'performing the duties of an exclusive representative of the employees in dealing with the employer on labor-management issues.' '' That is it. Consistent with standard practice under Supreme Court labor law holdings, Beck left development of all the details including which expenses are related to the ''duties of an exclusive representative,'' or what procedures unions must develop to the National Labor Relations Board and the courts. It did not hold that a union's charitable contributions, organizing expenses and the like are not related to collective bargaining. Nor did it say that lobbying activities could not be related to collective bargaining. In fact, in a case called Lehnert v. Ferris Faculty Association, decided in 1991, the Supreme Court held precisely the opposite. It stated that, even under the strict first amendment standards that apply to Government employment, objectors

may be charged for ''lobbying activities relate[d] . . . to the ratification or implementation of'' a collective bargaining agreement. My Republican colleagues cannot codify their view of what the law should be by saying that Beck made it the law. That is simply not what Beck did.

Some of my colleagues across the aisle also claim that there is a difference between the Beck holding—that unions may require only those dues necessary to support collective bargaining—and the McCain-Feingold formulation—that unions may not require dues for political activities unrelated to collective bargaining. This is a distinction without a difference.

The effects of Beck and McCain-Feingold are exactly the same. The NLRB and the courts will interpret the requirements of the law—and their results will be the same—whether Section 304 is included in the bill or not. Thus, the NLRB and the courts will determine whether payments made by a union are related to collective bargaining or not. If they are, all employees must pay for them. If they are not, then employees who object may opt out of paying for those costs. Beck sets this rule and McCain-Feingold codifies it.

For these reasons, I do not believe that the Nickles amendment is necessary. Beck will be the law with or without Section 304 of McCain-Feingold. And since the Beck decision, close to 13 years ago, every union has created a procedure to ensure that dues-paying workers can opt out of a union's political expenditures. These procedures universally involve notice to workers of the opt-out rights provided under Beck; establishment of a means for workers to notify the union of their decision to exercise these rights; an accounting by the union of its spending so that it can calculate the appropriate fee reduction; and the right of access to an impartial decisionmaker if the worker who opts out disagrees with the union's accounting or calculations.

So why was Section 304 included in McCain-Feingold in the first place? It was included only because my Republican colleagues wanted additional insurance that unions would obey the law. But as the scores of court cases and NLRB decisions addressing Beck issues attest, there are ample means under existing law to ensure that unions follow the dictates of the Beck decision. These means will exist with or without McCain-Feingold. Unions will conduct themselves in precisely the same way whether or not Section 304 of McCain-Feingold is enacted. Whether we choose McCain-Feingold as written or Senator NICKLES' amendment to McCain-Feingold is irrelevant.

So what will happen if we remove this provision? Absolutely nothing. Nothing, that is, unless some of my Republican colleagues use this action as an excuse to introduce yet more amendments that would prevent unions from representing the voices of working families in the political process. Senator NICKLES has committed that he will introduce no such amendments, and I thank him for that. As my friend Senator FEINGOLD has stated, we have amply debated—and resoundingly rejected—any such paycheck deception amendments, and we should not waste this body's time by endlessly debating, and rejecting, similar bills.

So let me be clear. If the Senate votes for the Nickles amendment today, it will not in any way change the law that governs union collection of dues for political purposes. Paycheck deception supporters may claim that the Nickles amendment shows that supporters of McCain-Feingold have abandoned dissenting workers or shown their unwillingness to enforce Beck rights. This is patently false.

If it is adopted, the Nickles amendment will show that we acknowledge as all in this body must that unions are already bound by the same rules that would govern them if Section 304 were enacted. My colleagues should not allow paycheck deception supporters to twist this basic understanding into an excuse for advancing their pro-business, anti-worker agenda.

Mr. GREGG. Mr. President, I rise today in support of this amendment to strike Section 304 of this bill, which pretends to codify the Beck decision. It does not.

This section must be stricken for the following reasons. First, it eliminates the ability of nonunion workers to pursue their claims in court. Under Section 304 of this bill, the courthouse doors will be closed for nonunion members seeking relief from confiscation of their dues for purposes unrelated to collective bargaining, contract negotiation, and grievance adjustment. In order to seek recourse through the National Labor Relations Board, nonmembers would be required to navigate a tedious, complex, and often hostile process that takes years.

Second, it will legislatively overrule almost 40 years of decisions of the U.S. Supreme Court by diminishing the scope of the refund the Supreme Court directed for objecting nonmembers required to pay agency fees. Section 304 limits nonmembers to a reduction in their agency fees equal only to the activities that a union decides are unrelated to collective bargaining. In this case, a union could decide that all of its activities dealing with legislation at the State and Federal level, as well as executive and judicial appointments or State ballot initiatives, are related to collective bargaining. Under Section 304, unions could use nonmember dues for these purposes, which is forbidden under current law.

Finally, Section 304 would provide nonmembers with far less protection and information than under procedural safeguards that unions have been required to adopt by the Federal courts. In this case, Section 304 requires unions to provide financial information about its expenditures only to employees who file an objection. The courts have held that all nonmembers, not just objectors, must be provided adequate disclosure of the basis for the agency fee that they are required to pay before they object—not after as under this bill. The courts have also held that adequate disclosure includes verification by an independent auditor, a requirement that S. 27 omits.

This section may have been drafted with the best of intentions. Nevertheless, I believe it would do more harm than good. Striking it and keeping the status quo would be more beneficial to American workers than this section as written. Section 304 is not a true codification of the Beck decision, and this amendment should be adopted overwhelmingly.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleague and friend from Oklahoma.

As the Senator from Michigan pointed out, this may be not unlike the amendment yesterday where we are arriving at the same result with maybe a slightly different rationale for doing so but the end result produces the same answer, and this is probably better out of the bill than in the bill.

Despite the good intentions of Senator FEINGOLD and Senator MCCAIN, in their view and in mine, there needs to be some clarification or codification of what the Beck decision said. But rather than debate that, that is what is going on at the NLRB.

The Supreme Court decisions are not unlike where we craft legislation and then usually have boilerplate language that leaves to the respective agencies the right to make decisions pursuant to legislative intent. Many times they do that and we object to what they do; that it goes beyond what the congressional intent was. That is how Supreme Court decisions are written, and then it is up to the NLRB, in this particular case, to deal with the myriad questions that come to it as to whether or not something is in order under the Beck decision.

The Beck decision says: supporting political activities unrelated to collective bargaining. I think that is the language of the Beck decision.

All of these various requests come to them as to whether or not something falls within that particular sentence. There is a rich history since the adoption of the Beck decision made by the NLRB when such questions have come to them. That is where it belongs.

I think that is what my colleague from Wisconsin is saying and my colleague from Oklahoma is saying—in effect, that we are not really the best venue for making those decisions. We best leave it to those who deal with these matters every day rather than trying to legislate it.

I agree with the proposal of the Senator from Oklahoma to take this section out of the bill. But I wouldn't want to characterize this as being either bogus Beck or absolutely Beck. I

think we have all come to the conclusion those decisions are best left to the NLRB.

Some might claim that McCain-Feingold is a bogus-Beck bill. It is not. McCain-Feingold codifies the Beck holding, which has been interpreted through scores of NLRB and court decisions. As Chief Judge Edwards of the District of Columbia Circuit has observed, this is appropriate, and precisely what the Beck court intended; in his words, ''[i]t is hard to think of a task more suitable for an administrative agency that specializes in labor relations.'' *Thomas* v. *NLRB*, 213 F.3d 651, 675 (D.C. Cir. 2000). NLRB decisions implementing Beck have generally been upheld in the courts.

Beck held that objecting nonmembers have the right to object to the payment of a portion of their contractually required agency fees. McCain-Feingold says the same thing. Whether they implement Beck or McCain-Feingold, therefore, the NLRB and the courts will be free to reach the same results. Nothing in our vote on the Nickles amendment today should change their analysis.

I wouldn't want the RECORD to show what I hope will be overwhelming support for the amendment of the Senator from Oklahoma as anything but that.

Lastly, let me say to my friend from Oklahoma that I appreciate his statement that we have come to an end, I hope, of the so-called paycheck protection amendments. I think we have had good debates on them. The Senator from Oklahoma and I agreed yesterday—I think he was right—as well that we are getting much too complicated in some of these efforts dealing with shareholders, and we felt the same on the second Hatch amendment where someone owns a stock for 15 minutes, and all of a sudden they are going to be deluged with information about the campaign's activities with that particular company going beyond what we intend to achieve in legislation.

With that, unless there are others who want to be heard on this amendment, I am prepared to yield back the couple of minutes we have. We said 3:30 we would start the vote. We have one other amendment we are going to consider this afternoon by Senator LANDRIEU, if that is appropriate with my friend from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, it is appropriate, as the Senator from Kentucky just discussed, for Senator LANDRIEU to come next.

I am perfectly prepared to yield back the time on this side, and we will go to a vote.

Mr. DODD. Do we want a recorded vote on this?

Mr. NICKLES. A recorded vote.

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

All time is yielded, and the question is on agreeing to the Nickles amendment No. 139.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

The PRESIDING OFFICER (Mr. ALLEN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—99

Akaka	Dorgan	Lugar
Allard	Durbin	McCain
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Helms	Schumer
Carnahan	Hollings	Sessions
Carper	Hutchinson	Shelby
Chafee	Hutchison	Smith (NH)
Cleland	Inhofe	Smith (OR)
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Collins	Johnson	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Thomas
Craig	Kyl	Thompson
Crapo	Landrieu	Thurmond
Daschle	Leahy	Torricelli
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wellstone
Domenici	Lott	Wyden

NOT VOTING—1

Kennedy

The amendment (No. 139) was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, the next amendment will be on the Democratic side, offered by Senator LANDRIEU. We are in the process of looking at it now. We think it may well be accepted. Shortly, Senator LANDRIEU will send that amendment to the desk and make her statement about it.

Let me say that after that, Senator SPECTER will be recognized to offer an amendment, and Senator DODD and I are talking about the possibility of Senator SPECTER being followed by Senator HELMS. I believe the majority leader would like for us to vote a couple more times tonight. Senators may expect additional votes.

Mr. DODD. Mr. President, the Senator from Kentucky has described appropriately and properly that Senator LANDRIEU has an amendment. It might only take 10 minutes to explain the amendment. We might even hope for a voice vote rather than having a recorded vote on that amendment. I can tentatively tell my colleague from Kentucky that with respect to the Specter amendment, there has been some discussion about having an hour's worth of debate on that.

Mr. MCCONNELL. I have not yet spoken to Senator SPECTER about that. I will do that shortly.

Mr. DODD. There is an indication and perhaps a willingness to support that arrangement, along with the recommendation of having Senator HELMS propose an amendment and maybe debate it this evening and make it the first vote tomorrow. We are discussing it on this side. I am using the opportunity to let people know with what I am going to ask them to agree. It sounds like a good schedule to me. If Members have some objection, they ought to let us know. In the meantime, we can go to Senator LANDRIEU.

Ms. LANDRIEU. Mr. President, I really appreciate the leadership the Senator from Connecticut has brought to this issue. I thank him for providing time for me to offer this amendment.

AMENDMENT NO. 124

Ms. LANDRIEU. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 124.

The amendment reads as follows:

(Purpose: To amend the Federal Election Campaign Act of 1971 to provide for weekly reporting by candidates and for prompt disclosure of contributions, and to make software for filing reports in electronic form available)

On page 37, between lines 14 and 15, insert the following:

SEC. 305. ENHANCED REPORTING AND SOFTWARE FOR FILING REPORTS.

(a) ENHANCED REPORTING FOR CANDIDATES.—

(1) WEEKLY REPORTS.—Section 304(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(2)) is amended to read as follows:

''(2) PRINCIPAL CAMPAIGN COMMITTEES.—If the political committee is the principal campaign committee of a candidate for the House of Representatives or for the Senate, the treasurer shall file a report for each week of the election cycle that shall be filed not later than the 5th day after the last day of the week and shall be complete as of the last day of the week.''.

(2) PROMPT DISCLOSURE OF CONTRIBUTIONS.—Section 304(a)(6)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(6)(A)) is amended—

(A) by striking ''of $1,000 or more'';

(B) by striking ''after the 20th day, but more than 48 hours before any election'' and inserting ''during the election cycle''; and

(C) by striking ''within 48 hours'' and inserting ''within 24 hours''.

(b) SOFTWARE FOR FILING OF REPORTS.—Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by adding at the end the following:

''(12) SOFTWARE FOR FILING OF REPORTS.—

''(A) IN GENERAL.—The Commission shall—

''(i) develop software for use to file a designation, statement, or report in electronic form under this Act; and

''(ii) make a copy of the software available to each person required to file a designation, statement, or report in electronic form under this Act.

''(B) REQUIRED USE.—Any person that maintains or files a designation, statement, or report in electronic form under paragraph (11) or subsection (d) shall use software developed under subparagraph (A) for such maintenance or filing.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 304(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by adding at the end the following:

''(C) The reports described in this subparagraph are as follows:

''(i) A pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election.

''(ii) A post-general election report, which shall be filed no later than the 30th day after any general election in which such candidate has sought election, and which shall be complete as of the 20th day after such general election.

''(iii) Additional quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter: except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year.''.

(2) Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended—

(A) in subsection (a)(3)(A)—

(i) in each of clauses (i) and (ii)—

(I) by striking ''paragraph (2)(A)(i)'' and inserting ''subparagraph (C)(i)''; and

(II) by striking ''paragraph (2)(A)(ii)'' and inserting ''subparagraph (C)(ii)''; and

(ii) in clause (ii), by striking ''paragraph (2)(A)(iii)'' and inserting ''subparagraph (C)(iii)'';

(B) in each of paragraphs (4)(B) and (5) of subsection (a), by striking ''paragraph (2)(A)(i)'' and inserting ''paragraph (3)(C)(i)''; and

(C) in subsection (a)(4)(B), by striking ''paragraph (2)(A)(ii)'' and inserting ''paragraph (3)(C)(ii)'';

(D) in subsection (a)(8), by striking ''paragraph (2)(A)(iii)'' and inserting ''paragraph (3)(C)(iii)'';

(E) in subsection (a)(9), by striking ''(2) or''; and

(F) in subsection (c)(2), by striking ''subsection (a)(2)'' and inserting ''subsection (a)(3)(C)''.

(3) Section 309(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(b)) is amended—

(A) by striking ''304(a)(2)(A)(iii)'' and inserting ''304(a)(3)(C)(iii)''; and

(B) by striking ''304(a)(2)(A)(i)'' and inserting ''304(a)(3)(C)(i)''.

Ms. LANDRIEU. Mr. President, the Members are going to be discussing the details of this amendment because there seems to be some confusion with the text. I want to take a few minutes to explain it as staff is working on it, and we may need a little bit more time.

Generally, there is broad consensus, both on the Republican side and the Democratic side, that one of the best things we could do to improve our current system is to try to provide for greater disclosure. One of the great tools we now have for disclosure is the electronic medium, the electronic opportunity, the tools the Internet and new technologies have provided.

My amendment really embraces this new technology. It is quite a simple amendment. It requires the FEC to develop a standardized software package that any Federal candidate running for Federal office would be required to use in our reporting requirements. The report would basically go on line. Instead of waiting a quarter, or 6 months, or a year, or 48 hours, whatever the current waiting period is, a candidate or a political committee that is required to report would basically enter the data as if he were making deposits—which we all do—into a bank account. Those deposits would become transparent. The report is like a report in progress, and people would have access to what contributions were being made to the candidate—in this case—or to a committee, basically instantaneously.

That is the essence of my amendment. There is no new reporting requirement. It will hopefully not be onerous on us because the FEC will be required to come up with this new software. We will allow them the time to develop it because we don't want to rush the process. We want them to do it correctly. They would give us the software, and we would download it onto our computer, and as checks came in, as expenses were released by the campaign, it would be available instantaneously on the Internet.

That is the essence of my amendment. We are having a few problems with the drafting of the amendment.

That is what I offer as an improvement to our current system. We have reports that we must file. They are quarterly or annually or, sometimes when one is close to an election, daily. This would be instantaneous reporting with no new work required of the candidate or the committees using software that will be developed.

That is what I submit for consideration. I am hoping we can voice vote this amendment as soon as the technical difficulties are worked out.

I yield back the remainder of my time, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DODD. Mr. President, what is the pending business? I believe the pending business is the Landrieu amendment.

The PRESIDING OFFICER. The pending business is the Landrieu amendment.

Mr. DODD. Mr. President, I ask unanimous consent that the Landrieu amendment be temporarily laid aside. I say to my colleagues, there are efforts at crafting the language in such a way as to bring bipartisan support to this amendment. We think it is a very good proposal, and we are working on some of the specifics of it.

While we are doing that, we will go to the Specter amendment, which I think is the intention of the manager, the Senator from Kentucky.

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

Mr. DODD. Mr. President, the Senator from Pennsylvania is unavoidably going to be absent from the floor for a few minutes, so I am going to suggest the absence of a quorum and we will proceed to the Specter amendment, I presume, in about 10 or 15 minutes. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 140

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 140.

Mr. SPECTER. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide findings regarding the current state of campaign finance laws and to clarify the definition of electioneering communication)

On page 7, line 24, after ''and'', insert the following: ''which, when read as a whole, in the context of external events, is unmistakable, unambiguous and suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.''

On page 15, line 20, insert the following:

''(iv) promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which, when read as a whole, and in the context of external events, is unmistakable, unambiguous and suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.''

On page 2, after the matter preceding line 1, insert:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) In the twenty-five years since the 1976 Supreme Court decision in Buckley v. Valeo, the number and frequency of advertisements

increased dramatically which clearly advocate for or against a specific candidate for Federal office without magic words such as ''vote for'' or ''vote against'' as prescribed in the Buckley decision.

(2) The absence of the magic words from the Buckley decision has allowed these advertisements to be viewed as issue advertisements, despite their clear advocacy for or against the election of a specific candidate for Federal office.

(3) By avoiding the use of such terms as ''vote for'' and ''vote against,'' special interest groups promote their views and issue positions in reference to particular elected officials without triggering the disclosure and source restrictions of the Federal Election Campaign Act.

(4) In 1996, an estimated $135 million was spent on such issue advertisements; the estimate for 1998 ranged from $275–$340 million; and, for the 2000 election the estimate for spending on such advertisements exceeded $340 million.

(5) If left unchecked, the explosive growth in the number and frequency of advertisements that are clearly intended to influence the outcome of Federal elections yet are masquerading as issue advocacy has the potential to undermine the integrity of the electoral process.

(6) The Supreme Court in Buckley reviewed the legislative history and purpose of the Federal Election Campaign Act and found that the authorized or requested standard of the Federal Election Campaign Act operated to treat all expenditures placed in cooperation with or with the consent of a candidate, an agent of the candidate, or an authorized committee of the candidate as contributions subject to the limitations set forth in the Act.

(7) During the 1996 Presidential primary campaign the Clinton Committee and the Dole Committee both spent millions of dollars in excess of the overall Presidential primary spending limit that applied to each of their campaigns, and in doing so, used millions of dollars in soft money contributions that could not legally be used directly to support a Presidential campaign.

(8) The Clinton and Dole Committees made these campaign expenditures through their respective national political party committees, using these party committees as conduits to run multi-million dollar television ad campaigns to support their candidacies.

(9) These television ad campaigns were in each case prepared, directed, and controlled by the Clinton and Dole campaigns.

(10) Former Clinton adviser Dick Morris said in his book about the 1996 elections that President Clinton worked over every script, watched each advertisement, and decided which advertisements would run where and when.

(11) Then-President Clinton told supporters at a Democratic National Committee luncheon on December 7, 1995, that, ''We realized that we could run these ads through the Democratic Party, which meant that we could raise money in $20,000 and $50,000 blocks. So we didn't have to do it all in $1,000 and run down what I can spend, which is limited by law so that is what we've done.''

(12) Among the advertisements coordinated between the Clinton campaign and the Democratic National Committee, yet paid for by the DNC as an issue ad, was one which contained the following:

[Announcer] ''60,000 felons and fugitives tried to buy handguns but couldn't because President Clinton passed the Brady bill—five day waits, background checks. But Dole and Gingrich voted no. 100,000 new police—because President Clinton delivered. Dole and Gingrich? Vote no, want to repeal 'em. Strengthen school anti-drug programs. President Clinton did it. Dole and Gingrich? No again. Their old ways don't work. President Clinton's plan. The new way. Meeting our challenges, protecting our values.''

(13) Another advertisement coordinated between the Clinton campaign and the DNC contained the following:

[Announcer] ''America's values. Head start. Student loans. Toxic cleanup. Extra police. Protected in the budget agreement; the President stood firm. Dole, Gringrich's latest plan includes tax hikes on working families. Up to 18 million children face health care cuts. Medicare slashed $167 billion. Then Dole resigns, leaving behind gridlock he and Gringrich created. The President's plan: Politics must wait. Balance the budget, reform welfare, protect our values.''

(14) Among the advertisements coordinated between the Dole campaign and the Republican National Committee, yet paid for by the RNC as an issue ad, was one which contained the following:

[Announcer] ''Bill Clinton, he's really something. He's now trying to avoid a sexual harassment lawsuit claiming he is on active military duty. Active duty? Newspapers report that Mr. Clinton claims as commander-in-chief he is covered under the Soldiers and Sailors Relief Act of 1940, which grants automatic delays in lawsuits against military personnel until their active duty is over. Active duty? Bill Clinton, he's really something.''

(15) Another advertisement coordinated between the Dole campaign and the RNC contained the following:

[Announcer] ''Three years ago, Bill Clinton gave us the largest tax increase in history, including a 4 cent a gallon increase on gasoline. Bill Clinton said he felt bad about it.''

[Clinton] ''People in this room still get mad at me over the budget process because you think I raised your taxes too much. It might surprise you to know I think I raised them too much, too.''

[Announcer] ''OK, Mr. President, we are surprised. So now, surprise us again. Support Senator Dole's plan to repeal your gas tax. And learn that actions do speak louder than words.''

(16) Clinton and Dole Committee agents raised the money used to pay for these so-called issue ads supporting their respective candidacies.

(17) These television advertising campaigns, run in the guise of being DNC and RNC issue ad campaigns, were in fact Clinton and Dole ad campaigns, and accordingly should have been subject to the contribution and spending limits that apply to Presidential campaigns.

(18) After reviewing spending in the 1996 Presidential election campaign, auditors for the Federal Election Commission recommended that the 1996 Clinton and Dole campaigns repay $7 million and $17.7 million, respectively, because the national political parties had closely coordinated their soft money issue ads with the respective presidential candidates and accordingly, the expenditures would be counted against the candidates' spending limits. The repayment recommendation for the Dole campaign was subsequently reduced to $6.1 million.

(19) On December 10, 1998, in a 6–0 vote, the Federal Election Commission rejected its auditors' recommendation that the Clinton and Dole campaigns repay the money.

(20) The pattern of close coordination between candidates' campaign committees and national party committees continued in the 2000 Presidential election .

(21) An advertisement financed by the RNC contained the following:

[Announcer] ''Whose economic plan is best for you? Under George Bush's plan, a family earning under $35,000 a year pays no Federal income taxes—a 100 percent tax cut. Earn $35,000 to $50,000? A 55 percent tax cut. Tax relief for everyone. And Al Gore's plan: three times the new spending President Clinton proposed, so much it wipes out the entire surplus and creates a deficit again. Al Gore's deficit spending plan threatens America's prosperity.''

(22) Another advertisement financed by the RNC contained the following:

[Announcer] ''Under Clinton-Gore, prescription drug prices have skyrocketed, and nothing's been done. George Bush has a plan: add a prescription drug benefit to Medicare.''

[George Bush] ''Every senior will have access to prescription drug benefits.''

[Announcer] ''And Al Gore? Gore opposed bipartisan reform. He's pushing a big government plan that lets Washington bureaucrats interfere with what your doctors prescribe. The Gore prescription plan: bureaucrats decide. Bush prescription plan: seniors choose.''

(23) An advertisement paid for by the DNC contained the following:

[Announcer] ''When the national minimum wage was raised to $5.15 an hour, Bush did nothing and kept the Texas minimum wage at $3.35. Six times the legislature tried to raise the minimum wage and Bush's inaction helped kill it. Now Bush says he'd allow states to set a minimum wage lower than the Federal standard. Al Gore's plan: Make sure our current prosperity enriches not just a few, but all families. Increase the minimum wage, invest in education, middle-class tax cuts and a secure retirement.''

(24) Another advertisement paid for by the DNC contained the following:

[Announcer] ''George W. Bush chose Dick Cheney to help lead the Republican party. What does Cheney's record say about their plans? Cheney was one of only eight members of Congress to oppose the Clean Water Act * * * one of the few to vote against Head Start.

He even voted against the School Lunch Program * * * against health insurance for people who lost their jobs. Cheney, an oil company CEO, said it was good for OPEC to cut production so oil and gasoline prices could rise. What are their plans for working families?''

(25) On January 21, 2000, the Supreme Court in Nixon v. Shrink Missouri Government PAC noted, ''In speaking of 'improper influence' and 'opportunities for abuse' in addition to 'quid pro quo arrangements,' we recognized a concern to the broader threat from politicians too compliant with the wishes of large contributors.''

(26) The details of corruption and the public perception of the appearance of corruption have been documented in a flood of books, including:

(A) Backroom Politics: How Your Local Politicians Work, Why Your Government Doesn't, and What You Can Do About It, by Bill and Nancy Boyarsky (1974);

(B) The Pressure Boys: The Inside Story of Lobbying in America, by Kenneth Crawford (1974);

(C) The American Way of Graft: A Study of Corruption in State and Local Government, How it Happens and What Can Be Done About it, by George Amick (1976);

(D) Politics and Money: The New road to Corruption, by Elizabeth Drew (1983);

(E) The Threat From Within: Unethical Politics and Politicians, by Michael Kroenwetter (1986);

(F) The Best Congress Money Can Buy, by Philip M. Stern (1988);

(G) Combating Fraud and Corruption in the Public Sector, by Peter Jones (1993);

(H) The Decline and Fall of the American Empire: Corruption, Decadence, and the American Dream, by Tony Bouza (1996);

(I) The Pursuit of Absolute Integrity: How Corruption Control Makes Government Ineffective, by Frank Anechiarico and James B. Jacobs (1996);

(J) The Political Racket: Deceit, Self-Interest, and Corruption in American Politics, by Martin L. Gross (1996).

(K) Below the Beltway: Money, Power, and Sex in Bill Clinton's Washington, by John L. Jackley (1996);

(L) End Legalized Bribery: An Ex-Congressman's Proposal to Clean Up Congress, by Cecil Heftel (1998);

(M) Year of the Rat: How Bill Clinton Compromised U.S. Security for Chinese Cash, by Edward Timperlake and William C. Triplett, II (1998);

(N) The Corruption of American Politics: What Went Wrong and Why, by Elizabeth Drew (1999);

(O) Corruption, Public Finances, and the Unofficial Economy, by Simon Johnson, Daniel Kaufmann, and Pablo Zoido-Lobatoon (1999); and

(P) Party Finance and Political Corruption, edited by Robert Williams (2000);

(27) The Washington Post reported on September 15, 2000 that a group of Texas trial lawyers with whom former Vice President Gore met in 1995, contributed thousands of dollars to the Democrats after President Clinton vetoed legislation that would have strictly limited the amount of damages juries can award to plaintiffs in civil lawsuits.

(28) According to an article in the March 26, 2001 edition of U.S. News and World Report, labor-related groups—which count on their Democratic allies for support on issues such as the minimum wage that are important to unions—spent more than $83.5 million in the 2000 elections, with 94 percent going to Democrats, prompting some labor figures to brag that without labor's money, the election would not have been nearly as close.

(29) A New York Times editorial from March 16, 2001, observed that ''Business interests generously supported Republicans in the last election and are now reaping the rewards. President Bush and Republican Congressional leaders have moved to rescind new Labor Department ergonomics rules aimed at fostering a safer workplace, largely because business considered them too costly. Congress is also revising bankruptcy law in a way long sought by major financial institutions that gave Republicans $26 million in the last election cycle.''

(30) A New York Times article, from March 13, 2001, noted that ''A lobbying campaign led by credit card companies and banks that gave millions of dollars in political donations to members of Congress and contributed generously to President Bush's 2000 campaign is close to its long-sought goal of overhauling the nation's bankruptcy system.''

(31) According to a Washington Post article from March 11, 2001, when congressional GOP leaders took control of the final writing of the bankruptcy bill, they consulted closely with representatives of the American Financial Services Association and the Coalition for Responsible Bankruptcy, which represented dozens of corporations and trade groups. The 442-page bill contained hundreds of provisions written or backed by lobbyists for financial industry giants.

(32) It has become common practice to reward big campaign donors with ambassadorships, with an informal policy dating back to the 1960s allocating about 30 percent of the nation's ambassadorships to non-career appointees. According to a Knight Rider article from November 13, 1997, former President Nixon once told his White House Chief of Staff that ''Anybody who wants to be an ambassador must at leave give $250,000.''

Mr. SPECTER. Mr. President, this amendment does two things. It sets forth findings which I believe are indispensable in order to have legislation which will pass review by the Supreme Court of the United States. In recent years, the Supreme Court has stricken a great deal of congressional legislation starting with Lopez in 1995, upsetting 60 years of solid precedents for Federal legislation under the Commerce Clause, and has invalidated on constitutional grounds, substantial legislation—the Disabilities Act, the provision of the Violence Against Women Act—on the basis that there is insufficient factual foundation. This amendment seeks to provide findings to pass constitutional muster. I shall deal with them in detail in this floor statement. Second, this amendment deals with the definition of what is an advocacy ad contrasted with an issue ad.

The provision in the pending legislation, McCain-Feingold, says it is the purpose of this provision to try to establish a test which will pass constitutional muster under the decision of the Supreme Court in Buckley v. Valeo. It may be that this definition is sufficient to pass constitutional muster. It is arguable.

It may be that this definition is not sufficient to pass constitutional muster. That is also arguable.

The Supreme Court of the United States in Buckley, in 1976, said this:

> In order to preserve the provision against invalidation on vagueness grounds, section 601(e)(1) must be construed to apply only to expenditures for communications that, in express terms, advocate the election or defeat of a clearly identified candidate for Federal office.

Then the Supreme Court drops a footnote which says:

> This construction would restrict the application of 608(e)(1) to communications containing express words of advocacy of election or defeat such as ''vote for,'' ''elect,'' ''support,'' ''cast your ballot for,'' ''Smith for Congress,'' ''vote against,'' ''defeat,'' ''reject.''

On its face, it seems difficult to see how the language from McCain-Feingold, in and of itself, would satisfy the mandate articulated by the Supreme Court of having language such as ''vote for, elect, support,'' et cetera, which is straightforward and unequivocal in expressing a view for the election of a candidate or the defeat of a candidate.

Constitutional interpretation is complicated because different members of the nine-person Supreme Court see the issues differently, and especially at different times. A great deal has happened in the electoral process, with hard money and soft money and so-called issue ads, so that it is possible that a court, looking at this language in a different era and in a different context, might say that it is constitutional.

From my view of the Constitution, it is hard to see that that would happen just on the face of the language which I have read.

There is one opinion in a court of appeals, ninth circuit. Of course, the courts of appeals are right under the Supreme Court. It is a case which has articulated a different definition. The case is the Furgatch case, and that case said that the ad is an advocacy ad if the ''message is unmistakable, unambiguous, suggestive of only one plausible meaning.''

This is a very complicated field and unless you have read the cases and/or followed this debate very closely, it is hard to put all the pieces in place to understand the statutory and constitutional structure. But the rule has been if you have an advocacy ad, then it can be regulated by legislation. But if you have an issue ad, it cannot be regulated by legislation. Even with some advocacy ads—according to the Supreme Court decision in F.E.C. v Massachusetts Citizens For Life Committee—regulation doesn't pass constitutional muster because it is too much of an infringement on freedom of speech. The Court has set the ground rules to say that there must be corruption or the appearance of corruption which would warrant an infringement on first amendment rights of freedom of speech. And the Court has equated money with speech.

To my thinking, that is a far stretch. I agree with Justice Stevens that the conclusion that money is speech is unreasonable because it so elevates money and what money can do in the electoral process.

But, in any event, unless you have express advocacy under the Buckley decision, you cannot have any regulation at all.

The amendment which I am offering today would take the Furgatch language and add it as an additional definition of what constitutes an advocacy ad. This language builds upon and does not in any way change the provisions of McCain-Feingold. And we do not address any other issue in this amendment as to who is covered or what the circumstances are, so that we have all the controversy about individuals, corporations, labor unions, or whatever—McCain-Feingold is left untouched. All we are doing is adding to the definition of an electioneering message to provide a solid basis for Supreme Court review to conclude that this legislation would deal with advocacy ads.

The language in the amendment traces the language of Furgatch, and provides that there is an electioneering message which ''promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against the candidate.)''

The language I just read is existing in McCain-Feingold. The additional language is ''and which, when read as a whole, and in the context of external events''—that means what is happening in an election—''is unmistakable, unambiguous, and suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.''

What does that mean in the context of what has happened in the Presidential elections of 1996 and the year 2000?

In 1996, the Democratic National Committee—I am going to come to Republican ads because this amendment is balanced between what Republicans have done and what Democrats have done in a way which is critical on all sides.

I start first with the President Clinton advertisements run by Democratic National Committee. The announcer comes on and says:

60,000 felons and fugitives tried to buy handguns but couldn't because President Clinton passed the Brady bill—five day waits, background checks. But Dole and Gingrich voted no. 100,000 new police—because President Clinton delivered. Dole and Gingrich? Vote no, want to repeal 'em. Strengthen school anti-drug programs. President Clinton did it. Dole and Gingrich? No again. Their old ways don't work. President Clinton's plan . . .

As that advertisement is being read, any person listening would say that is an ad which advocates the election of President Clinton and advocates the defeat of Robert Dole.

But under the interpretations of Buckley v. Valeo, because the magic words ''vote for'' or ''vote against'' are not used, that is deemed to be an issue ad and is not subject to the limitations of the Federal election campaign laws.

Then turning to one of the advertisements coordinated between Senator Dole and the Republican National Committee, the announcer comes on:

''Three years ago, Bill Clinton gave us the largest tax increase in history, including a 4 cent a gallon increase on gasoline. Bill Clinton said he felt bad about it.''

[Clinton] ''People in this room still get mad at me over the budget process because you think I raised your taxes too much. It might surprise you to know I think I raised them too much, too.''

[Announcer] ''OK, Mr. President, we are surprised. So now, surprise us again. Support Senator Dole's plan to repeal your gas tax. And learn that actions do speak louder than words.''

Obviously, anybody listening to that advertisement would say it advocates the election of Senator Dole and it advocates the defeat of President Clinton. But that is not the result.

The result under Buckley is that it is an issue ad, even though coordinated between the Clinton campaign and the Democratic National Committee; and then the other ad coordinated between Senator Dole's campaign and the Republican National Committee. They are issue ads and not subject to Federal regulation.

Then the same pattern emerges in the election in the year 2000. An advertisement paid for by the Democratic National Committee said the following:

George W. Bush chose Dick Cheney to help lead the Republican party. What does Cheney's record say about their plans? Cheney was one of only eight members of Congress to oppose the Clean Water Act . . . one of the few to vote against Head Start. He even voted against the School Lunch Program . . . against health insurance for people who lost their jobs. Cheney, an oil company CEO, said it was good for OPEC to cut production so oil and gasoline prices could rise. What are their plans for working families?

Anybody listening to that television ad would say conclusively that the purpose of the ad was to defeat Mr. CHENEY, and to elect the Gore-Lieberman ticket. But, under the Supreme Court decision in Buckley, that is considered to be an issue ad and not subject to regulation.

How in the world can there be issue advocacy in advertisements which take up the Clean Water Act passed many years ago, or the Head Start Program, which is no longer in issue, or the school lunch program, or health insurance for people who lost their jobs? Those matters long since ceased to be issues. But, notwithstanding that, they are categorized as issue ads and not advocacy ads where the only purpose would be to advocate the defeat of DICK CHENEY for Vice President and the defeat of the Bush-Cheney ticket.

Under my amendment and the language of Furgatch, there would be no doubt that that message is ''unmistakable, unambiguous, and suggestive of only one plausible meaning.''

The ads of the Republican National Committee were similarly directed to defeat the Gore-Lieberman ticket.

This is an illustrative ad by the Republican National Committee.

[Announcer] ''Under Clinton-Gore, prescription drug prices have skyrocketed, and nothing's been done. George Bush has a plan: add a prescription drug benefit to Medicare.''

[George Bush] ''Every senior will have access to prescription drug benefits.''

[Announcer] ''And Al Gore? Gore opposed bipartisan reform. He's pushing a big government plan that lets Washington bureaucrats interfere with what your doctors prescribe. The Gore prescription plan: bureaucrats decide. Bush prescription plan: seniors choose.''

Obviously, that is an ad which advocates the election of George Bush and advocates the defeat of Vice President Gore. But under the Buckley decision, that would be an issue ad and not subject to Federal regulation.

The findings set forth in my amendment recite the essential facts of how the candidates coordinated these advertisements with their parties.

Findings 7, 8, and 9, starting on page 2, line 29, recites:

During the 1996 Presidential primary campaign the Clinton Committee and the Dole Committee both spent millions of dollars in excess of the overall Presidential primary spending limit that applied to each of their campaigns, and in doing so, used millions of dollars in soft money contributions that could not legally be used directly to support a Presidential campaign.

The Clinton and Dole Committees made these campaign expenditures through their respective national political party committees, using these party committees as conduits to run multi-million dollar television ad campaigns to support their candidacies.

These television ad campaigns were in each case prepared, directed, and controlled by the Clinton and Dole campaigns.

And finding 10, page 3, line 13:

Former Clinton adviser Dick Morris said in his book about the 1996 elections that President Clinton worked over every script, watched each advertisement, and decided which advertisements would run where and when.

Finding 11, page 3, line 17:

Then-President Clinton told supporters at a Democratic National Committee luncheon on December 7, 1995, that, ''We realized that we could run these ads through the Democratic Party, which meant that we could raise money in $20,000 and $50,000 blocks. So we didn't have to do it all in $1,000 and run down what I can spend, which is limited by law so that is what we've done.''

There is no doubt about the fact of coordination when it comes from the mouth of the Presidential candidate, President Clinton, running for reelection and from Dick Morris, his campaign manager.

Findings 18, 19, and 20, starting on page 5, line 9, recites:

After reviewing spending in the 1996 Presidential election campaign, auditors for the Federal Election Commission recommended that the 1996 Clinton and Dole campaigns repay $7 million and $17.7 million, respectively, because the national political parties had closely coordinated their soft money issue ads with the respective presidential candidates and, accordingly, the expenditures would be counted against the candidates' spending limits. The repayment recommendation for the Dole campaign was subsequently reduced to $6.1 million.

On December 10, 1998, on a 6–0 vote, the Federal Election Commission rejected its auditors' recommendation that the Clinton and Dole campaigns repay the money.

The pattern of close coordination between candidates' campaign committees and national party committees continued in the 2000 Presidential election.

The Supreme Court of the United States, in Buckley v. Valeo, made a conclusive finding that such controlled or coordinated expenditures are treated as contributions rather than expenditures under the Act.

But notwithstanding that clear-cut statement of law, when the Federal Election Commission picked up the issue and had a decision to make, the Federal Election Commission said that there was not a violation of the Federal election law.

The findings go into some detail about the experience of the 25 years since the 1976 decision of Buckley v. Valeo on the number and frequency of advertisements which avoid being advocacy ads because they leave out the magic words.

We recite the finding that in 1996 there was an estimated $135 million spent on these so-called issue advertisements. The estimate for 1998 ranged from $275 to $340 million. And for the 2000 election, the estimate for spending on such advertisements exceeded $340 million.

In Buckley v. Valeo, the Supreme Court of the United States said that legislation affecting campaign contributions would be based on corruption or the appearance of corruption. Since the Buckley decision was decided, there have been many books written documenting the details of corruption and the public perception of the appearance of corruption. It is not

a cottage industry; it is a major national industry.

Last year, the year 2000, a book was edited by Robert Williams entitled ''Party Finance and Political Corruption.''

In 1999, a book was published ''Corruption, Public Finances, and the Unofficial Economy,'' by Johnson, Kaufmann and Zoido-Lobatoon.

In 1999, an incisive book entitled ''The Corruption of American Politics: What Went Wrong and Why'' was written by Elizabeth Drew, tracing the Governmental Affairs hearings in 1997.

In 1998, a book was written by Timperlake and Triplett entitled, ''Year of the Rat: How Bill Clinton Compromised U.S. Security for Chinese Cash.''

In 1998, a book was written by Cecil Heftel, entitled, ''End Legalized Bribery: An Ex-Congressman's Proposal to Clean Up Congress.''

The findings recite a great many books, including Philip Stern's 1988 book, trenchantly entitled, ''The Best Congress Money Can Buy.''

There is an unmistakable basis for this kind of legislation and the tightening of legislation that reaches these issue ads.

The reports on the appearance of corruption are as fresh as yesterday's newspaper. The New York Times reported on March 13—finding No. 30—

> A lobbying campaign led by credit card companies and banks that gave millions of dollars in political donations to members of Congress and contributed generously to President Bush's 2000 campaign is close to its long-sought goal of overhauling the nation's bankruptcy system.

On March 16, a New York Times editorial observed:

> Business interests generously supported Republicans in the last election and are now reaping the rewards.

On a bipartisan basis—the Washington Post, on September 15, 2000, criticized the Democrats, noting that—finding number 27, at page 8 of this amendment—

> A group of Texas trial lawyers with whom former Vice President Gore met in 1995, contributed thousands of dollars to the Democrats after President Clinton vetoed legislation that would have strictly limited the amount of damages juries can award to plaintiffs in civil lawsuits.

Finding 28, page 8, line 21:

> According to an article in the March 26, 2001 edition of U.S. News and World Report, labor-related groups—which count on their Democratic allies for support on issues such as the minimum wage that are important to unions—spent more than $83.5 million in the 2000 elections, with 94 percent going to Democrats, prompting some labor figures to brag that without labor's money, the election would not have been nearly as close.

Finding 32, page 9, line 19:

> It has become common practice to reward big campaign donors with ambassadorships, with an informal policy dating back to the 1960s allocating about 30 percent of the nation's ambassadorships to non-career appointees. According to a Knight Ridder article from November 13, 1997, former President Nixon once told his White House Chief of Staff that ''Anybody who wants to be an ambassador must at least give $250,000.''

That, in essence, sets forth findings which, in my legal opinion, warrant the legislation being considered today, although, candidly, it may be wise to add even more findings in the face of what the U.S. Supreme Court has done recently in invalidating congressional legislation on constitutional grounds, notwithstanding very strong findings, as I believe these findings are.

The essence of the legislation goes to a standard which would satisfy the U.S. Supreme Court, although, realistically, the language of McCain-Feingold and even the language of Furgatch does not come directly in line with what the Supreme Court said in Buckley when they talked about a ''vote for'' or ''vote against.'' I believe that in the context of what has happened with money and elections, with the language of Furgatch supplementing the language of McCain-Feingold, this bill would definitely pass constitutional muster.

I refer to an extensively quoted bit of language from the opinion of Justice Robert Jackson in a case captioned United States v. Five Gambling Devices, decided in 1953, where Justice Jackson said the following at page 449 of volume 346 of U.S. Reports:

> This court does and should accord a strong presumption of constitutionality to Acts of Congress. This is not a mere polite gesture. It is a deference due to deliberate judgment by constitutional majorities of the two Houses of Congress that an Act is within their delegated power or is necessary and proper to execution of that power. The rational and practical force of the presumption is at its maximum only when it appears that the precise point in issue here has been considered by Congress and has been explicitly and deliberately resolved.

What we are doing in this bill is seeking to overturn the direct holding in Buckley v. Valeo which has required the magic words ''vote for'' or ''vote against.'' But as Justice Jackson has noted and as constitutional doctrine has evolved, the court will give special consideration to what the Congress does in a specific context where it appears that ''the precise point in issue has been considered by Congress and has been explicitly and deliberately resolved.''

I submit that if you take the underlying language of McCain-Feingold on the definition of an electioneering communication and add to it the language of Furgatch, that Congress is coming to grips explicitly and deliberately with what the court has done and that, building upon the strong presumption which Justice Jackson notes is present, the strong presumption of constitutionality to Acts of Congress, and then looking to Buckley itself, which said their concern arose that there not be constitutional invalidity because of vagueness, I do not believe there is any realistic way it can be said that there is anything vague about a standard which is ''unmistakable, unambiguous, and suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.''

That certainly satisfies the court's requirement that the legislation not be vague. With this language, we will end the charade of having these extraordinary ads which, on their face and in the context of their substance, urge the election of a candidate and the defeat of another but, because of the absence of the magic Buckley words, are held to be issue ads and outside the purview of Federal control.

This language will end that charade, will end the trauma caused by soft money in enormous sums, and put some sense back into the campaign finance laws.

I inquire how much time is left of the 3 hours allocated to the sponsor of the amendment.

The PRESIDING OFFICER. The Senator has 54 minutes remaining.

Mr. SPECTER. I thank the Chair and yield the floor.

Mr. MCCONNELL. Mr. President, I find myself in the curious position of opposing the amendment of the Senator from Pennsylvania but controlling the time on this side. How much time is left?

The PRESIDING OFFICER. The opponents have 90 minutes.

Mr. MCCONNELL. Mr. President, I commend my friend from Pennsylvania for his understanding of the dilemma in which we find ourselves. The underlying bill, in the opinion of this Senator, will dramatically weaken the parties' ability to get their message out. By definition, this will only increase the power of third party groups who already outspend the parties by a factor of two to one.

I commend the Senator from Pennsylvania for his efforts to create a fair and balanced approach by restricting outside groups as well as parties. A year and a half or so ago, when this issue was last on the floor, the Senator from Pennsylvania cast, in my view, a very principled vote by joining me in opposition to cloture on McCain-Feingold at that time because McCain-Feingold at that particular year was only a party soft money ban. The Senator from Pennsylvania expressed his concern that by not passing anything that impacted outside groups, we would put the parties at a particular disadvantage. What he is doing today is entirely consistent with the vote he cast back in 1999 on a party soft money ban only.

The problem with the solution my friend from Pennsylvania proposed is that it can't be accomplished without violating the First Amendment. This is clear from case law. Senator SPECTER's amendment would allow the Government to regulate the speech of citizens groups far beyond the constitutionally permissible express advocacy by including speech which a person believes is candidate advocacy.

In the first place, this formulation seems fine. But the problem is that reasonable people can, and often do,

disagree on a speaker's intent. When it comes to political speech—the core of the First Amendment—we can't tolerate such uncertainty.

Indeed, the Supreme Court, in Buckley versus Valeo, recognized this fact and therefore rejected a test for speech regulation that went beyond express advocacy. Specifically, in Buckley, it was noted that:

> Whether words intended and designed to fall short of invitation would miss that ''mark,'' [and by that ''mark'', Mr. President, the court meant some form of candidate advocacy] is a question of both intent and of effect. No speaker, in such circumstances, safely could assume that anything he might say upon the general subject would not be understood by some as an invitation [to vote for or against a candidate]. In short, the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever influence may be drawn as to his intent and meaning. Such a distinction offers no security for free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim.

Mr. President, an illustration might be helpful. In 1996, the National Right to Life Committee ran an ad strongly criticizing President Clinton for vetoing Congress's ban on partial-birth abortion. Senator SPECTER might very reasonably conclude that this was a form of candidate opposition. Knowing the passion that Right to Life has on this issue, I, however, might just as reasonably conclude that these efforts were an ad by a citizens group to rally public and/or official opinion about an issue of the utmost concern to it in order to convince Congress to override the veto.

The reason why this very reasonable difference of opinion between my friend and me on this ad is so critical is that if I am the Government regulator, Right to Life gets to speak. But if my friend from Pennsylvania is the speech regulator, Right to Life doesn't get to speak. And because National Right to Life or the Sierra Club, or the ACLU or whomever, knows that speech, like beauty, is in the eye of the beholder, it will be chilled from speaking. This is a result that we don't want in a democracy. We don't want the ''marketplace of ideas'' to be bereft of commodities.

I commend my friend for his understanding of the dilemma and for his good intentions; but I strongly disagree with him, however, on the proposed solution.

The problem with relying on Furgatch, the case to which Senator SPECTER referred, besides the fact that it is at odds with about two dozen other cases, is that the Ninth Circuit in Furgatch failed to cite the Supreme Court's decision in Federal Election Commission v. Massachusetts Citizens For Life, which was decided a mere 3 weeks before Furgatch. In Massachusetts Citizens For Life, the Supreme Court squarely affirmed its express advocacy test from the Buckley case. It seems that a law clerk in Furgatch was asleep on the job, and we should not ignore Supreme Court precedent simply because of that. In fact, the Ninth Circuit cited the First Circuit's opinion in Massachusetts Citizens For Life, not the Supreme Court's opinion in that case.

Furthermore, the amendment of the Senator from Pennsylvania would allow the Government to regulate the speech of its citizens based on ''external events.'' The Fourth Circuit not only ruled against the FEC when it tried to do this, but it actually awarded attorneys fees against the Federal Government for taking a legal position that was not ''substantially justified,'' meaning that it did not have a good-faith basis in the law.

If this amendment, coupled with the underlying bill, passes, the Secretary of the Treasury better get out his checkbook.

I understand what the Senator from Pennsylvania is trying to do. He is frustrated that the parties will be reduced and influenced under the underlying bill and concerned that the outside groups will simply fill the vacuum. I understand that and share that concern. Unfortunately, there is simply no case law that will lead us to believe that such restrictions are likely to be upheld. Therefore, it is with considerable reluctance that I have to say I will oppose the amendment of the Senator from Pennsylvania.

How much time does the Senator from Tennessee wish to have?

Mr. THOMPSON. Ten minutes.

Mr. McCONNELL. I yield 10 minutes to the Senator from Tennessee.

Mr. THOMPSON. I thank my friend.

I want to make a couple comments, partly in the nature of inquiring of my friend from Pennsylvania to make sure I understand his remarks. We had an opportunity to talk briefly about this. I tried to listen to his explanation.

First of all, I commend him for his good lawyering in recognizing that findings of fact are certainly official in a situation such as this in helping to create a record. From my perusal, I think that is certainly well done. I do have a concern with regard to the other provision of the amendment.

Buckley pretty clearly established that we could only regulate express advocacy under certain conditions or in certain ways. Buckley set forth the so-called magic words. In other words, if you have words in there saying ''vote for'' or ''vote against'' somebody, that is an express ad, and you can require people to have contribution limits, or notice, or disclosure, and whatnot, with regard to those kinds of ads.

Clearly, time has proven that to be inadequate in many respects, and what Snowe-Jeffords does—and we will debate that later on—is it comes along and says, in addition to those magic words, we think that also, if within 60 days of an election —and you know an election is around the corner—you use the likeness of a candidate, that that also, in effect—and these are my words—is express advocacy. In other words, it applied its own bright-line test.

The Court in Buckley was concerned that people know what the rules of the game were before they started speaking and that they not inadvertently get caught up in something not of their own making which would penalize them in some way. They said you will certainly know if the rule is words such as ''vote for'' or ''vote against.'' Anybody can understand that. Those are the rules. You know what you can and cannot do.

I think the same thing applies to Snowe-Jeffords. You certainly know if you are running an ad within so many days, and if you are running the likeness of someone. In either of those cases, I think you have a bright-line test. The average person can look at those situations and decide whether or not to put themselves in the middle of that or not.

My concern is the language that is used. I understand that what I would refer to as the unmistakable and unambiguous language of the current amendment would be in addition to the Snowe-Jeffords requirement. In other words, you would still have the likeness and 60-day requirement and, in addition to that, under this amendment, you would have this:

> . . .when read as a whole, and in the context of external events, is unmistakable, unambiguous and suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate. . . .

And so forth. That is my understanding. I think that is done in addition to tightening up Snowe-Jeffords, perhaps, in some way, to lay an additional requirement on Snowe-Jeffords to make it even tighter in some ways.

That is a laudable goal, if it can be done. The only problem is that this language being used to do that in and of itself is pretty clearly unconstitutional, it seems to me. We have a vagueness problem because when you ask yourself, do you have the bright line that you had in Buckley, such as ''vote for'' or ''vote against,'' or do you have the bright line, as in Snowe-Jeffords, such as you must use the likeness within 60 days, the answer must be no. The line here is unambiguous and suggestive of no other meaning.

I think the Senator from Pennsylvania and I could agree probably on just about any ad as to whether or not it fit this bill, but certainly it is not definite enough, it seems to me, so that there could be no reasonable disagreement as to whether something was really a campaign ad or not.

I sympathize with the effort, and I discussed this matter with my friend and we jointly discussed what might and might not be done about it.

As I understand the explanation, and as I look at it, it seems to me this misses the mark substantially in trying to apply some bright-line test so the Supreme Court might arguably or

possibly uphold this as being, in effect, express advocacy and, therefore, subject to regulation.

Obviously, I am going to listen with great care to my friend from Pennsylvania, but those are my concerns.

I yield the floor.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Senator from Tennessee for his analysis and observations and the question he raises. I respond by noting that where you have the likeness issue or requirement in Snowe-Jeffords, that does not deal with the Buckley requirement of the magic words ''vote for'' or ''vote against,'' and the likeness factor of Snowe-Jeffords is very similar to the language of McCain-Feingold which has ''refers to a clearly identified candidate for Federal office.''

Buckley has said you have to do something more, and what you have to do is be more explicit on voting for or against.

Furgatch comes to grips with that issue on the language of its holding by the Ninth Circuit that it meets the Buckley test, although it does not use the magic words because it refers to a message being unmistakable, unambiguous, and suggestive of no plausible meaning.

The ads which I read saying Clinton was wonderful and Dole was terrible were viewed as being issue ads—you have a clearly identified candidate, which is McCain-Feingold, and you could have a likeness, which would satisfy Snowe-Jeffords, but that does not meet the Buckley test.

I argue as strenuously as I can that if the standard is ''unmistakable, unambiguous, and suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate,'' that comes to grips directly—directly—with the issue of vagueness.

Let's discuss it for a minute or two, I say to Senator THOMPSON. How can the Senator say there is anything vague about a standard which is unmistakable?

Mr. THOMPSON. May I respond to my friend? I think the difference here is the difference between something being unambiguous and something being called unambiguous.

In Buckley and in Snowe-Jeffords, standards are set out that one can look at and conclude they are ambiguous or unambiguous. I do not believe we can in a statute just say that it must be unambiguous. In the eyes of whom? In the eyes of a judge ultimately, I assume. That is like saying your behavior will be legal and you will be punished, in a criminal statute, behavior that is not legal. That begs the question. What behavior is allowed, and what behavior is disallowed? In this case, it seems to me under the Supreme Court you have to have a bright line in the statute itself. You have to have something that you can look at and conclude that it is unambiguous. You cannot just write in the statute that this is unambiguous or it must be unambiguous to pass muster in the eyes of a judge later. That is the distinction I make.

Mr. SPECTER. Mr. President, I disagree forcibly with my colleague from Tennessee. I do not think you have a bright line, you have a dull line. You have a definition which does not come to grips with what Buckley has said.

When the Senator from Tennessee makes an argument that it begs the question to say something is legal or not, that is a fact that turns on a great many considerations as to whether something is legal or not. It involves a judgment and inferences.

When you are talking about a factual matter, about ''no plausible meaning other than an exhortation to vote for or against a specific candidate,'' I again direct a question to the Senator from Tennessee: In dealing with the standard of vagueness, how can you have language which is more definitive on its face?

Obviously, it is going to have to be applied. There is no question about that. I read at some length, if the Senator from Tennessee had an opportunity to listen to the Dole ads, the Clinton ads, the Bush ads, or the Gore ads—let me start with that question.

Mr. THOMPSON. And a good deal of them would come under Snowe-Jeffords, I believe, for starters.

Mr. SPECTER. Why would they come under Snowe-Jeffords?

Mr. THOMPSON. They mentioned the name of the candidate and came within 60 days of the election. Some of them can.

Let me get back, if I may, to the original issue. My question is, when the statute says that the words must be unambiguous, I ask: Unambiguous in whose eyes? Unambiguous to whom?

Mr. SPECTER. If I may respond, that is always going to be a matter of application, no matter what legal standard you have. However specific it is, it has to be applied.

When you refer, if I may direct this question to the Senator from Tennessee, to Snowe-Jeffords covering the Dole ads, the Clinton ads, the Gore ads, or the Bush ads, I think Snowe-Jeffords would cover the clearly identified candidate within a time limit, but it would not satisfy Buckley. Those are viewed as issue ads. They do not satisfy Buckley.

With Furgatch, you advance the definition very substantially. You advance the definition with as much precision as the English language can give you. If you want to stick in ''vote for'' or ''vote against,'' OK, that is the language of Buckley.

My own legal judgment—and this is a legal issue which is susceptible to different interpretations; it is not like being unambiguous or susceptible to no other interpretation—my view is that the language of a specified candidate and a time limit and a likeness has not come to grips with the specificity that Buckley looks for. They want something which is not vague.

Perhaps the challenge is to come up with language which satisfies the Senator from Tennessee that it is not vague. I am open to suggestions, but I think we are not coming to grips with that clear-cut core issue on avoiding vagueness with what you have absent a definition such as Furgatch.

Mr. THOMPSON. If my friend would yield for a moment.

Mr. SPECTER. I do.

Mr. THOMPSON. I suppose my thinking is that the Snowe-Jeffords language is much closer to the bright line requirement than this language would be.

Mr. SPECTER. May I ask my friend from Tennessee what language he refers to specifically?

Mr. THOMPSON. The language requiring the likeness of candidate used within 60 days of an election. That is an objective standard.

The Supreme Court in Buckley didn't say you must have an ad that is unambiguously a campaign ad. They said in that case, words such as ''vote for'' or words such as ''vote against.'' Anybody can look at that, even the Members of this body would have to all agree whether or not that was in a particular ad.

That is a bright line.

Now Snowe-Jeffords comes along and provides its own bright line. We will be debating that, as to whether or not it is sufficient, whether or not it complies with Buckley, or whether or not the Supreme Court might take a look at it again and say it was unconstitutional in light of other circumstances.

Again, one can objectively look at an ad and tell whether or not it has a likeness of a candidate. But you can't look at an ad and tell whether or not it is unambiguous unless you get to court.

Mr. SPECTER. If I may direct this question to my colleague from Tennessee, if the Clinton ads don't have the likeness but simply talk about Gore, then would that satisfy the Snowe-Jeffords test?

Mr. THOMPSON. I think it would—no, it would not. It requires the likeness, as I recall—or does it require both?

It says ''refers to a clearly identified candidate.''

The answer is yes. I was wrong.

Mr. SPECTER. If I may reclaim the floor for the argument, if it refers to a clearly identified candidate, it does not advance the issue beyond the face of McCain-Feingold, which has ''refer to a clearly identified candidate for Federal office.''

You have all of these ads which extol Clinton and defame Dole or vice versa, or extol Gore and defame Bush, which are held to be issue ads. But you have a clearly identified candidate.

So I ask my friend, the Senator from Tennessee, how does that meet the Buckley test, which was not met by these horrendous ads on both sides which, in any event, advocated the

election of Clinton and the defeat of Dole? How does this language of Snowe-Jeffords, with a clearly identified candidate—which is the same as McCain-Feingold—advance to any extent the ads in the 1996 or 2000 election which were viewed as issue ads?

Mr. THOMPSON. If I may respond to my friend, I am not suggesting they advance those ads. What I am suggesting is in McCain-Feingold, in the Snowe-Jeffords provisions of McCain-Feingold, it requires clear reference to mention of a fact that would be undisputable; that is, whether or not a fellow's name, a person's name, is mentioned.

I believe that is closer to the Buckley standard, which says you have to have something objective. That is closer to the Buckley standard than language which says ''in the context of external events, is unmistakable, unambiguous, and suggestive of no plausible meaning, other than an exhortation to vote.''

Again, that begs the question. Here is something that is unambiguous. Here is something you call unambiguous. That is the difference to me.

Mr. SPECTER. If I may refocus to the Senator from Tennessee: Put aside the language of Furgatch, assume you are right about the language of Furgatch—and maybe we need some other language—how does Snowe-Jeffords or language of a clearly identified candidate for Federal office satisfy Buckley when the ads extolling Clinton and defaming Dole, where there was a clearly identified candidate and you were within the time-frame and they were issue ads—would Snowe-Jeffords cover the Clinton ads in 1996?

Mr. THOMPSON. I see what the Senator is getting at.

I think if this were passed and this were considered in the light of a similar ad, this would catch it. Yes, I do. Because they would be referring to a clearly identified candidate. If and when the Court considers the Snowe-Jeffords language, I think there is a reasonably good chance they will uphold it as constitutional. If that becomes the operative language, or some operative language, along with the language they had in Buckley—if all of that now is permissible and such an ad is run which mentions a clearly identified candidate, then it will be applicable at that time.

Mr. SPECTER. If I may further pinpoint the question, does the Senator say if Snowe-Jeffords had been in the Act, that the advertisement extolling Clinton and defaming Dole would have been held an advocacy ad in 1996?

Mr. THOMPSON. I think so.

Mr. SPECTER. Mr. President, that draws the issue.

My own view is that it is conclusive that Snowe-Jeffords would not satisfy Buckley, that we are looking for an avoidance of a vagueness standard, that simply having a clearly identified candidate for Federal office and a time parameter would not meet the requirement of Buckley which talks about ''vote for'' or ''vote against,'' that in the long history of many cases since 1976, over a 25-year-period, the best language which has come forward is the Furgatch language. I believe that, on its face, it passes constitutional muster.

There are a lot of decisions by the courts throwing out legislation on the ground that the legislation is vague and, if legislation is vague, it doesn't satisfy requirements of due process of law. Many courts have struggled mightily for 25 years, and the only court which has come up with language is the Supreme Court of the United States. And as I say that, I know the Hornbook rule is you are supposed to not be able to tell anybody if the Supreme Court denies cert. But it is always mentioned the Supreme Court did not cert, and it is mentioned the Supreme Court does not cert because of the impossible inference, because if the Supreme Court did not like Furgatch, it would have taken cert.

I know there is a contrary doctrine that says the Supreme Court is so busy one cannot draw an inference, but I think in a practical sense you can. So in 25 years of litigation and a lot of cases, the best that has evolved is this language which I submit to my colleagues is not vague when it says ''no plausible meaning other than an exhortation to vote for or against a specific candidate.'' That is not vague. But if we stand pat and pass this bill, there is a big risk of unconstitutionality. And if somebody has a way to eliminate vagueness more precisely, I am open.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I stand in support of the amendment of the Senator from Pennsylvania.

The PRESIDING OFFICER. Will the Senator from Delaware withhold? Who yields time to the Senator from Delaware?

Mr. BIDEN. I am on the side of the Senator from Pennsylvania.

Mr. SPECTER. How much time would the Senator from Delaware like?

Mr. BIDEN. How much time does the Senator have? If he only has a few minutes—

Mr. DODD. How much time does my colleague need?

Mr. BIDEN. Five minutes.

Mr. DODD. I am happy to yield.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Mr. BIDEN. Mr. President, I am a supporter of McCain-Feingold, so I am not inclined to be supportive of anything that is going to make the effort that is underway less effective in controlling these kinds of ads. The distinguished Senator from Wisconsin indicated to me while the Senator from Pennsylvania was speaking—and I apologize; I did not catch the intervention of the Senator from Tennessee because I was not on the floor, so I may be being redundant, but it was indicated to me that at least some who support this legislation, McCain-Feingold, fear that if the standard being proposed by the Senator from Pennsylvania, which I support, is adopted, we will have inadvertently put in a two-test hurdle.

I see the distinguished Senator from Maine. Maybe she can be helpful—that it would require, not only that you reach the Snowe-Jeffords standard but that you then have to meet a second standard, thereby making it even more difficult to control the kinds of ads we are trying to get at here.

I wonder if the Senator from Maine or the Senator from Wisconsin—or anyone—could tell me why they think the Snowe-Jeffords standard would, in fact, capture the kinds of ads that the Senator from Pennsylvania has been speaking to, which do not mention the name by name, or they mention by name but do not advocate whether to vote for or against that candidate. Why would such ads be captured by the language of the Snowe-Jeffords amendment? Would anybody wish to respond to that for me?

Mr. THOMPSON. If I may, while the Senator from Maine has just arrived, my own view is that Snowe-Jeffords captures all that it can, constitutionally.

Mr. BIDEN. I ask the Senator, it would not capture an ad that said:

> This is the NRA. The distinguished Senator from Tennessee wishes to take away your shotgun. We think you have a right to keep your shotgun. I hope you will consider this when you vote.

It would not capture such an ad, would it?

Mr. THOMPSON. If they make specific reference to me as a candidate, and I am running and they do it within 60 days of the election, Snowe-Jeffords would capture that to the extent of requiring disclosure.

Mr. BIDEN. Even if they do not suggest whether to vote for or against that Senator?

Mr. THOMPSON. Yes. Yes.

Mr. BIDEN. So if a name is mentioned—it is the assertion of the sponsors and supporters of Snowe-Jeffords that if the name is mentioned in an ad, 60 days before election, by an advocacy group, that that would be subject to regulation under this legislation?

Mr. THOMPSON. Yes.

Mr. BIDEN. Can my colleague explain to me why is that?

Mr. THOMPSON. It is in the bill. It is in the statute. It reads that way.

Why I think it is constitutional is that the Supreme Court for some time now has said you can regulate express ads, express advocacy. What the Court did in Buckley is define express advocacy—words such as ''vote for, vote against.'' And it said the reason we are setting this out, in effect, is because you need a bright line. A person needs to be able to tell whether or not they are going to run afoul of the statute.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. THOMPSON. That is what you get for asking me a question.

Mr. DODD. This is an important debate. I certainly yield 10 minutes or so, whatever.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I will continue. Maybe the Senator moves on his time. It doesn't matter. Continue, if the Chair will allow it.

The PRESIDING OFFICER. The time is under the control of the Senator from Kentucky.

Mr. McCONNELL. How much time does the Senator from Delaware require? Five minutes?

Mr. BIDEN. I really don't know.

Mr. McCONNELL. I yield 5 minutes to the Senator from Delaware.

Mr. BIDEN. And I will yield to the Senator from Tennessee to continue his answer.

Let me back up. If I can say to my friend from Tennessee, the language in the McCain-Feingold bill on page 15 says:

IN GENERAL.—The term ''electioneering communication'' means any broadcast, cable, or satellite communication which—[subsection] (i) refers to a clearly identified candidate for elective office[.]

Is the interpretation of those who put that language in that it must mention the candidate by name?

Mr. THOMPSON. I am going to defer to the Senator from Maine for that. I intruded on the time of the author of that provision enough on this. I will refer that question to her, if I may.

Ms. SNOWE. Thank you. I thank the Senator from Tennessee and I will be glad to respond to the Senator from Delaware.

In drafting this language, we attempted, obviously, to draw a very bright line, building upon the Buckley v Valeo decision back in 1976, that was issued by the Supreme Court.

At that time, the Supreme Court was obviously responding to the law that was on the books that was passed by Congress in 1974. And it used as examples the words, ''vote for or against'' as ways in which to define express advocacy.

Obviously that decision, nor their suggestions for examples, weren't limited and Congress since that time has not passed legislation with respect to campaign finance. So, therefore, there is nothing for the Supreme Court to react to.

So we looked at the various Court decisions and decided that the way in which we can carefully calibrate legislation that would allow for disclosure and would require disclosure—and banning advertisements by unions and corporations within that 60-day period before a general election, 30-day period before the primary—would be a way of avoiding any constitutional questions. And that bright line is referring to a clearly identified candidate for Federal office, that this communication is done 60 days before the general, 30 days before the primary.

Mr. BIDEN. If the Senator will yield, because I don't have much time, I understand how it comes in. What I don't understand, on whatever time I have remaining, and I thank the Senator for her response—I do not understand why that standard, A, would require redundancy, to have two standards to be met—if the language was added by the Senator from Pennsylvania which says—which when read as a whole in the context of external events is ''unmistakably unambiguous and suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.''

Granted three other circuits or four other circuits ruled differently than the ninth circuit, but it seems to me the most damaging decision—the most damaging thing that has happened to the electoral process has been Buckley. The single most damaging thing that has occurred in our effort to clean up the glut of money and the hemorrhaging of influence in the electoral process has been the Buckley decision.

Things were going relatively well until that decision occurred and then the dam broke.

So I just want to say I think it is more appropriate to err on the side of being more specific and more inclusive, so that everyone understands that if it says ''vote against the Republican candidate'' but doesn't mention the Republican candidate for the Senate, that in fact it is covered. If it says vote against the person who said the following but doesn't name the person who said the following—if those ways are used to get around what is now the attempt of having a prohibition on such activity and the hemorrhaging of money, it seems to me that is well captured by the ninth circuit language.

I would rather run the risk of seeing that happen because this is the most damaging thing I have seen happen.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I wonder if I can direct a question to the Senator from Wisconsin. We were discussing this issue.

Is it the intent of this amendment to make it easier to identify an advocacy ad, and to see to it that what has been seen as an issue ad, which clearly urges the election of a candidate and the defeat of an opponent, is classified as an advocacy ad?

I believe the language of Snowe-Jeffords would be consistent, and this language would supplement. But if there is any doubt, the thought occurs to me that we might turn to page 15 where we find electioneering communications. It is i.ii.iii put into the disjunctive ''or'', and pick up Furgatch, so that if you satisfy either standard you have an advocacy ad.

Mr. FEINGOLD. That clearly would be a very different amendment. That is why I engaged in the conversation with the Senator from Delaware.

The relative process of this amendment is we have been looking at this as clearly a conjunctive setup where you first have to meet the standards of Snowe-Jeffords, and then you would have to meet the standards of the Furgatch-like test.

There would be two obstacles to get over in order to be able to catch one of these ads, which we like to call ''phony issue ads.''

I would be happy to consider it. The theory will not be how we work if it said ''or'', but this clearly says ''and''.

The Senator from Tennessee expressed it absolutely correctly.

The result will be that it will actually end up perhaps inadvertently causing more of these phony issue ads to be unavailable for our desire to try to make them honest for what they are, which is electioneering ads.

Mr. SPECTER. I don't know if the Senator from Tennessee made that point.

Mr. FEINGOLD. I think the Senator from Tennessee would agree with that.

Mr. SPECTER. But in any event, Mr. President, I can modify the amendment—we haven't asked for the yeas and nays yet—to put in the ''or'', the disjunctive instead of ''and'', the conjunctive so that there is severability. And where one is decided to be inefficient to satisfy the vagueness standards of Buckley, the other might be sufficient—picking up on what the Senator from Delaware said, having the safeguard.

I am glad to yield to the Senator from Tennessee.

Mr. THOMPSON. Mr. President, I was wondering if we would not be really worse off in that situation because under the Senator's original amendment the language would be added to the Snowe-Jeffords language. So we would still have the Snowe-Jeffords clearly identified candidate language, which I think is going in the right direction. We would be adding that to that language.

Under the Senator's latest suggestion—if it was either/or—you might have a situation where you would not have the Snowe-Jeffords language but only the new language ''unmistakable, unambiguous,'' et cetera, which we have been discussing.

If I am correct this is a constitutional problem in terms of vagueness, then we would be less likely to have that upheld than if it were coupled with what I believe is constitutionally permissible language under Snowe-Jeffords.

Mr. SPECTER. If I may respond, if you have an ''or'', and you have severability, then, if the Senator from Tennessee is correct, the statute would be upheld under the Snowe-Jeffords language.

If the Senator from Pennsylvania is correct, and either is possible, if Snowe-Jeffords were stricken as being insufficient under a Buckley case, but Furgatch and ''or'' was sufficient, and they are severable, and one was satisfactory to pass constitutional muster, we would be able to have the one which survived constitutional challenge.

Mr. THOMPSON. If my friend will yield for a question.

Mr. SPECTER. I do.

Mr. THOMPSON. Could it be severable at that level? When we are talking about severability, we are usually talking about provisions, or sections, and so forth. I don't have the answer to this. The Senator from Pennsylvania might have the answer to this. The answer may be yes. But I wonder whether or not within this very specific provision we could actually have a provision where that would be severed so that either/or language would come under the severability provision.

Mr. SPECTER. If I may respond, I believe that is exactly what severability means. That is when the Congress tries to figure out what the Court is going to do. It is pretty hard to do. We really can't tell. We just had an extensive debate as to whether Snowe-Jeffords language is constitutional, and whether Furgatch is constitutional. If we put both of them in, and we make a legislative record that we are looking for one or the other to be satisfactory, I believe that the language of severability means just that.

If you have a long statute, and the Court strikes down one part of it saying it is wrong, it leaves the rest of it. If the rest of it passes constitutional muster, then it is constitutional. The severability issue really turns on constitutional doctrine as to whether the legislation makes sense if it is severed. The Court will strike it down if by striking down a certain clause the rest of it doesn't carry out congressional intent.

Congress tries to avoid that by the severability clause. But putting in a severability clause isn't an absolute guarantee that the Court might not say it is non-severable, notwithstanding the severability clause, because a part was stricken leaving the rest of it as unintelligible, or insufficient, or not really meaningful.

But in this context if we say in this legislation we have Snowe-Jeffords, or Furgatch, and if one of them measures up, then the statute survives.

Mr. THOMPSON. Assuming for a moment that the Senator is correct—and he may be—is my colleague going in this direction?

Knowing that we are going to have a severability vote a little bit later on, knowing that as of this moment we don't know how that vote is going to turn out, would it be wise or appropriate to put this amendment off until after that vote?

Mr. SPECTER. I am willing to do that.

Ms. SNOWE. Will the Senator yield?

Mr. SPECTER. I do.

Ms. SNOWE. I appreciate what the Senator is trying to do with respect to the language. I hope we can defer in terms of the impact and what effect it would have on the overall language in Snowe-Jeffords. We are concerned about being substantially too broad and too overreaching. The concern that I have is it may have a chilling effect. The idea is that people are designing ads, and they need to know with some certainty without inviting the constitutional question that we have been discussing today as to whether or not that language would affect them as to whether or not they air those ads.

That is why we became cautious and prudent in the Senate language that we included and did not include the Furgatch for that reason because it invites ambiguity and vagueness as to whether or not these ads ultimately would be aired or whether somebody would be willing to air them because they are not sure how it would be viewed in terms of being unmistakable and unambiguous. That is the concern that I have.

In terms of severability, again, I would like to know whether or not, in the Senator's view, the Court would consider that idea of having layers of criteria, and if you do and say it is severable, in the meantime there may have been an impact or a deterrent to individuals or groups airing ads that are considered to be legitimate, but weren't certain because of the ambiguity of the language that you are seeking to insert in McCain-Feingold.

Mr. SPECTER. Let me respond very briefly.

The thrust of Buckley is to require that there be a strong statement for or against. You may have a sufficient standard when you have identified a candidate within a given period of time. Or you may not because that may not be sufficiently forceful to meet what Buckley is looking for as not being vague on ''for or against,'' for somebody or against somebody.

Then you pick up an alternative standard, which Furgatch had, where the circuit court thought that was a sufficient statement: That you are for a candidate or against a candidate. Then I think you have both lines.

When the Senator from Tennessee suggests deferring the vote, I am agreeable to that. It may lend more weight to having severability adopted if it has been to some specific reason in the statute.

I yield to the Senator from Connecticut.

Mr. DODD. First of all, this has been a very valuable discussion. While I think initially there was some concern about the Senator's amendment, for the reasons articulated by the Senator from Tennessee, the Senator from Kentucky, the Senator from Maine, the Senator from Wisconsin, and others, the suggestion that the Senator from Pennsylvania has made is a valuable one. The debate has been valuable.

There are some very serious issues that need to be thought through. The Senator from Maine has raised a very worthwhile question. I would strongly suggest that we lay this aside until the severability debate occurs. I think the Senator from Delaware agrees with that as well.

In the meantime, we can see if we can work on some language as well. Some of us may have some additional suggestions with the findings of fact. I say to my colleague, I could talk about some of those. I appreciate the need for findings of fact, but there may be a way of doing this a little less graphically than he has in some instances. We can see if we can reach an agreement on this, pending the outcome of the severability debate. That is a very good suggestion.

But the Senator from Pennsylvania has made a very valuable contribution to this debate this afternoon.

Mr. SPECTER. I thank my friend from Connecticut.

Mr. President, I am prepared to accede to the suggestion made by the Senate from Tennessee.

Mr. MCCONNELL. Will the Senator yield?

Mr. DODD. The Senator from North Carolina has an amendment.

Why don't you make that motion then, ask unanimous consent to lay it aside?

Mr. SPECTER. I ask unanimous consent that this amendment be laid aside until the vote has occurred on the severability amendment, and that at that time the motion recur for debate. Should we set a time limit at that time?

Mr. DODD. Why not just lay it aside.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. Reserving the right to object, I am wondering if it would be more appropriate to simply withdraw the amendment and offer it again later.

Mr. SPECTER. I prefer to have it set aside. It has a certain status value. I will not object to any request to set it aside to offer other amendments.

Mr. FEINGOLD. That is satisfactory.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, this has been a very valuable debate, as others have suggested. It demonstrates the complexity of regulating issue advocacy. I thank everyone who participated in this very enlightening amendment.

AMENDMENT NO. 124

Now, we have Senator LANDRIEU on the floor with an amendment that has been cleared on both sides. And if she will call that amendment back up——

Mr. DODD. Might I inquire of my colleague, is there going to be a requirement for a recorded vote on this amendment?

Ms. LANDRIEU. No. I am prepared to have a voice vote.

Mr. DODD. We might be able to inform our colleagues——

Mr. MCCONNELL. If I may, Senator HELMS is here and prepared to offer an amendment. We would like to lock in Senator HELMS' vote. We can't say ''no more votes tonight'' unless we lock in Senator HELMS' vote. He is prepared to

offer his amendment at the conclusion of the Landrieu amendment.

Mr. DODD. If I might make a unanimous consent request, I ask unanimous consent that when the Senate convenes at 9 a.m. tomorrow, there be up to 15 minutes of debate on the pending Helms amendment, equally divided in the usual form, with a vote on or in relation to the amendment to occur at the use or yielding back of that time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Then we can debate that amendment tonight. I understand there will be no further rollcall votes tonight; is that correct?

Ms. LANDRIEU addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Would I be in order to ask unanimous consent that for this amendment there be a voice vote tonight? Of course, I will abide by the wishes of the chairman and ranking member. I believe this amendment has been cleared.

Mr. McCONNELL. My understanding is there is no requirement for a rollcall vote on this side. So if the Senator would call up her amendment, and tell us what it is, it is my understanding it will be cleared, and a voice vote would be appropriate.

Ms. LANDRIEU. I am resubmitting the amendment. The staff has been working on it. Basically, as I described earlier, this amendment would not require any additional recording, no additional work on behalf of the candidates. It would simply direct the FEC to come up with standards for software so that our recording would basically be done electronically, totally transparent and basically almost instantaneous.

There would be no changes of reports, no requirements for new reports, no requirements for new work, just basically instantaneous transparency.

I think both sides have argued—and I definitely agree—that full disclosure is one of the things we could do to improve it. That is what this amendment does.

I offer it at this time.

Mr. DODD. Is this a modification?

Ms. LANDRIEU. Yes.

Mr. DODD. It is a modification?

Ms. LANDRIEU. It is a modification of the original amendment. Senator McCONNELL had some excellent points that were incorporated. We wanted to leave adequate time for the FEC to develop these new rules and procedures. There is no deadline basically. It does not mandate the FEC to develop the software, but it allows them, I say to the Senator, to develop the standards. Industry develops the software and then makes it available to us.

So for our constituents, for interested parties, and for journalists, our reporting will basically be as if you were accessing a Web site.

Mr. DODD. The Senator earlier temporarily laid aside the amendment. I think the Senator needs to ask unanimous consent to modify her amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. And that would be the amendment under consideration.

Ms. LANDRIEU. I thank the Senator.

AMENDMENT NO. 124, AS MODIFIED

Mr. President, I ask unanimous consent to modify my amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The amendment is modified.

The amendment (No. 124), as modified, is as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. 305. SOFTWARE FOR FILING REPORTS AND PROMPT DISCLOSURE OF CONTRIBUTIONS.

Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by adding at the end the following:

''(12) SOFTWARE FOR FILING OF REPORTS.—

''(A) IN GENERAL.—The Commission shall—

''(i) promulgate standards to be used by vendors to develop software that—

''(I) permits candidates to easily record information concerning receipts and disbursements required to be reported under this Act at the time of the receipt or disbursement;

''(II) allows the information recorded under subclause (I) to be transmitted immediately to the Commission; and

''(III) allows the Commission to post the information on the Internet immediately upon receipt; and

''(ii) make a copy of software that meets the standards promulgated under clause (i) available to each person required to file a designation, statement, or report in electronic form under this Act.

''(B) ADDITIONAL INFORMATION.—To the extent feasible, the Commission shall require vendors to include in the software developed under the standards under subparagraph (A) the ability for any person to file any designation, statement, or report required under this Act to be filed in electronic form.

''(C) REQUIRED USE.—Notwithstanding any provision of this Act relating to times for filing reports, each candidate for Federal office (or that candidate's authorized committee) shall use software that meets the standards promulgated under this paragraph once such software is made available to such candidate.

''(D) REQUIRED POSTING.—The Commission shall, as soon as practicable, post on the Internet any information received under this paragraph.''.

Mr. DODD. I commend our colleague from Louisiana. She worked very hard on this issue. I think it is very timely. I believe it is going to be of great assistance to Members as well as the expediting of the information that will contribute significantly to the McCain-Feingold bill. She has made a significant and worthwhile contribution to this process. I commend her for it.

Ms. LANDRIEU. I thank the Senator.

Mr. McCONNELL. As I indicated, we have reviewed the amendment with the Senator from Louisiana. It has been approved by us. There is no need for a rollcall vote. We would be happy to have the amendment adopted on a voice vote.

The PRESIDING OFFICER. Do the Senators yield back their time?

Ms. LANDRIEU. I yield back whatever time I have remaining.

Mr. FEINGOLD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. McCONNELL. I believe we are now ready for a vote.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. DODD. The time is yielded back.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 124, as modified.

The amendment (No. 124), as modified, was agreed to.

Mr. McCONNELL. I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, the Senator from North Carolina is here, and before yielding the floor so he may offer an amendment, I want to make a couple of observations about what he is trying to do, very briefly.

With regard to union members' rights, we have had a vote on getting the consent of members with regard to their dues and how it may be spent. That has been called a poison pill. That has been voted down. We have had a vote on consent.

We have had a vote on disclosure, trying to get the unions to disclose how they spend their money, the biggest player in American politics. There was an effort made on the floor of the Senate to get simple disclosure of how the money is spent. That was described as a poison pill. That went down.

The Senator from North Carolina is now, I am told, going to offer an amendment regarding notification. If union members are denied the right to consent, they are denied the opportunity to learn from disclosure, now the Senator from North Carolina is going to give the Senate an opportunity to see whether at least they can be notified when something is going to happen with their money.

Before he offers the amendment and takes the floor, I appreciate the good work of the Senator from North Carolina and I look forward to supporting his amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to make my remarks seated at my desk

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

Mr. HELMS. I thank the Chair.

AMENDMENT NO. 141

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 141.

Mr. HELMS. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require labor organizations to provide notice to members concerning their rights with respect to the expenditure of funds for activities unrelated to collective bargaining)

At the appropriate place, insert the following:

SEC. ___. DISCLOSURE OF EXPENDITURES BY LABOR ORGANIZATIONS.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following:

''(i) NOTICE TO MEMBERS AND EMPLOYEES.—A labor organization shall, on an annual basis, provide (by mail) to each employee who, during the year involved, pays dues, initiation fees, assessments, or other payments as a condition of membership in the labor organization or as a condition of employment (as provided for in subsection (a)(3)), a notice that includes the following statement: 'You have the right to withhold the portion of your dues that is used for purposes unrelated to collective bargaining. The United States Supreme Court has ruled that labor organizations cannot force dues-paying or fees-paying non-members to pay for activities that are unrelated to collective bargaining. You have the right to resign from the labor organization and, after such resignation, to pay reduced dues or fees in accordance with the decision of the Supreme Court.' ''.

Mr. HELMS. Mr. President, I certainly thank the distinguished Senator from Kentucky. He is doing a masterful job under rather difficult circumstances. I congratulate him.

Mr. President, a healthy and meaningful political system must rest upon two obvious democratic principles: (1) the political freedom guaranteed by the first amendment must be premised on the notion of voluntary participation and free association, and (2) the only constitutional restraint the federal government should place upon political discourse is full disclosure of donations to assure political accountability of and by candidates for contributions they receive.

The McCain-Feingold bill before the Senate, with all due respect to both Senators—and I admire both of them—fails to uphold either of those essential ideals.

In regards to the new restraints placed upon both candidates and their supporting interest groups, the able Senator from Kentucky, Mr. MCCONNELL, and others are making the case that the McCain-Feingold bill fails to pass constitutional muster.

I certainly agree that the limitations on free speech in the McCain-Feingold bill are antithetical to any reasonable notion of political freedom, and further, they make mockery of our time-honored tradition of free political discourse. I add only that limitations on the opportunity for citizens to participate in political debates, especially during federal elections, serves only to enhance the power of the major news media, which consistently demonstrates their built-in bias against conservative candidates.

However, my purpose today is to focus the Senate's attention on, arguably, a more pernicious violation of democratic principles countenanced—and, in fact, in some ways, exacerbated, by the well-intentioned McCain-Feingold legislation before us. The problem I shall address is this: the unapologetic practice by labor unions in using dues taken from their members as a condition of employment and the use of those dues for political purposes without approval of those working people—indeed, without their knowledge.

In the context of campaign-finance reform debate, we've heard many times the words of Thomas Jefferson, who declared, ''To compel a man to furnish contributions for the propagation of opinions which he disbelieves is sinful and tyrannical.'' But Mr. Jefferson's declaration cries out for repeated repetition, less we forget it has continued to happen year after year, election after election, as labor union bosses continue to spend the membership dues paid by union workers—spent on political causes bearing absolutely no relation to the collective bargaining process for which the union exists.

The amendment I propose makes certain that union members have full access to their rights regarding political spending by union bosses. This amendment will end the disgraceful attempt by the union bosses to hide the Supreme Court-guaranteed rights of union workers, making sure they have clear notice of their right to object to expenditures not related to collective bargaining.

The workers who are forced to pay the dues to get their jobs are entitled to this information, Mr. President. They are also entitled to know that national labor unions are pouring money into the political system at enormously unprecedented rates.

In fact, the unions have extensive involvement in political affairs. Testifying before the Senate Rules Committee, Laurence Gold, a representative of the AFL–CIO said this about union activities:

Specifically, the AFL–CIO, its 68 national and international union affiliates, and their tens of thousands of local union affiliates engage in substantial legislative and issue advocacy at the federal, state and local levels on matters of particular concern to working families, such as Social Security, Medicare, education, labor standards, health care, retirement plans, workplace safety and health, trade immigration, the right to organize, regulation of union governance and the role of unions and corporations in electoral politics.

That's a broad range of issues, Mr. President, and the union presumes to speak for its membership on each and every one.

But that's just the tip of the iceberg. Labor union activity in the realm of politics goes far beyond the advocacy mentioned by Mr. Gold. According to the Americans for Tax Reform, Big Labor has mobilized for an array of left-wing causes, including opposition to the balanced budget amendment, opposition to ending racial preferences, opposition to tax relief, and opposition to welfare reform. In fact, Mr. President, the Teamsters union spent almost $200,000 lobbying for a ballot initiative in the State of California to legalize marijuana.

It turned out, Mr. President, that one of the reasons that the Teamsters had given money in support of that particular ballot initiative was to further a money laundering scheme to pay for the re-election of Teamsters President Ron Carey.

And these examples don't begin to describe the daily activities that union bosses can engage in to further its political agenda. So-called ''in-kind'' contributions, including get-out-the-vote phone banks; communications with union members; assignment of workers to precincts; distribution of literature; and other unregulated union expenditures make up the vast majority of union political activity.

Small wonder, then, that many employees forced to pay union dues as a condition of employment are unhappy that they are forced to finance the political activities of the union.

These union workers who object to the blatant use of coerced dues being used for political speech were finally given a ray of hope in a series of Supreme Court decisions that began to clarify the constitutional and statutory problems with such a scheme.

The constitutional problem with using forced dues for political speech was addressed directly in 1977, when the Supreme Court decided Abood v. Detroit Board of Education. The Supreme Court held in this case that the first amendment guaranteed an individual ''the freedom to associate for the purpose of advancing beliefs and ideas'' as well as a corresponding right ''to refrain from doing so, as he sees fit.''

Mr. President, Abood is a landmark case debunking the notion that compelled political speech is consistent with constitutional rights. The Court had developed the right of freedom from coerced speech in a number of cases, the most prominent of which is Communications Workers of America v. Beck. In that case, a group of telephone workers petitioned to withhold the amount of their union dues that supported activities outside the collective bargaining context.

The Supreme Court decided in favor of the workers, holding that an employee who is compelled to join a union in order to get a job, under a union security clause, could lawfully withhold

the portion of his or her dues supporting activities not germane to collective bargaining, contract administration or grievance adjustment. The Court also held that if unions ignored an employee's objection to the use of agency fees for such purposes, the union was in violation of its duty of fair representation.

Unfortunately, the Beck case applies only to employees who pay so-called ''agency fees,'' and a worker hoping to exercise his constitutional right to free speech must first resign from a union to petition for the return of dues used for union activities unrelated to collective bargaining.

This places the worker in the unenviable position of having to decide whether retaining his political integrity is worth giving up any voice in the union decision-making process.

I deeply admire the courage of employees who seek to exercise their political freedom in the face of union hostility, and I believe they deserve honest, timely information about the rights guaranteed to them by the Supreme Court. But all too often, workers may be unaware that they even have such rights. Because, Mr. President, unions continue to hide the rights guaranteed by Beck despite clear direction from the NLRB that both agency-fee paying nonmembers and union members alike were entitled to notification.

What's worse, the NLRB often acts as a collaborator with union bosses, issuing a line of decisions making it easier for unions to hide Beck rights. In California Saw and Knife Works—the main administrative decision implementing the Beck case—the Board gave unions broad leeway to (1) bury notification of Beck rights in the back pages of monthly newsletters; (2) pool its expenses in such a way as to hide costs to local bargaining units; and (3) rely on internal auditors instead of independent examiners.

To understand how far the union is willing to go in order to hide union worker rights from its members, one has to look no farther than the case of Keith Thomas. v. Grand Lodge of International Association of Machinists and Aerospace Workers. Here's what happened in that case: In 1959, Congress passed the Labor-Management Reporting and Disclosure Act of 1959 LMRDA. At that time, the IAM notified its members of their rights under the new law.

And that's it. During the next forty years, the union bosses at the IAM never lifted another finger to provide notice of rights guaranteed by Congress under LMRDA. As the Court put it, ''The union argues that Congress was only interested in informing 1959 union members of their LMRDA rights, but was perfectly willing to let ignorance reign for the next forty years.'' The Court rightly noted that such a proposition was absurd and went on to hold that this one-time notice was insufficient to guarantee worker rights.

So my amendment, Mr. President, proposes that what happened to Keith Thomas and his fellow union workers not be allowed to happen to any union member in regards to their rights under the Beck case. It simply provides that unions be required to provide annual notice, by mail, of the rights guaranteed to them by the Supreme Court.

Specifically, the notice states the following:

> You have the right to withhold the portion of your dues that is used for purposes unrelated to collective bargaining. The U.S. Supreme Court has ruled that labor organizations cannot force dues-paying or fees-paying non-members to pay for activities that are unrelated to collective bargaining. You have the right to resign from the labor organization and, after such resignation, to pay reduced dues or fees in accordance with the decision of the Supreme Court.

The Senate has already voted to deny workers financial information about the activities of the union. But even if the Senate is unwilling to provide reasonable disclosure of union expenditures, it can at least allow workers to know the rights guaranteed them by the Supreme Court.

Mr. President, I am absolutely convinced that adoption of this amendment is the only way to make sure that union members know the rights guaranteed by the Supreme Court. I hope the Senate will go on record as supporting full and fair access to information for American workers.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

Mr. HELMS. I understand. I will try again later.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Mexico.

(The remarks of Mr. DOMENICI are located in today's RECORD under ''Morning Business.'')

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 602 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. LEAHY. Mr. President, many of us have advanced or supported campaign finance reform legislation for many years, but without having the votes to prevail or even to obtain a full debate. Successful legislation to reform campaign finance laws usually has had to follow on the heels of particular campaign finance scandals, such as the Watergate affair.

It is different this time. The reason that campaign finance reform has been given a prominent and early place on the Senate's calendar is that sufficient support has risen up from the grassroots to ensure that this debate takes place. Hundreds of thousands of Americans have signed petitions or called their representatives in Congress. Rallies have been mounted in cities and towns from coast to coast. And Senators MCCAIN and FEINGOLD have built enough political capital for this bill that, in a very real sense, on this issue they have become the public's messengers to the Congress.

I commend our Senate leaders, as well as Senators MCCAIN and FEINGOLD, for creating a framework for this debate that has contributed to its constructiveness. This is the kind of open debate that was usual when I joined the Senate 26 years ago but that has become rarer in recent years. The Senate tends to be at its best in open debate like this.

Washington has spent much of the first 3 months of this year fulfilling President Bush's perceived mandate to make the Nation safer for huge corporations. Let us count some of the ways. First, Congress rushed to make its first order of business the repeal of the Department of Labor's 10-year quest to refine and implement ergonomics regulations to make workplaces safer for the American people. Next Congress spent weeks on a bankruptcy bill that lobbyists had convinced us to skew so that it would further increase the record profits of credit card companies. And now, in rapid-fire succession, the White House is rolling back one environmental protection after another, affecting the very air we breathe and the water we drink.

At last, with this debate, we are finally tackling one of the true priorities of the American people: the mandate that Senator MCCAIN earned with his extraordinary grassroots campaign to reform the way we finance our elections. We all owe Senators MCCAIN and FEINGOLD a debt for their dedicated and persistent support of such an important and necessary improvement to our election process, and I am proud to be a cosponsor of their bill.

The main component of the McCain-Feingold bill is a giant step toward eliminating soft money from the electoral process. The raising and spending of soft money proliferated tremendously since we last amended the Federal Election Campaign Act in 1979. In 1984, both political parties raised $22 million in soft money. In the 2000 election cycle, they raised $463 million in soft money alone. The political parties raised more than 20 times as much in soft money last year than they did in 1984. The hundreds of millions of dollars that flow into campaigns without any accountability increase the likelihood that money will have a corrupting influence on our electoral system.

The American people are being bombarded with television advertisements, mailings and newspaper ads funded by soft money. Often, the

amount of money being spent by candidates themselves is dwarfed by the amount of soft money spent by others in their own races.

The ban on soft money that the McCain-Feingold bill demands is an essential step to diminish the tremendous amount of money pouring into campaigns. Some opponents of the bill claim that banning soft money is unconstitutional. Senators MCCAIN and FEINGOLD have taken extra measures to ensure that the provisions in this bill comply with the Supreme Court's 1976 decision in Buckley v. Valeo. The court ruled that the Constitution permits the Government to regulate the flow of money in politics to prevent corruption or the appearance of corruption.

Political service remains a worthy calling, but anyone who enters it these days encounters a campaign fundraising system that is debilitating and demeaning and distasteful. The fact that we so clearly have ineffective checks on the spiraling cost of campaigns and on the way campaigns are financed has tarnished our institutions of Government as well as the people we elect to those institutions.

It is important to bring our election process and Government back to the time when elected officials felt accountable to all of the people they represent, not disproportionately to the wealthy few. Our present system gives the wealthy a huge megaphone for expressing their views, while other Americans—the ''financially inarticulate''—are left without an effective voice. That is why I have felt it important to take steps on my own to increase Vermonters trust in how I conduct my campaigns. Though not required by law I have disclosed every nickel in contributions I have ever received since I first ran for the Senate in 1974, and I used no political action committee money in my last two election campaigns. Passing the McCain-Feingold bill—without any amendments designed to weaken it or destroy it—is a fundamental step all of us can take to fix a system that is in dire need of repair. Vermonters and all Americans want to have faith in the campaign and election process. They want to believe that their Government is working in the public's interest, not on behalf of the special interests. Eliminating unregulated soft money will help to give elections and the Government back to the people.

I hope the Senate will not let this opportunity for reform slip away. I hope the Senate will approve this important and long-awaited bill and will refrain from adding any amendments that would jeopardize or kill this important effort.

UNANIMOUS CONSENT AGREEMENT—S.J. RES. 4

Mr. MCCONNELL. Mr. President, pursuant to the agreement of February 7 with respect to S.J. Res. 4, I ask unanimous consent that the Senate proceed to the resolution on Monday, March 26, at 2 p.m. and the time between 2 p.m. and 6 p.m. be equally divided between Senators HOLLINGS and HATCH. I further ask unanimous consent that at 6 p.m. on Monday, the resolution be advanced to third reading and a vote occur on passage without any intervening action or debate, notwithstanding paragraph 4 of rule XII.

This is the Hollings constitutional amendment.

Mr. DODD. Reserving the right to object, this is on Monday?

Mr. MCCONNELL. Right. It is my understanding this had been cleared. This is a vote on the Hollings constitutional amendment. The debate would occur from 2 to 6 on Monday.

Mr. DODD. With a vote at 6 p.m.

Mr. MCCONNELL. At 6 p.m.

Mr. MCCAIN. Is it also the understanding that there will be debate on the amendment starting at noon?

Mr. MCCONNELL. Correct. There would probably be more than one vote at 6 o'clock. It would be a vote on the Hollings amendment and other votes—vote or votes, as well.

Mr. DODD. That is not part of the unanimous consent request.

Mr. MCCONNELL. No. It is the intention of the managers to have more than one vote at 6 o'clock.

Mr. REID. Reserving the right to object, the Senator from Wisconsin had a question.

Mr. FEINGOLD. Mr. President, is the Hollings amendment being handled as an amendment to this legislation or as a separate piece of legislation?

Mr. MCCONNELL. A separate piece of legislation.

Mr. FEINGOLD. I thank the Senator from Kentucky.

Mr. MCCONNELL. An issue upon which the Senator from Wisconsin and I are in agreement.

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

MORNING BUSINESS

Mr. GRAMM. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak up to 10 minutes each.

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

BUDGET COMMITTEE MARKUP OF BUDGET RESOLUTION

Mr. BYRD. Mr. President, I am a product of the West Virginia coal fields. I remember my heritage, and I am proud that it has served me well throughout my political career. I remember the legendary president of the United Mine Workers of America, John L. Lewis, who was a great student of Shakespeare, as I recall him in those days. And he once advised union coal miners of the adage:

when ye be an anvil,
lie very still,
when ye be a hammer,
strike with all thy will.

Mr. President, I am not an anvil—not an anvil—which explains, in part, why I joined the Senate Budget Committee this year. First, I am very concerned about Congress approving permanent tax cuts based on highly uncertain surplus estimates, which threaten to put us back in the deficit ditch. Second, I strenuously oppose the use of the reconciliation process—now, Mr. President, that is the way I have pronounced that word for years. I was called to order a little earlier today because I did not pronounce it ''reconciliation,'' which is all right with me, just so it is understood what we are talking about—to ram a $2 trillion tax-cut package through the Senate. Such a misuse of the reconciliation process abuses the rights of every Senator to debate this significant legislation. That is an important thing. Third, in recent years, I have become increasingly concerned about the unrealistically low spending levels established by the annual budget resolutions for programs under the jurisdiction of the Appropriations Committee, on which I serve as the ranking member and which is chaired by the most able and distinguished Senator from Alaska, Mr. STEVENS, who recently won the award ''Alaskan of the Century.'' And I would say at this point, I think he is the Alaskan of the Century. He deserves that award.

These unrealistically low funding levels in recent budget resolutions have forced the Appropriations Committee to resort to all manner of gimmicks and creative bookkeeping to ensure that we could adequately fund the 13 annual appropriations bills, despite not having sufficient resources to address the ongoing infrastructure needs of the Nation, much less begin to address the funding backlog in those funding needs in many critical areas.

So as a member of the Budget Committee, my hope was that this year I would be able to assist in crafting a budget resolution that would more accurately determine the spending levels that will be necessary to produce the FY 2002 appropriations bills. I wanted to actively participate in that committee in a markup of the budgetary blueprint that will guide the Nation's fiscal policy, not only for FY 2002, but for the next decade. This year's budget resolution will address not only the discretionary funding needs to which I have alluded, but also will involve efforts to allow for perhaps a massive tax cut of $2 trillion or more, over the next 10 years. That is a big—$2 trillion is just something that is beyond my comprehension, and probably that of most Members of this body.

I might say to the distinguished Senator who presently presides over the Senate that, much to his surprise, perhaps, it would take 32,000 years to count $1 trillion at the rate of $1 per second. At the rate of $1 per second, it

would take 32,000 years to count $1 trillion. That is a little more money than we are used to counting in West Virginia. But when we talk about a $2 trillion tax cut, that means it would take 64,000 years to count $2 trillion at the rate of $1 per second. Perhaps that will give us some better idea of how much $1 trillion really is.

This year's budget proposal will also be based on flimsy 10-year surplus projections, that, I assure you, are not worth the paper on which they are written.

Marvel at how much confidence we put in projections of the surpluses over the next 10 years when we cannot really judge 24 hours ahead that the stock market is going to drop 436 points.

It was for these reasons, Mr. President, that I was pleased to see that the distinguished Chairman of the Senate Budget Committee, Senator DOMENICI, and his very capable ally on the Budget Committee, Senator CONRAD, scheduled a series of highly informative hearings in order to enable the 22 members of the committee to have the views of an outstanding group of experts before it was time for those committee members to vote on this year's budget resolution. Committee members did benefit by actively participating in those hearings and by interacting with a vast array of expert witnesses, who addressed such important subjects as: the Nation's infrastructure needs; the need for prescription drug benefits for Medicare recipients; the need to reform Social Security and Medicare, and other health care issues, education needs; national security needs, including the need for a national missile defense system; the problems of our Nation's farmers; and questions as to how much of the national debt can be retired over the coming decade. We had an opportunity to have the views of such experts as Federal Reserve Chairman Alan Greenspan on such questions as to whether a tax cut should be enacted, and if so, how large. We had the Deputy Director of the Congressional Budget Office, Mr. Barry Anderson, testify on the CBO's projections of surpluses and the likelihood that their 10-year projections would come to pass. I know, that I gained a greater understanding through these hearings in virtually all of the aforementioned areas of national policy. Not only did my increased knowledge come from these expert witnesses, but also from the very incisive questioning of the witnesses by virtually every member of the Senate Budget Committee.

Having heard these witnesses, Mr. President, and having had a chance to enter into a dialog with them regarding these great issues facing the Nation, I have become very concerned in recent weeks that the Budget Committee chairman might be entertaining the idea that there should be no committee markup of the budget resolution at all this year. I inquired of the very able chairman on two occasions during the committee's hearings as to whether the chairman intended to mark up the budget resolution.

I am concerned at the prospect that the Senate will take up this year's very important budget resolution without having the benefit of the committee's views in the form of its marked-up resolution and an accompanying Budget Committee report. It is because of this concern that I joined my Democratic colleagues on the committee in signing a letter to our able committee chairman respectfully requesting a markup of the budget resolution before the April 1st statutory deadline. As pointed out in the letter, circumventing a committee markup of the budget resolution is unprecedented and has never been done before in the history of the Senate Budget Committee, as far as I have been able to determine. It ought not to be done this year, of all years. If we do not intend to mark up a budget resolution, then I ask the Senate, why did we go through the process of hearing the expert witnesses? Was this hearing process merely intended to be a charade to enable the leadership of the Senate to act as though it had fulfilled its responsibilities, while knowing all along that there was no intention of allowing any member of the committee an opportunity to participate in a committee markup? If that be true, it didn't really matter, then, in the end, perhaps, what the witnesses said or what the questions of the Senators on the committee revealed.

Is none of this knowledge to be utilized during the forthcoming days of debate on the resolution? Why should we not have had a markup, a markup where Senators may offer their amendments to the chairman's recommendations and have those amendments debated and voted upon, either up or down?

Having been chairman of the Appropriations Committee in the Senate once upon a time, I know how that works. The chairman prepares, with his staff, the bill or resolution that is to be worked on by the committee, and that is what we call the chairman's mark, and, of course, it is always made available to the ranking member what the appropriations bill mark will be. Then laying it before the committee gives every member a chance to offer amendments thereto, have them voted up or down, and debate the bill.

Apparently, there is some fear that such a markup of a budget resolution would result in a deadlock, that a tie vote might occur on adoption of the budget resolution. That concern should not in any way prevent the Budget Committee from marking up a budget resolution. If such an event occurs, if the committee were to be deadlocked on reporting this year's budget resolution, there would still be no impediment to having the leadership call up the budget resolution. In other words, it is provided for that such a resolution can be called up on April 1 and, if it is not reported from the committee by April 1, the committee is automatically discharged of the resolution. So the Senate could be assured that even if there were a tie vote in committee, the resolution could still be called up by the majority leader.

The agreement that was entered into not so long ago by the majority leader and the Democratic leader and by the Senate as a whole provided that in the case of a tie vote in committee, the majority leader could proceed to call up the resolution. That is in accordance with the agreement, as I understood it, that we entered into earlier this year.

In other words, the leadership would still have the ability to call up the Republican chairman's budget resolution. But the American people, as well as other Members of the Senate and their staffs, will have an opportunity to watch and listen to the debate, if we had a committee markup. This would be healthy for the budget process. It would greatly enhance the knowledge of those who might participate in such a markup, as well as those who might observe it.

It does not bode well for the Senate or for this administration, for that matter, in my judgment, to begin this year's budget cycle on such a sour and unprecedented note. I repeat the request that we Democratic members of the committee have made in our earlier letter to the chairman of the Budget Committee, namely, that the committee convene at the earliest practicable time to mark up the fiscal year 2002 budget resolution, and that the committee meet its April 1 statutory deadline in doing so.

I feel I must also address another concern that I have regarding this year's budget process. After having been told several weeks ago by various administration officials that the President's detailed budget would be received by the Senate on April 3, in time for Senators to take into account the details behind the document entitled ''A Blueprint for New Beginnings,'' we were advised just a few days ago—I believe on Monday of this week—that the Senate will not receive the detailed budget until April 9. It just so happens that April 9 falls on the Monday beginning a 2-week Easter recess, and also occurs 3 days after the Senate Republican leadership has expressed an intention of having completed Senate consideration of the budget resolution.

In other words, we have learned just this past Monday that Senators will have no opportunity, none, to consider the details of the Bush administration's fiscal year 2002 budget until after the Senate has finished consideration of the budget resolution.

This causes me grave concern, particularly as it relates to the levels of discretionary spending being proposed by the administration. We do not have the details of what the President intends to propose as spending levels for a myriad of Federal Government programs and activities that affect virtually every citizen of this Nation. In

the document that we have received from the Bush administration entitled ''A Blueprint for New Beginnings,'' we find that table S–4 on page 188 contains the following items under the heading ''Offsets'': Non-repetition of earmarked funding $−4.3 billion; non-repetition of one-time funding, $−4.1 billion; and Program decreases $−12.1 billion. The figures again, to repeat them, $−4.3 billion, $−4.1 billion, and $−12.1 billion, minuses in each case, respectively. And following these three cuts in discretionary spending for fiscal year 2002 is a footnote which states: ''The final distribution of offsets has yet to be determined.''

So, Mr. President, we have no idea as to what the specific reductions will be for $20 billion in spending cuts that are proposed on page 188 of the President's ''blueprint'' for this year's budget.

We do know that nondefense spending overall will have to be cut $5.9 billion below what the Congressional Budget Office says is necessary to maintain purchasing power for current service levels. We know the Agriculture Department will be cut by 8.6 percent. The Commerce Department will be cut by 16.6 percent. The Energy Department will be cut by 6.8 percent. The Justice Department will be cut by 8.8 percent. The Labor Department will be cut 7.4 percent. The Transportation Department will be cut by 15 percent.

What we do not know—and what we cannot know until the President submits his complete budget on April 9—is what specific programs the administration proposes to cut, and by how much, in order to accommodate the President's $2 trillion tax cut plan. So we are operating in the dark; really, that is what it amounts to. Why should Senators be asked to take up and adopt a budget resolution calling for a $2 trillion tax cut without knowing the specific spending cuts that would be required? Why should we buy a pig in a poke? Why should we engage in a riverboat gamble, just like we did with the Reagan-Bush tax cut of 1981, which put us in the deficit ditch for 17 years? We ought not make that same mistake again.

In recent weeks, I have seen Senators swept up in the political whirlwind, a vortex that has been blown in from Texas. Neither the Office of Management and Budget nor the Congressional Budget Office is able to accurately project surpluses at the end of the current fiscal year, let alone for 10 years. Yet the Senate will soon be considering a 10-year spending and tax cut plan. We are being asked to do so without the benefit of seeing the President's complete budget, or the benefit of having a committee markup. So I wonder if the inmates have not finally taken over the asylum.

Earlier, I commented on how the budget process has deteriorated in recent years because of unrealistically tight spending caps that forced the Appropriations Committee to resort to all manner of measures to pass the 13 appropriations bills. Sometimes I wonder how Senator TED STEVENS has been able to do it. The budget process has truly taken another turn for the worse. It is a massive charade when Budget Committee members are not even allowed to mark up this year's budget resolution, or to have the benefit of the details behind the President's budget blueprint before acting on this vitally important fiscal plan for the Nation.

The American people do not send us here to be anvils. They do not send us here to lie very still and simply accept whatever is put before us. The committee should be given the opportunity to hammer out an acceptable budget that will benefit all Americans. Such a budget could be hammered out upon the anvil of free and unlimited debate. I don't mind having a limitation, as far as that is concerned. I may be very opposed to such a radical tax cut, but I am not for killing it by filibuster. That would not be my desire at all. The committee members should be allowed to offer amendments and have those amendments be considered and voted upon. I studied for these hearings like a school boy preparing for an exam. I am new on the committee and I wanted to understand as much as I could about the budget and about the new President's proposals so that I could be a useful force—limited though I may be—at the committee markup. I have had my staff prepare amendments which I had hoped to offer. But, apparently, the hearings which many members so faithfully attended are going to amount to little more than a TV show with Senators on the committee serving as convenient props. Why have a Budget Committee at all if the committee is not going to be allowed to work its will on the budget resolution? Why ask questions? Why have testimony? Why take up the time of witnesses and members?

Especially when the new budget embodies such radical tax cuts and deep spending cuts, the committee should be able to work its will. That is all I am asking. So I hope the distinguished Budget Committee chairman will think about this more over the weekend and reconsider his earlier announced intentions. Especially when the budget sets fiscal policy for the next 10 years, the committee should be able to work its will. Especially when the American economy has lately been behaving like a roller-coaster ride at the State fair, the committee should be able to work its will.

The Budget Committee hearings must not be reduced to a ''Gong Show'' charade designed to make members feel good, but deny them any real vote. I hope the decision to avoid a markup will be revisited. I hope it will be revisited. The Senate deserves the full committee's judgment and nothing less.

Mr. President, I thank the distinguished Senator from Kentucky, Mr. MCCONNELL, and I thank the distinguished Democratic whip, Mr. REID, and all other Senators, for the opportunity to make these remarks. As I said earlier, I would not have come to the floor at this time were it not for the fact that I noted on the television screen that the Senate was in a prolonged quorum.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I will soon suggest the absence of a quorum and ask that the time be charged equally to both sides. Before that, if all of the time is used on this amendment, what time would the vote occur?

The PRESIDING OFFICER. Approximately 4:35.

Mr. MCCONNELL. I say to the Members of the Senate who may be listening, or staff members, it is our hope to vote well before that.

I suggest the absence of a quorum and ask unanimous consent that the time be charged to both sides.

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

The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Ms. STABENOW. Mr. President, I have just come from the Senate Budget Committee where we have concluded a series of hearings. We have now held 16 different hearings on all facets related to the budget, tax cuts, and domestic spending. I am very deeply concerned about the conclusion that has been reached at the end of these very important hearings.

I must rise today with deep regret that the Republican leadership, in fact, appears to be bypassing the important work of the Budget Committee in order to bring the budget resolution directly to the floor without debate about a budget resolution and without an opportunity for us to vote and to come together on a bipartisan budget resolution that reflects our values and priorities for the families that we represent in our States.

We have, in fact, been diligently at work. As a new Member of not only the Senate but the Senate Budget Committee, I have taken this work very seriously. We have been meeting, sometimes several days in a row, hearing from Chairman Greenspan, the Congressional Budget Office, the Office of Management and Budget, the Secretary of the Treasury, the Secretary of Health and Human Services, the Secretary of Education, and the Secretary of State.

We have held hearings on long-term budget projections and demographic trends and Medicare. I have been meeting with people throughout my great State of Michigan to talk about their values and priorities for the future, and how they would like to see us come together and fashion this budget.

Unfortunately, all of this work seems to be for naught because the Republican leadership wants to avoid committee debate on the budget resolution for the first time since Congress passed

the Congressional Budget Act of 1974. When you think about it, this is at a time when we have seen our new President come forward to reach out his hand and talk about bipartisanship. Yet, once again, we are forced to come to the floor of the Senate and ask to be partners in this process and to truly move ahead in a bipartisan fashion.

It is not enough just to speak about bipartisanship, just as it is not enough to just speak about issues. Our constituents expect us to act. And we have a right to expect what will happen will fulfill the words that are being talked about on Capitol Hill.

Our committee should debate all of the critical issues before us: How we pay down the maximum public debt we can so we can put money in our constituents' pockets through lower interest rates, and put money in their pockets through a tax cut, and making sure we have an economic policy that means they have a job. There are several ways in which we need to put dollars back into the pockets of the people we represent.

We also need to debate Social Security and Medicare for the future, education, which drives this economy, research, technology and education, increased labor productivity, which drives the economy, as we have heard over and over again in the Budget Committee. We need to debate national defense and protecting the environment.

One issue that I think needs great debate is the issue of protecting the Medicare trust fund. We have found, during this budget process, that the President's budget does not protect the Medicare trust fund. The President's budget does not protect the Medicare trust fund. In fact, it takes it from a protected status and moves it over into a contingency fund to be used for spending.

We tried a week ago, through Senator CONRAD's legislation, to create a lockbox for Social Security and Medicare, and say—as the American public wants us to do—that we will keep our hands off Social Security and Medicare and protect it for the future.

In this budget, we go in the exact opposite direction. We not only don't protect it and strengthen it by adding dollars for the future, it is put over into spending which, in fact, could cause Medicare to become insolvent 15 years sooner, when we expect the strain of the baby boomers coming into the system and the fact that we are going to have a long-term liability on Medicare and Social Security.

The American people need to understand that if we don't protect the Medicare trust fund, there will be a severe strain when baby boomers begin to retire in 2012. This could mean benefit cuts or increases in taxes at that time. It is not necessary for us to be put in this kind of a situation.

I hope the Republican leadership will reconsider, as we asked the chairman of the committee to do today, and reach out to us to get a bipartisan budget and tax agreement. I was fortunate to be in the House of Representatives in 1997, when the President and the Congress, of different parties, worked together to balance the budget, make critical investments in education and in our future needs, and cut taxes. If we did it then, we can do it now. We have to do it together.

If we hold a markup in committee and work together, we can get the job done. If not, I fear we continue to go back to policies we have all denounced—the practice of partisanship, one side versus the other. Our committee has worked hard, our members have been there and involved in these hearings. I commend the Chair for holding such comprehensive hearings to be able to bring forward the issues that relate to this budget so we can put together the values and priorities of our country in the form of a budget for the future.

It is extremely unfortunate that we find ourselves in this position now, at the end of the road, when the budget hearings come to a conclusion, where we do not have the opportunity to work together to draw up that budget resolution and show, in fact, that we can work together on behalf of the families we represent.

I urge the Republican leadership to allow the Budget Committee to do our work and allow us to come together to protect Social Security and Medicare for the long haul, to provide a tax cut to make sure we are paying down the debt for the future for our children, and to make sure we have outlined the priorities for the country that are most important for our families.

BUDGET RESOLUTION

Mr. DOMENICI. Mr. President, a little earlier in the day, a very distinguished Senator from West Virginia and a very good friend—and I say that in all honesty—came to the floor and talked a little bit—more than a little bit—about the budget resolution and the current chairman of the Budget Committee. Not in negative terms. I happen to be that person. They were not negative at all.

There were a few things the distinguished Senator said that I seek to clarify. I did not do this without telling him. I sent him a copy of the budget schedule for the winter-spring of 1993 because one of the points the Senator from West Virginia made was we are moving ahead to bring a budget resolution up on April 1 or April 2.

I believe one of his major points was we do not yet have a detailed budget from the President of the United States, George W. Bush.

I will soon put this schedule in the RECORD, but here is what happened in 1993 when President Clinton was elected President. One of the big differences was they had 54 votes on that side, and we had 45 votes on our side. Understand, they could do what they wanted with the budget resolution with or without a President's budget. They could order reconciliation instructions to increase taxes with or without Republican support.

This Senator finds himself in a very different position. We have 11 Republicans and 11 Democrats, and they just happen to call me chairman, but I do not have any votes. I am one of the 11 Republicans and there are 11 Democrats.

The distinguished Senator said we were proceeding even without a detailed final budget from the new President of the United States. Here is the budget schedule for the winter-spring of 1993:

February 17, the President issues a preliminary budget overview called a ''Vision of Change for America.'' We looked at that. It is very much like what George W. Bush sent us maybe a month ago. It was a very minor document when it comes to detailed budget documents.

On March 3, the CBO gave some preliminary estimates on that. Just look at this schedule: On February 17, the President sends us this vision, this document of a few pages, and by March 12, less than 1 month, the Senate Budget Committee, on partisan lines—namely, they had the majority, we had the minority—guess what. They reported out a budget resolution.

Then the House Budget Committee did that by March 15, less than a month.

Then on March 18, 1 month after the issuance of the ''Vision of Change for America'' proposal—and I call it a proposal—the conference report was filed on the 1994 budget resolution. The House agreed to the conference report, and on April 1 the Senate agreed to a conference report on the 1994 budget resolution.

Guess when the Senate in 1993 got the budget of the President of the United States. On April 8, 8 days after they had already approved everything, including a budget resolution.

I only state that because it was suggested that it was sort of untoward and maybe not the best thing for us to do the budget resolution before we have the President's final documents, the detailed documents.

President Bill Clinton asked his democratically controlled Congress that they approve a budget resolution before he sent them the budget, and they did. That is all right with me. I was a member of the opposition. I argued as much as I could against what I thought was not the right thing to do, but understand that by April 1 everything was finished in both Houses on a budget resolution aspect, following on with the President's plans, and the President had not yet put his budget together in detail.

We have as much detail today, I assure you, Mr. President, as the Senate and House Budget Committees had when they produced budget resolutions less than 1 month after the President issued his vision plan, a rather flimsy

document, not much of a budget document, much like our President produced. We do not call that little vision document a budget; they are still working on it.

I want everyone to know it will not be untoward. It will be very much in accord with the way we have done things, to follow our Democratic brethren and do the very same thing. The President will not have his budget in detail. We will have a budget resolution. It is not a detailed budget either, if anybody thinks it is.

People say: You must know about every program in the Federal budget, as if in every budget document we deal with every program in the Federal Government. It will come as a shock, but we do not. We deal in large functions, large pieces of the budget, because that is all we have jurisdiction over. Nobody gave us jurisdiction over the details.

I sent this to Senator BYRD since he spoke about the chairman of the Budget Committee and wondered why we could do a budget resolution before we had a budget.

I repeat—they are pretty good role models on the other side of the aisle—that is what they did for their President. We are going to try very hard to do that for our President. The only difference is we do not have 54 votes that carry ''R'' after the name; we have 50. We are trying very hard to ask our Democratic friends—some of them—to help us do for our President what the Congress did for their President when he was first elected to the Presidency; that is, help us get a budget resolution out and not just wait around for a budget; do it quickly; do it as fast as we can.

I have a commitment from the leadership that we are going to take this budget resolution up as quickly as we can under the very rigorous schedule we now have. I know we are not going to get huge cooperation on the other side, although I hope a couple Senators will help us, because it still has to be filled in by the committees. We just want to lay the groundwork that President Bush deserves to get his budget considered in exactly the same way President Clinton did. The only thing he can hope for is that he have 54 votes as President Clinton had. Then he would get his plans adopted in both bodies in less than 1 month from the time he issued just his few pages of ''here is what I want to do in the future.'' It wasn't a budget. It wasn't a budget by either President.

With this budget resolution, we want to do it as quickly as possible, April 1 or April 2, for 4 or 5 days.

In addition, we want a big piece of that budget to be economic recovery. That means we are going to propose, hopefully—I haven't worked it out with everybody yet—$60 billion of the 2001 surplus; there is a big surplus sitting there this year. That $60 billion will be allowed in a bill, in a composite bill, to give back to the taxpayers because it is surplus that we ought to return to them. I don't know what way to return it to them. That can be debated. I don't think there can be any debate with what we see in the American economy. Expediency is a rule. Economic recovery ought to be our first venture and our paramount venture going in.

We will propose a $60 billion surplus be given back to the American people in the most judicious and prudent way possible. And we pass the President's marginal tax cut along with it. We won't ask for all the rest of the taxes in that first round. People are worried about it being too big. This will be a package made up just of the marginal rates and the $60 billion this year.

It will send a signal, if we can get cooperation to do this. It will not only send a signal that we are responding to the economic conditions, whatever plant closures, whatever responses there are out there, and the marketplace.

The business executives are thinking, at least we can act quickly, and we have an economic recovery part of this plan which is pretty good. I say to any person who thinks the marginal rate reduction should not be part of whatever return of surplus we have for this year, they just ought to ask those who really know about what will send a positive signal to the American economy as nothing else. That is in addition to the refund, rebate, tax cut, whatever you want to call it, giving back $60 billion. If you reduce the marginal rates permanently and tell the American people it is done, they will say, for once they did something quickly, they did something right, and our hats are off to them. That will be their hats off to us.

If we can't do that and somebody thinks we can fix it all with a $60 billion return of surplus and put off the rest, you can't do that and have any big impact on this economy.

Let me repeat, if the only package is to return a portion of this year's 2001 surplus, you cannot have an impact on the American economy. It is not big enough, even though it is $60 billion. And you get no permanency built into the notion that the marginal rates for the American taxpayers—that means everybody's tax rate—should be reduced from the top brackets to the lowest brackets.

That is about the way things are today. I am very pleased the Republican leadership, at least as I read them, as I made this presentation to a group of Republican Senators—not everyone; some Senators were busy on the floor—I saw a willingness to move, to do something, to let the tax-writing committee quickly sit down and decide to do this. We will say you have free reign to do this in these particular dimensions I have just described.

I ask unanimous consent to have printed in the RECORD the budget schedule for winter/spring, 1993.

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

BUDGET SCHEDULE—WINTER/SPRING 1993

February 17, 1993: President issues preliminary budget overview, A Vision of Change for America.

March 3, 1993: CBO issues Preliminary CBO Estimates of the Administration's Budgetary Proposals (5 pages of text, double-spaced, and 3 tables); includes minor revisions to January baseline, netting out to several billion dollars over six years, almost entirely for deposit insurance. (The baseline was next updated in The Economic and Budget Outlook issued in September 1993.)

March 12, 1993: Senate Budget Committee reports 1994 budget resolution.

March 15, 1993: House Budget Committee reports 1994 budget resolution.

March 16, 1993: CBO testifies before Ways and Means Committee.

Sometime after March 16: CBO issues An Analysis of the President's February Budgetary Proposals (about 60 pages), providing more detail on CBO's economic assumptions, reestimates, and baseline revisions. On page A–3, it notes that ''the notion that the deficit will simply fade with time and continuing economic growth has largely been punctured.''

March 18, 1993: House passes 1994 budget resolution.

March 25, 1993: Senate passes 1994 budget resolution.

March 31, 1993: Conference report filed on 1994 budget resolution; House agrees to conference report.

April 1, 1993: Senate agrees to conference report on 1994 budget resolution.

April 8, 1993: President issues detailed budget documents.

Mr. DOMENICI. If we can do it as quickly as this bill, but I don't think we can.

Wherever I said 54 Senators, my friend says it is 56. I just come from little old New Mexico. I thought it was 54. But in any event, they had good majority and proceeded with great dispatch. I will try to do that, although we only have 50/50. I will ask the American people, and I will have the President ask them, do you want to get this done or dillydally? Do you want to get both pieces done, give the public back $60 billion and cut the marginal rates, or wait around?

Wait around until when? I am not answering the question.

It is so obvious that a markup will do no good; as this Senator sees it, it will split every vote, 11–11. I am not willing to say we will do that before we put this package before the American people. I just don't think that is what we have to do.

So nobody will be confused, the other side of the aisle says the public ought to have a chance to participate in this committee deliberation. That is a wonderful thought. It is probably what all of us would like to think about our committees when they work, but I think the American people will get a real version of this when they get 5 days on the floor of the Senate. When you can offer all kinds of amendments, you can offer three budget resolutions if you like. We offer the President's as a starting point. If the other side would like to offer theirs, that is different; they can. If they amend the one we can produce, whenever it is, they can do that. It will be full, hour to hour,

minute to minute, on TV. It is not assured that will occur with a markup in committee, but we will have it, full time, every moment we speak.

Having said that, we will put together this budget as quickly as we can. We will try to share it with all the Members and eventually, as soon as we can, we will share it with the other side of the aisle. But essentially, they will have ample time in the 5 days we debate this, 50 hours. Do you know how long that is? We won't get out of here before Easter. We might meet through the night one of those nights and we will get out of here before Easter.

CLIFF TARO

Mr. MURKOWSKI. Mr President, a few weeks ago I went home to Ketchikan, AK. It was the first time since I became a U.S. Senator, 20 years ago, that my good friend Cliff Taro was not there to meet me. He was an exceptional man and embodied the true Alaskan pioneer spirit. Earlier this year, Cliff died. I truly miss him.

Cliff first came to Alaska in 1943, as a Sergeant in the U.S. Army Transports Corps. He was stationed at Excursion Inlet near Juneau. This was a sub port to supply the war in the Aleutians, and was where Cliff received first hand experience and an interest in stevedoring, his future occupation. After 4 years in the Army, where he advanced to the rank of captain, he went to work for Everett Stevedoring in 1946. He married his wife Nan on August 21, 1949 in Bellingham Washington and in 1952, Cliff, Nan and their two children, Jim and Debbie, moved to Ketchikan and started Southeast Stevedoring Corporation.

Cliff's accomplishments, interests and awards are abundant. He was a member of the Marine Section of the National Safety council for more than 25 years, as well as serving on the Board of Governors of the National Maritime Safety Association. Cliff was a member of the Alaska State Chamber of Commerce for 40 years, served on its board of directors for seven years, and was both vice president and president of the Chamber. Additionally, he was a charter member of Alaska Nippon Kai, a Japanese trade arm of the Alaska Chamber of Commerce. He was a member of the Korean Business Council and co-founder and treasurer of Ketchikan's Save Our Community. Cliff represented Alaska on the Seattle Mayor's Maritime Advisory Committee and had been trustee and member of the Alaska Council on Economic Education.

Cliff was a member of Governor Keith Miller's Task Force to Washington, D.C. to successfully lobby for the Alaska Pipeline. He accepted an invitation by President Jimmy Carter and Governor Jay Hammond to participate in a seminar on Foreign Trade and Export Development. Cliff traveled, with me, and other members of the Alaska State Chamber of Commerce, Native leaders and State of Alaska officials to England, Scotland, the Orkney Islands and Norway to survey and observe the effect of off shore drilling on their communities and how this might similarly affect Alaskan communities.

Cliff served as the Southeast Finance Chairman for my reelection to the U.S. Senate. He was a life member of the Pioneers of Alaska, member of the B.P.O. Elks, American Legion, Theta Chi Fraternity, National Association of Independent Businessmen, National Association of Stevedores and a 45-year member of the Rotary Club as well as a Paul Harris Fellow.

In 1985, Cliff was awarded the Outstanding Alaskan Award by the Alaska State Chamber of Commerce. In 1989 he was awarded an Honorary degree of Doctor of Humanities from the University of Alaska Southeast. In January 1992 he was elected to the Alaska Business Hall of Fame. He was the 2000 Ketchikan Chamber of Commerce Citizen of the Year, and Nancy and I were proud to be able to present him and Nan with this tribute.

Cliff was a supporter of little league and could often be found at the ball park or Ketchikan High games cheering on his grandchildren.

Cliff's death followed the earlier passing of his wife Nan. Survivors include their son Jim, and their daughter and son in-law Debbie and Bob Berto. He is also survived by four grandchildren: Jennie, Ethan, Brian, and Anna.

Cliff was my friend. He will be missed by all Alaskans.

WOMEN'S HISTORY MONTH

Mr. SARBANES. Mr. President, I rise today in recognition of Women's History Month. This time has been appropriately designated to reflect upon the important contributions and heroic sacrifices that women have made to our Nation and consider the challenges they continue to face. Throughout our history, women have been at the forefront of every important movement for a better and more just society, and they have been the foundation of our families.

In Maryland, we are proud to honor those women who have given so much to improve our lives. Their achievements illustrate their courage and tenacity in conquering overwhelming obstacles. They include Margaret Brent, who became America's first woman lawyer and landholder, and Harriet Tubman, who risked her own life to lead hundreds of slaves to freedom through the Underground Railroad. Dr. Helen Taussig, another great Marylander, developed the first successful medical procedure to save ''blue babies'' by repairing heart birth defects. Her efforts laid the groundwork for modern heart surgery. We are all indebted to Mary Elizabeth Garrett and Martha Carey Thomas who donated money to create Johns Hopkins Medical School on the condition that women be admitted. And jazz music would not be complete without the unforgettable voice of jazz singer Billie Holiday who also hailed from Baltimore City. Their accomplishments and talent provide inspiration not only to Marylanders, but to people all over the globe.

A woman who illustrates the commitment of the women of Maryland is my good friend and colleague from Maryland, Senator BARBARA MIKULSKI. Senator MIKULSKI, who has served longer than any other woman currently in the Senate, played a key role in establishing this month. In 1981, she cosponsored a resolution establishing National Women's History Week, a predecessor to Women's History Month. Today, I wish to honor her dedication and service to the people of Maryland and this Nation.

While we recognize famous women, it is important that we acknowledge the contributions of others who daily touch our lives. It is our favorite teacher who gave us the confidence and knowledge to know that we were capable of success. It is the single mother or grandmother who toiled at a low-paying job for years to guarantee that the next generation in her family received better education and career opportunities. It is the professional women who volunteer the little spare time they have to read to children or speak to student groups, inspiring young people to aim for goals beyond what they may have otherwise imagined. And the stay-at-home mothers who devote enormous time to chauffeur their children and others from activity to activity, knowing that these many hobbies stimulate a child's interest and desire to learn. These modern day heroines, giving of their time, knowledge, and expertise must not be taken for granted.

Women have made great strides in overcoming historic adversity and bias but they still face many obstacles. Unequal pay, poverty, inadequate access to healthcare and violent crime are among the challenges that continue to disproportionately affect women. Working women earn 74 cents to every dollar earned by men. What is more troubling is that the more education a woman has, the wider the wage gap. According to a recent Census Bureau report, the average American woman loses approximately $523,000 in wages and benefits over a lifetime because of wage inequality. Families with a female head of household have the highest poverty rate and comprise the majority of poor families.

Women continue to be under-represented in high-paying professions and lag significantly behind men in enrollment in science programs. Increasing the number of women in these fields begins with encouraging girls' interest and awareness in school.

As our population ages, we must also address the special challenges of older women. Women live an average of 6 years longer than men. Consequently,

their reduced pay is even more detrimental given their increased life expectancy as they are forced to live on less money for a longer period of time. In addition, more women over age 65 tend to live alone at a time when illness and accidents due to decreased mobility are more likely. For these women, it is imperative that we guarantee that Social Security and Medicare remain solvent for future generations.

I believe we should use this month as an opportunity to reflect not only on the achievements and challenges of American women, but to recognize those of women internationally. We know that a variety of ills hinder the potential of women in many parts of the world—labor practices that oppress women and girls, the rapid spread of HIV and AIDS, and limited or nonexistent suffrage rights. We must broaden access to education, the political process, and reproductive health globally so that girls and women everywhere can maximize their options. To have a credible voice in the international arena, the United States must lead by example, showing that American women enjoy these rights fully.

While obstacles remain, women have achieved impressive progress. This good news includes a decline in the poverty rate for single women and an increase in those holding advanced degrees. Recent figures show women received approximately 45 percent of law and 42 percent of medical degrees awarded in this country. This is a dramatic improvement from a few decades ago and should continue as more and more women enter professional programs.

In my home State of Maryland, as in the Nation, women are a guiding force and a major presence in our national business sector. From 1987 to 1999, the number of women-owned firms in the United States grew by 103 percent. Women were responsible for 80 percent of the total enrollment growth at Maryland colleges and universities throughout the last two decades.

I am pleased to report that during my service in Congress, I have strongly supported efforts to address women's issues and correct gender discrimination and inequality. In the present session, I have cosponsored the Paycheck Fairness Act, which would provide more effective remedies to victims of wage discrimination on the basis of sex. Along with many of my colleagues, I have supported the Equity in Prescription Insurance and Contraceptive Coverage Act, which would prohibit health insurance plans from excluding or restricting benefits for FDA-approved prescription contraception if the plan covers other prescription drugs. In order to build a national repository of the contributions of women to our Nation's history, I cosponsored legislation to establish a National Museum of Women's History Advisory Committee. I am proud of these efforts and I will continue my commitment to bring fuller equality to all women.

Indeed, women have made great progress. I think it is appropriate to point out the accomplishments of women in history, but it is also important to educate present and future generations about gender discrimination so that we do not repeat past mistakes. We all look forward to a day when these conditions will be distant and unimaginable. We are closer to that day than we were yesterday, but we still have some distance to travel. I am confident that the women of America will lead this journey and continue to exemplify and advocate for those values and ideals which are at the heart of a decent, caring, and fair society.

NATIONAL SECURITY EDUCATION PROGRAM

Mr. COCHRAN. Mr. President, the National Security Education Program has released an Analysis of Federal Language Needs. This analysis will appear later this year as part of its annual report to Congress. It confirms the need to support foreign language instruction at the elementary and secondary education level.

It also is compelling evidence that the Senate should pass S. 541, the Foreign Language Acquisition and Proficiency Improvement Act, which will provide assistance to schools for foreign language instruction. I ask unanimous consent that the March, 2001, National Security Education Program Analysis of Federal Language Needs, be printed in the RECORD.

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

NATIONAL SECURITY EDUCATION PROGRAM (NSEP) ANALYSIS OF FEDERAL LANGUAGE NEEDS

INTRODUCTION

There is little debate that the era of globalization has brought increasingly diverse and complex challenges to U.S. national security. With these challenges comes a rapidly increasing need for a workforce with skills that address these needs, including professional expertise accompanied by the ability to communicate and understand the languages and cultures of key world regions: Russia and the former Soviet Union, China, the Arab world, Iran, Korea, Central Asia and key countries in Africa, Latin America and East Asia.

Some 80 federal agencies and offices involved in areas related to U.S. national security rely increasingly on human resources with high levels of language competency and international knowledge and experience. Finding these resources and, in particular, finding candidates for employment as professionals in the U.S. Government, has proven increasingly difficult, and many agencies now report shortfalls in hiring, deficits in readiness, and adverse impacts on operations. Some important documentation of these needs and shortfalls can be found in September 2000 testimony provided to the United States Senate Committee on Governmental Affairs, Subcommittee on International Security, Proliferation, and Federal Services, chaired by Senator Thad Cochran.

Since 1994, the National Security Education Program (NSEP) has funded outstanding U.S. students, both undergraduate and graduate students, to study those languages and cultures critical to U.S. national security and under-represented in U.S. study. NSEP award recipients make an important contribution to future U.S. national security by working in the federal government or in higher education.

NSEP SURVEY

The National Security Education Program (NSEP), as per its legislative mandate, conducts a yearly survey to identify those world regions, languages, and fields of study critical to U.S. national security and under-represented in U.S. study. The findings are used to better understand the current and projected needs of the federal government by emphasizing those same countries, languages, and fields of study in the annual application guidelines for the NSEP Undergraduate Scholarships, Graduate Fellowships, and Grants to U.S. Institutions of Higher Education.

Using as a baseline the current annual list of world regions, languages, and fields of study emphasized by the program, (see Attachment A) NSEP asks a broad range of Federal agencies and organizations with responsibilities in the national security arena to consider the next five to ten years in recommending additions and/or deletions to the existing list. These changes are reflected in annual guidelines for applications, released each fall.

NSEP, in its 2000–2001 survey, broadened the scope of the survey by first, increasing the number and types of agencies and/or offices queried, and second, by identifying the role that professional competency in critical languages plays in the capacity of the federal agencies to execute their missions. This type of information is of critical importance as we attempt to refine and modify existing and potentially new programs to respond to the demands of the 21st century. Questionnaires were mailed to 91 federal agencies and/or offices that deal with international issues. Forty-eight respondents from 46 agencies/offices sent their feedback to NSEP. Attachment B provides a list of agencies who responded to the 2000–2001 survey.

The purpose of this report is to provide results from this analysis and to contribute to our understanding of the increasing need for language and international expertise in the federal sector.

SURVEY RESPONSES

The responses to the 2000–2001 survey confirm the significant need for language expertise in the federal sector. In addition, respondents indicate that when language expertise is either required, or an important asset to an organization's missions and functions, the language must be at the advanced level. The responses show that the demand for advanced language skills exists across the board. Agencies from all functional areas—political/military, social and economic—vouch that professional proficiency in languages are imperative to the function of their missions.

The chart at Attachment C provides some additional insight concerning languages identified by federal organizations and the advanced levels of expertise associated with these requirements. Eleven languages (French, Spanish, Portuguese, German, Russian, Mandarin, Cantonese, Japanese, Korean, Urdu, and Arabic) were identified by at least four different federal organizations. An additional 19 languages were identified by at least two different federal organizations; 40 languages were identified by single organizations.

The following examples serve to provide some additional insights into federal needs:

The National Cryptologic School of the NSA stated that ''language skills tied to any

academic discipline is a plus'', while the DIA stated that ''all languages must be at the advanced level.'' The U.S. Secret Service indicated needs for bilingual capabilities for Special Agents assigned to certain permanent overseas posts. Special Agent personnel affected by this requirement attend a language immersion course and receive certification documenting their level of proficiency. In addition, the Service foresees a need to provide bilingual capability to those personnel tasked with providing training to foreign law enforcement officials and to those individuals who engage in the forensic analysis of evidence, including those responsible for the examination of computers used in criminal activity.

The International Broadcasting Bureau of the Broadcasting Board of Governors reported a unique need for professionals with language and area expertise. While in its management and daily operations language knowledge is not required, intermediate or advanced proficiency in a major regional language (such as Russian for Russia and the former Soviet Republics) is a tremendous advantage and sometimes necessary for marketing officers who place BBG programming in local markets, as well as for engineers who establish, manage, and maintain the Bureau's global transmission network.

The Centers for Disease Control of the Department of Health and Human Services works in more than 140 countries each year to address public health challenges. In addition, CDC has more than 100 assignees in 41 countries to provide long-term assistance on disease surveillance, disease eradication, HIV, infectious and chronic diseases, and other priority programs. Due to the nature of CDC's work, the agency may carry operations in countries where the US has no diplomatic relations to address critical health needs.

The National Aeronautics and Space Administration has strong needs for proficient language skills in Russian, Japanese and Spanish.

The Drug Enforcement Agency has 78 offices in 56 countries. Language training is provided to personnel posted to these offices by two contract language service companies. These employees receive one-on-one instruction for the training period required for the specific language. All employees must achieve a competency of Level 2 for both speaking and reading prior to completion of the training.

The Federal Bureau of Investigation has a critical need for translators proficient in the following languages: Arabic, Farsi, Hindi, Pashto, Punjabi, Turkish, Urdu, Hebrew, Japanese, Korean, Chinese (all dialects) and Vietnamese. Applicants must pass a language proficiency test 3+ (Advanced/Native Speaker).''

The U.S. Customs Service enforces over 600 laws for 60 other agencies involved in international commerce and travel. ''Knowledge of a foreign language is not a mandatory requirement for employment by the U.S. Customs Service. However, with over 300 Customs land, sea and air ports in the U.S., twenty-four Customs attaché and senior representative offices established at American embassies and consulates in strategic areas around the globe, and advisory teams in thirteen countries, possessing foreign language skills is highly desirable to accomplish our mission as U.S. Customs investigators, inspectors and other officers.''

In 1999 the U.S. Coast Guard independently carried out an in-depth study to determine how to best meet the foreign language needs of its service. All cutters, stations, groups, air stations, districts and the Coast Guard Intelligence Service were tasked with reporting the number of incidents requiring foreign language skills. The selected comments from the study are highly instructive on the kind of repercussions that lack of language expertise has for the Coast Guard:

''Absence of effective communications influenced decision not to board'';

''Lack of interpreter reduced quality of right of approach questions'';

''Never determined nationality due to lack of interpreter'';

''All Alaskan Patrol cutters should have Russian interpreter on board'';

''Lack of interpreter made overall Fish Mission ineffective'';

''Lack of interpreters in Chinese, Russian, Polish, Japanese and Korean curtail any intelligence gathering which is critical to success of mission'';

''50% of crew bilingual, critical to mission success'';

''Heavy workload for 2 Spanish speakers during two intense patrols; multiple daily interactions with immigrants'';

''Delay due to sharing of Coast Guard and INS interpreters'';

''Delay attributed to availability of interpreter being ashore and underway. Lack of Japanese interpreter resulted in no radio communications'';

''Lone bi-lingual crewmember over tasked. Assistance of INS Asylum Pre-Screening—Officer critical to relay medical problems of migrant''.

CONCLUSION

The NSEP analysis, while not intended as a comprehensive survey of language needs of the federal government, provides some valuable insights into the need for global skills in the federal sector and, more specifically, the need for professional competencies in languages critical to national security. Along with other ongoing efforts to codify the need for language expertise, these data serve to continue to build the case for a more proactive role for federal programs like NSEP.

The comments received in response to our survey, the interactions with officials from various agencies, and the congressional testimonies to the Senate Committee on Governmental Affairs reveal disjunctions between the existing demand for language expertise in the federal sector and the corresponding capacity to meet those needs.

ATTACHMENT A—NSEP AREAS OF EMPHASIS 1999–2000

World Regions

Africa

Angola	Ethiopia	South Africa
Dem. Rep. of the Congo	Kenya	Morocco
Rep. of the Congo	Liberia	Sudan
Eritrea	Nigeria	Tanzania
	Rwanda	Uganda
	Sierra Leone	

Latin America

Argentina	Cuba	Peru
Brazil	Guatemala	Venezuela
Chile	Mexico	
Colombia	Panama	

East Asia and the Pacific

Burma	Japan	Philippines
Cambodia	North Korea	Taiwan
China	South Korea	Thailand
Indonesia	Malaysia	Vietnam

South Asia

Afghanistan	India	Pakistan

Europe

Albania	Croatia	Poland
Armenia	Czech Republic	Romania
Azerbaijan	Georgia	Russia
Belarus	Hungary	Serbia & Montenegro
Bosnia & Herzegovina	Kazakhstan	
Bulgaria	Macedonia	
	Moldova	
Slovakia	Tajikistan	Ukraine
Slovenia	Turkey	Uzbekistan

Near East

Algeria	Jordan	Saudi Arabia
Bahrain	Kuwait	Syria
Egypt	Lebanon	Tunisia
Iran	Libya	Unit.Arab.Emira.
Iraq	Oman	Yemen
Israel	Qatar	

Languages

Albanian	Japanese	Sinhala
Arabic (and dialects)	Kazakh	Swahili
Armenian	Khmer	Tagalog
Azeri	Korean	Tajik
Belarusian	Kurdish	Tamil
Burmese	Lingala	Thai
Cantonese	Macedonian	Turkmen
Czech	Malay	Turkish
Farsi	Mandarin	Uighur
Georgian	Mongolian	Ukrainian
Hebrew	Polish	Urdu
Hindi	Portuguese	Uzbek
Hungarian	Romanian	Vietnamese
Indonesian	Russian	
	Serbo-Croatian	

Fields of Study

Agricultural and Food Sciences

Applied Sciences and Engineering: Biology, Chemistry, Environmental Sciences, Mathematics, and Physics

Business and Economics

Computer and Information Science

Health and Biomedical Science

History

International Affairs

Law

Other Social Sciences: Anthropology, Psychology, Sociology, Political Science, and Policy Studies

ATTACHMENT B—FEDERAL ORGANIZATIONS RESPONDING TO NSEP NATIONAL SECURITY NEEDS ASSESSMENT, 2000–2001

Executive Office of the President

Office of the U.S. Trade Representative

National Intelligence Council

Department of Agriculture

Farm and Foreign Agricultural Services

Department of Commerce

International Trade Administration: U.S. Foreign Commercial Service

National Communications & Information Administration (NTIA): Office of International Affairs

Department of Defense

Defense Intelligence Agency

National Security Agency

Defense Threat Reduction Agency

National Imagery and Mapping Agency

Special Operations and Low-Intensity Conflict

Strategy and Threat Reduction

Department of the Navy: International Programs Office

Department of Energy

Deputy Administrator for Defense Nuclear Nonproliferation

Department of Health and Human Services:

Office of International and Refugee Health

Centers for Disease Control and Prevention

Food and Drug Administration

Department of Justice

Drug Enforcement Administration

INTERPOL

Federal Bureau of Investigation

Department of Labor

Office of International Economic Affairs.

Department of State

Bureau of Intelligence & Research

Office of the Legal Adviser

Under Secretary for Global Affairs: Bureau of Democracy, Human Rights and Labor; and Bureau of International Narcotics and Law Enforcement Affairs

Bureau of Consular Affairs
Foreign Service Institute

Department of Transportation

Office of Intelligence & Security
U.S. Coast Guard: Office of the Commandant; and Intelligence Coordination Center
Federal Aviation Administration: Asst Administrator for Policy Planning & Intl Affairs
Federal Highway Administration: Office of International Programs
Maritime Administration: Associate Administrator for Policy and Intl Trade

Department of the Treasury

U.S. Customs Service: Office of International Affairs
International Revenue Service: Office of the Commissioner, International
U.S. Secret Service

Department of Veterans Affairs

Assistant Secretary for Public & Intergovernmental Affairs: Intergovernmental & International Affairs

U.S. Agency for International Development

Bureau for Global Programs, Field Support & Research
Bureau for Latin America and the Caribbean

Broadcasting Board of Governors

International Broadcasting Bureau

Export-Import Bank of the U.S.

Policy Group

Federal Communications Commission

International Bureau

Federal Reserve System

International Finance Division

International Trade Commission

Office of Operations

National Aeronautics and Space Administration

Office of Human Resources and Education

Nuclear Regulatory Commission

Office of International Programs

U.S. Postal Service

International Business

ATTACHMENT C—LANGUAGE REQUIREMENTS AT ADVANCED LEVELS

Language—Number of Federal Organizations

Haitian-Cr—3	Italian—3
Farsi—3	Urdu—4
Hindi—3	German—4
Vietnamese—3	Korean—5
Turkish—3	Japanese—6
Romanian—3	Portuguese—7
Ukranian—3	French—9
Serbo-Croatian—3	Mandarin—9
Bulgarian—3	Russian—12
Arabic—4	Spanish—16

Additional Languages (at the Advanced Level) Identified by Federal Organizations

Afan Oromo	Hungarian	Sengalese
Amharic	Ibo	Shona
Armenian	Indonesian	Sinhala
Azeri	Kazakh	Slovenian
Bangla	Khmer	Swahili
Belarus	Kinyarwanda	Tagalog
Burmese	Kirundi	Tajik
Czech	Kurdish	Tamil
Danish	Kyrgyz	Thai
Dari	Lao	Tibetan
Dutch	Latvian	Tigrigna
Estonian	Lingala	Turkish
Finnish	Lithuanian	Turkmen
Georgian	Malay	Uzbek
Greek	Mongul	Xhosa
Hausa	Pashto	Yoruba
Hebrew	Polish	
Hongul	Punjabi	

COMMEMORATION OF GREEK INDEPENDENCE

Mr. REED. Mr. President, I rise today to recognize the 180th anniversary of Greek Independence. On March 25, 1821, ordinary Greek citizens with a conviction for freedom rose up against their oppressors. And, much like America's patriots, they struggled against overwhelming odds and won, bringing about their independence. For this reason, I was pleased to join my colleagues in cosponsoring and passing Senate Resolution 20 which designates March 25 as Greek Independence Day: A National Day of Celebration of Greek and American Democracy.

On this anniversary, Greeks and Greek-Americans can reflect on the struggle for independence and be proud. Their ancestors stood up and fought for their freedom, ending 400 years of rule by the Ottoman Empire. History is quick to forget the details and summarize the outcome. That is why remembering the sacrifices, the oppression, the battles, the poorly armed men standing outnumbered, and their victory are so important.

March 25th, however, is not just for those of Greek descent. It is a day for all who appreciate freedom and treasure democracy. Territorially, the nation of Greece is smaller than the state of Alabama. Yet, for such a small nation it has left a large mark on history and society. The Hellenes have produced many lasting societal advances and cultural contributions, art, science, philosophy, and architecture are just a few. In addition, they have had a rich and lasting impact upon politics. Democracy, the modern day pinnacle of government, was founded in Greece over two thousand years ago.

As citizens of a great democracy, we are proud to recognize the contributions of the Hellenic culture in our own nation. From the education of the Founding Fathers to the development of our Constitution, Greek ideas have shaped America. In my own state, the Greeks have been members of Rhode Island's communities for over 100 years. Originally starting as factory workers and fishermen, today's descendants of the first immigrants continue to advance both economically and professionally, contributing to our state with their hard work and active citizenship.

Therefore, on the day marking the 180th anniversary of the revolution for independence, I congratulate all Greeks and Greek-Americans and express my appreciation for their contributions and those of their ancestors.

AMERICA'S FIRST TOP SECRET HERO

Mr. DOMENICI. Mr. President, today I had the honor of presenting a personal letter to Mr. Hiroshi H. Miyamura at an event honoring Mr. Miyamura and commemorating the 50th Anniversary of the Korean War. Mr. Miyamura is a native New Mexican, a Medal of Honor recipient, and a true American hero.

In honor of Mr. Miyamura and in recognition of the events surrounding his contribution in the Korean War, I ask unanimous consent that a copy of my letter to him and a short historical sketch about Mr. Miyamura be printed in the RECORD.

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

MARCH 21, 2001.

Mr. MIYAMURA: I would like to thank the Fairfax-Lee chapter of the Association of the U.S. Army for inviting me to celebrate today's guest of honor. I sincerely apologize for my absence at this event.

Recognizing the awesome deeds of our men during the Korean War during the 50th Anniversary of that conflict is a humbling task. And, today, we meet to recognize the heroism of one particular soldier, Mr. Hiroshi H. Miyamura. Mr. Miyamura's story is not only one of tremendous courage, his has an element of intrigue. Mr. Miyamura is also America's first secret hero.

Mr. Miyamura is a native New Mexican, and still resides there. He enlisted in the Army during World War II and served in a unique special Japanese-American regiment, but the war ended before he saw combat. He got out of the service after WWII and went back to Udall where he married his sweetheart, who had been in an American Internment Camp during the war.

One year after reenlisting in the Army Reserves, North Korea invaded South Korea. At this time, Corporal Miyamura was activated and assigned to the 3rd Infantry Division. For his actions on the night of April 24, 1951, Mr. Miyamura was awarded the Medal of Honor. However, his citation was classified top-secret and filed away in the Department of the Army's tightest security vault. On April 25, he was captured and held as a Prisoner of War (POW) for more than twenty-seven months.

When Sergeant Miyamura, who was promoted while in captivity, was finally released on August 20, 1953, in a POW exchange between the United Nations command and the Communists, he was greeted by Brigadier General Ralph Osborne and informed for the first time that he had been awarded the Medal of Honor. According to General Osborne, the citation had been held top-secret because "if the Reds knew what he had done to a good number of their soldiers just before he was taken prisoner, they might have taken revenge on this young man. He might not have come back." Sergeant Miyamura was presented the Medal of Honor by President Eisenhower on October 27, 1953.

Words will fail to appropriately encompass the gratitude and indebtedness Americans have to Mr. Miyamura and his compatriots. The freedom and prosperity we enjoy is a constant reminder of our Veterans' contribution. As a fellow New Mexican and admirer of the sacrifices you made for our great country, I personally thank you, Mr. Hiroshi H. Miyamura.

Sincerely yours,

PETE V. DOMENICI,
U.S. Senator.

[From Military History, Apr. 1996]

FOR MORE THAN TWO YEARS, HIROSHI MIYAMURA'S MEDAL OF HONOR WAS A TIGHTLY GUARDED SECRET

(By Edward Hymoff)

It was the beginning of a long, chilly April night in 1951. Red Chinese bugles howled and whistles shrieked for the umpteenth time. "They're comin' again," the slightly built corporal whispered to his machine-gun detail. Flares burst above the ridge, and an enemy mortar barrage again began to creep toward the American positions.

The ghostly light of falling flares played across the face of the machine-gun section's

leader, accentuating the young soldier's Asian features. He could have been mistaken for the enemy, but for the uniform he wore and his New Mexican accent. Shells straddled the trench. The bugles and whistles grew louder as shadowy figures clambered up the steep, shell-pocked slope.

''Stay put,'' snapped the corporal. He yanked his bayonet from its scabbard and clamped it on his carbine. ''Cover me,'' he ordered. He pulled himself from the trench, slithered a few feet on his belly and then sprang upright and charged the advancing enemy soldiers.

More than two years later, U.S. Army Sergeant Hiroshi H. Miyamura remembered that rainy night of April 24, 1951, as if it were yesterday. He had been the Company H, 7th Infantry Regiment, 3rd Infantry Division, corporal who had ''charged'' that night. Now, on August 20, 1953, Miyamura climbed down from a Soviet-built military truck with 19 fellow prisoners of war at a place called Panmunjom, which he had heard mentioned while in a Communist Chinese prison camp in North Korea. He and his repatriated POW buddies were hustled into military ambulances for a 15-minute drive to another unloading point, Freedom Village, where doctors, nurses and medics took over.

Pale and undernourished, the newly freed Americans shucked off their faded blue Chinese uniforms and showered. They were examined by doctors, dusted with DDT and issued oversize fatigues. Each former POW was then handed a large canteen cup filled with ice cream. If the doctors declared them physically and mentally up to it, they were interrogated by intelligence officers and then led out to meet the press.

As Sergeant Miyamura (who had been promoted while in captivity) was led to the microphones and news cameras, he was greeted by Brig. Gen. Ralph Osborne, the Freedom Village commander, who raised his hands for silence. ''Gentlemen of the press,'' the general announced. ''I want to take this occasion to welcome the greatest V.I.P., the most distinguished guest to pass through Freedom Village.

''Sergeant Miyamura, it is my pleasure to inform you that you have been awarded the Medal of Honor.'' Miyamura was visibly shaken. ''What?'' he gulped. ''I've been awarded what medal?''

During the nearly 130 years that the Medal of Honor has been awarded for ''conspicuous gallantry and intrepidity at the risk of life above and beyond the call of duty,'' none of the other recipients have learned about the honor quite the way that 27-year old Sergeant Miyamura did. Nineteen months before his release from captivity, a Medal of Honor citation dated December 21, 1951, had been filed away in the Department of the Army's tightest security vault. Classified ''top-secret,'' it was finally removed from its Pentagon security vault at the start of Operation Big Switch, the exchange of POWs between the United Nations command and the Communists, and delivered to U.S. Eighth Army headquarters in Seoul shortly after the Korean armistice was signed in late July 1953.

General Osborne began reading aloud from the citation that had been handed to him less than a half-hour before. ''On the night of 24 April, Company H was occupying a defensive position near Taejon-ni, Korea, when the enemy fanatically attacked, threatening to overrun the position. Corporal Miyamura, a machine-gun squad leader, aware of the danger to his men, unhesitatingly jumped from his shelter. . . .''

As the general continued reading, Sergeant Miyamura clearly recalled those events. A major Chinese offensive had cracked the U.N. line. The 3rd Division had been ordered to pull back. H Company withdrew under a heavy enemy mortar barrage followed by two separate battalion-size probes. Miyamura was positioned between a light and a heavy machine gun, directing their fire. Shortly before midnight, the Chinese again advanced up the slope. He called out to his gunners, ''Short bursts, short bursts!'' and switched his carbine to automatic fire, squeezing off short bursts. He also hurled grenades down the slope.

The attackers were finally stopped. Twenty minutes or a half-hour passed. Then, enemy mortar rounds again fell along the ridgeline. Flares popped overhead, and the bugle calls and whistles resumed, along with shrieks of ''Kill! Kill! Kill dam 'mericans!''

Miyamura hurled more grenades and emptied his carbine. The shadowy figures moving up the slope toward his position dropped before his fire. Off to his right, the heavy machine gun blasted away. There was silence from the .30-caliber light-machine-gun position on his left. He clambered from his hole and crawled to his left flank. The light weapon and its crew were gone. Had they bugged out?

No. A runner must have instructed them to withdraw. But why hadn't the runner touched base with him? Crouching low, Miyamura dashed toward the heavy-machine-gun position but stumbled across a body and fell flat on his face. A flare popped overhead, and he dropped flat beside the body. It was one of H Company's runners. No wonder he hadn't gotten the message to withdraw.

Miyamura found two of the four GIs in the machine-gun position hit by shrapnel, and he dressed their wounds. Instructing them to cover him, he clamped his bayonet on his carbine and left the emplacement, sliding down the slope toward the enemy. Minutes later, there were agonizing cries in the darkness from the direction he had gone.

''. . . Wielding his bayonet in close hand-to-hand combat, killing approximately 10 of the enemy,'' General Osborne continued. The Chinese soldiers had been cautiously moving up the slope when Miyamura suddenly appeared in their midst. Jabbing and slashing, he scattered one group and wheeled around, breaking up another group the same way. Miyamura then ran back up the slope and slid into the machine-gun position. He ordered the gunners and the two wounded riflemen to fall back; he would cover them. Suddenly he was alone and frightened. He leaned against the machine gun and waited. It didn't take long. Bugles and whistles sounded, and the ''Kill! Kill!'' chant of the enemy grew louder and closer.

''. . . As another savage assault hit the line, he manned his machine gun and delivered withering fire until his ammunition was expended,'' the general went on. Miyamura broke up that attack, and when he ran out of ammunition he began hurling grenades in the enemy's direction. It was time for him to withdraw, but first he had to destroy the heavy machine gun. He placed a grenade, its pin pulled, against the gun's open breach, then ran into a nearby trench.

Loping down the trench, Miyamura turned a corner and slammed into an enemy soldier. Both recoiled, but Miyamura was faster; he shot the Chinese soldier wounding him. The Chinese soldier then lobbed a grenade in Miyamura's direction, but he kicked it back. It exploded, killing the enemy soldier and wounding Miyamura in the leg. ''. . . He killed more than 50 of the enemy before his ammunition was depleted and he was severely wounded,'' the general continued reading.

Miyamura recalled the nightmarish events leading up to his capture. The eastern horizon was beginning to grow lighter, and the enemy soldiers were now pouring off the ridge he had evacuated. He spotted a friendly tank that had been staked out to cover the withdrawal, now preparing to pull out. Miyamura ran desperately toward it, only to stumble into American barbed wire. Sobbing in pain, he heard the tank rumble away.

''When last seen, he was fighting ferociously against an overwhelming number of enemy soldiers,'' the general continued. But that wasn't quite the way it happened, Miyamura remembered. He managed to free himself from the wire and dropped into a small shellhole, throbbing with pain from the barbed-wire punctures and from the grenade-fragment wound in his leg. Enemy troops swarmed down the back slope and walked by the hole in which he lay, ignoring what they thought was a dead GI. If he could last through the day playing dead, he might be able to make it back to his own lines when night fell. A lone enemy soldier stopped beside him and leveled a U.S. Army 45-caliber pistol at his head. ''Get up,'' he ordered in English. ''I know you're alive. We don't harm prisoners.''

Four days later, a 3rd Division task force slashed its way back to the position Miyamura had evacuated. Miyamura was not among the dead GIs who lay there with more than 50 enemy dead, scattered on both slopes of his position.

Why was Miyamura's Medal of Honor citation classified top-secret? General Osborne explained: ''If the Reds knew what he had done to a good number of their soldiers just before he was taken prisoner, they might have taken revenge on this young man. He might not have come back.'' Sergeant Hiroshi H. Miyamura, America's first secret hero, was formally presented his Medal of Honor by President Dwight D. Eisenhower in a White House ceremony on October 27, 1953.

Miyamura has since visited Washington several times as an invited guest at presidential inaugurations. A career as an auto mechanic and service station owner made it possible for him to send his three children to college. Miyamura is now retired in his hometown of Gallup, N.M., and ''doing the many things that I now have time for.'' An avid freshwater fisherman, he spends much of his time trout fishing in the many lakes in the Southwest.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, March 21, 2001, the Federal debt stood at $5,731,169,100,580.51, five trillion, seven hundred thirty-one billion, one hundred sixty-nine million, one hundred thousand, five hundred eighty dollars and fifty-one cents.

One year ago, March 21, 2000, the Federal debt stood at $5,728,846,000,000, five trillion, seven hundred twenty-eight billion, eight hundred forty-six million.

Five years ago, March 21, 1996, the Federal debt stood at $5,062,251,000,000, five trillion, sixty-two billion, two hundred fifty-one million.

Ten years ago, March 21, 1991, the Federal debt stood at $3,446,260,000,000, three trillion, four hundred forty-six billion, two hundred sixty million.

Fifteen years ago, March 21, 1986, the Federal debt stood at $1,982,089,000,000, One trillion, nine hundred eighty-two billion, eighty-nine million, which reflects a debt increase of almost $4 trillion—$3,749,080,100,580.51, three trillion, seven hundred forty-nine billion,

eighty million, one hundred thousand, five hundred eighty dollars and fifty-one cents, during the past 15 years.

ADDITIONAL STATEMENTS

NATIONAL AGRICULTURE WEEK

• Mr. DAYTON. Mr. President, this week, as our Nation celebrates National Agriculture Week, I can think of no better time for Congress to begin the important work of addressing the urgent needs of our Nation's family farmers, ranchers, and rural communities.

Through the hard work and innovation of our farmers and ranchers, we have long been the most bountiful Nation in the world. The average American farmer produces enough every year to feed and clothe 129 other people. Nowhere else do so few feed so many.

Although only about 2 percent of our people work on the farm, agriculture remains a pillar of our economy. Twenty-one million Americans are employed transporting, processing, and distributing agricultural commodities. In Minnesota, agriculture represents 17 percent of the State's economy and employs roughly 22 percent of the State's workers.

Our family farmers and ranchers contribute as much to our national character as to our economy. The hard work and determination of our farmers has been the foundation and source of strength for our Nation since its earliest days. As they have done for generations, American farmers continue to meet adversity with the faith, fortitude, and ingenuity.

But as we enter the 21st century, America's family farmers and ranchers face a number of challenges such as continuing low commodity prices, the increasing consolidation and concentration in the agricultural economy and Congress' failure to establish a strong safety net to help when good times go bad. I believe we, as a nation, should focus on ways to support and strengthen family farms and rural communities while ensuring a vibrant, competitive agricultural marketplace.

I urge Congress to take immediate action to reverse farm and trade policies that have led to several years of low prices and driven thousands of producers in Minnesota and across the country out of business. What better way to honor the hard-working family farmers and ranchers who allow our Nation to enjoy the safest, most diverse, and most affordable food supply in the world.•

TRIBUTE TO CAPTAIN GLEN O. WOODS, USN

• Mr. WARNER. Mr. President, I rise today to recognize an outstanding Naval Officer, Captain Glen Woods, as he completes 23 years of distinguished service. It is a privilege for me to honor his many outstanding achievements and commend him for his honorable and faithful service to the Senate, the Navy, and our great Nation.

Captain Woods graduated from the U.S. Naval Academy in 1978. Upon graduation, he entered flight training and earned his ''Wings of Gold'' as a Naval Aviator in February 1980. Assigned as a Maritime Patrol Aviator, Captain Woods has served in P–3 Orion squadrons in both the Pacific and Atlantic Fleets, compiling nearly 4000 flight hours. His most recent flying assignment was as the Executive Officer and Commanding Officer of the ''Red Lancers'' of Patrol Squadron TEN, home ported in Brunswick, ME.

From airfields located in Adak, Alaska, and Keflavik, Iceland, he has tracked submarines above the Arctic Circle. He has flown anti-submarine and anti-surface warfare missions supporting our carrier battle groups in the Mediterranean Sea, Arabian Gulf, North Atlantic, Western Pacific and the Sea of Japan. His crews tracked maritime shipping in the South China Sea, Red Sea, Mediterranean Sea and throughout the Indian Ocean. Additionally, he has operated extensively with our NATO Allies, flying from bases in Scotland, Norway, Iceland, France, Spain, Portugal, and Italy.

Captain Woods also left his mark on a wide range of critical assignments ashore, serving as an instructor pilot, working on the staff of the Director of Naval Intelligence, and ending his distinguished career as the Deputy Director of the Navy's Liaison Office here in the Senate. His integrity, enthusiasm and foresight have earned him the admiration of me and my colleagues.

The Department of the Navy, the Congress, and the American people have been well served by this dedicated naval officer for over 23 years. Captain Glen Woods is a passionate advocate of the Sea Services and has been tireless in supporting the needs of the Sailors in the Fleet and their families. On behalf of my colleagues, I am honored to thank him for his service and to wish Captain Woods and his lovely wife Patti, ''Fair winds and following seas.''•

SALUTE TO THE 2001 NORTH DAKOTA CLASS B CHAMPION NORTH BORDER BOYS BASKETBALL TEAM

• Mr. DORGAN. Mr. President, I want to congratulate the North Border Eagles who were recently crowned state champions at the 2001 North Dakota Class B boys basketball tournament in Minot, ND. The Eagles beat number-one ranked Cando, ND 74–65 in the tournament's championship game to claim the state's top spot in Class B basketball. I congratulate Eagles Coach Dave Symington, his coaching staff and the players on their accomplishment. Members of the team include Jacob Anderson, Aaron Bonaime, Mike Brown, Nathan Carrier, Anthony Chaput, Matt Defoe, Dennis Delude, Warren Eagan, Kyle Rollness, Kevin Schaler, Travis Stegman, Chris Stremick, Chad Symington and Jason Tryan.

But I stand before the U.S. Senate not only to share with you the boxscore of the final game of the North Dakota Class B boys basketball season, but to tell you the remarkable story of how they got there. It's a story that many of you from rural States may recognize. Everyone, though, will be inspired by this story of teamwork and determination.

If you look on a North Dakota map, you won't find a community called North Border. That is because North Border is not one community, it is three different communities that have joined resources in education and athletics to compete against shrinking school enrollments.

North Border is a co-op of three small communities, Neche, Pembina and Walhalla, in the far northeastern corner of my state. The communities with populations of 434, 634 and 1,131 respectively are joined by rolling hills, County Road 55 and a common goal of maintaining a high quality of life for its residents while facing the realities of a population that is older and smaller.

The communities' high schools have a combined enrollment of less than 200. The schools formed the North Border co-op due to the low athlete numbers in boys basketball and other sports.

The schools agreed to rotate the location of practices and games to accommodate players and fans in all three communities. While the athletes had played together before in summer programs, the transition was challenging. The newly formed Eagles lost its second game of the season. It was against the Cando Cubs—the team the Eagles would eventually meet again in the state tournament. The Eagles soon began playing well together as a team and compiled a very impressive 23–2 record, including a victory in the regional finals over Fordville-Lankin avenging the Eagles' second loss of the season.

The team's birth into the state Class B boys basketball tournament was the first state tournament experience for either Walhalla or Neche, and the first time since 1955 that Pembina went to State. The Eagles received no beginner's breaks. All schools who made it to the tournament were strong teams and deserve praise for this accomplishment. The Eagles were paired against the defending state champion Fargo Oak Grove team in the first round. As they had all season, the Eagles relied on their defense and a strong balanced offense to move past Oak Grove and their second opponent, the Dickinson Trinity Titans, to advance to the championship game. Four players scored in double figures in the opening game and five players did the same in North Border's win over the Titans.

The two victories put the Eagles in the title game to face the team that

gave the Eagles their first loss on the season a 28 point loss at home. Again, in a performance marked by team balance, four North Border players scored in double digits including a team high 21 points by junior guard/forward Dennis Delude to give the Eagles a victory over previously unbeaten Cando. Three Eagle players—senior Aaron Bonaime, junior Nathan Carrier and Delude—were named to the State Class B All-Tournament Team. The journey these three communities made to become state champions is truly remarkable and inspiring. Once again, congratulations to all those involved in the Eagles successful season and to all teams who made it to this year's tournament.●

VALLEY HAVEN SCHOOL

● Mr. SHELBY. Mr. President, I rise today to pay special tribute to the Valley Haven School, an important part of the Valley, AL community. Valley Haven is a school for infants, toddlers and adults who are mentally retarded or multi-handicapped. On May 5th, the school will hold it's 25th Annual Hike/Bike/Run for Valley Haven, a fund raiser which generates the crucial local funding which is vital to the school's survival.

Valley Haven School was started 41 years ago and has grown into a large, professionally staffed operation. With over 116 clients in ages ranging from 3 months to 70 years, you can see, that Valley Haven must meet significant financial standards each year to maintain viability. The school does this outside of local tax structures, so operating expenses and matching funds for grants must be raised primarily through the community at large. The Hike/Bike/Run for Valley Haven is the key fund raiser of the year which helps to bring the community together for this important cause. Among the events included in the occasion are a 5k, 8K, 10 or 22 mile run, 10 or 5 mile walk, 22, 11, or 5 mile bike, trike, and stroller event, and even a horse trail ride.

I take this opportunity to wish all those helping to organize the event and those planning to participate my best wishes in their efforts to support the school. Whether contributing time, physical effort, or financial resources, working to ensure educational opportunities for others is truly a worthy cause.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:18 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 496. An act to amend the Communications Act of 1934 to promote deployment of advanced services and foster the development of competition for the benefit of consumers in all regions of the Nation by relieving unnecessary burdens on the Nation's two percent local exchange telecommunications carriers, and for other purposes.

H.R. 1042. An act to prevent the elimination of certain reports.

H.R. 1098. An act to improve the recording and discharging of maritime liens and expand the American Merchant Marine Memorial Wall of Honor, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 43. Concurrent resolution authorizing the printing of a revised and updated version of the House document entitled ''Black Americans in Congress, 1870–1989.''

The message further announced that pursuant to section 2(a) of the National Cultural Center Act (20 U.S.C. 76h(a)), the Speaker appoints the following Members of the House of Representatives to the Board of Trustees of the John F. Kennedy Center for the Performing Arts: Mr. HASTERT of Illinois, Mr. KOLBE of Arizona, and Mr. GEPHARDT of Missouri.

At 5:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 247. An act to amend the Housing and Community Development Act of 1974 to authorize communities to use community development block grant funds for construction of tornado-safe shelters in manufactured home parks.

H.R. 802. An act to authorize the Public Safety Officer Medal of Valor, and for other purposes.

H.R. 1099. An act to make changes in laws governing Coast Guard personnel, increase marine safety, renew certain groups that advise the Coast Guard on safety issues, make miscellaneous improvements to Coast Guard operations and policies, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 69. A concurrent resolution expressing the sense of the Congress on the Hague Convention on the Civil Aspects of International Child Abduction and urging all Contracting States to the Convention to recommend the production of practice guides.

The message further announced that pursuant to 15 U.S.C. 1024(a), the Speaker appoints the following Member of the House of Representatives to the Joint Economic Committee: Mr. SAXTON of New Jersey.

The message also announced that pursuant to 44 U.S.C. 2702, the Speaker reappoints the following member on the part of the House of Representatives to the Advisory Committee on the Records of Congress: Mr. Timothy J. Johnson of Minnetonka, Minnesota.

The message further announced that pursuant to the provisions of 44 U.S.C. 2702, the Speaker reappoints as a member of the Advisory Committee on the Records of Congress the following person: Susan Palmer of Aurora, Illinois.

The message also announced that pursuant to section 114(b) of the John C. Stennis Center for Public Service Training and Development Act (2 U.S.C. 1103), the Speaker appoints the following Member of the House of Representatives to the Board of Trustees for the John C. Stennis Center for Public Service Training and Development for a term of 6 years: Mr. CHARLES W. ''CHIP'' PICKERING of Laurel, Mississippi.

The message further announced that pursuant to section 114(b) of the John C. Stennis Center for Public Service Training and Development Act (2 U.S.C. 1103), the Minority Leader appoints the following Member of the House of Representatives to the Board of Trustees for the John C. Stennis Center for Public Service Training and Development for a term of 6 years: Mr. LEWIS of Georgia.

The message also announced that pursuant to 22 U.S.C. 1928a and clause 10 of rule I, the Speaker appoints the following Members of the House of Representatives to the United States Group of the North Atlantic Assembly: Mr. DEUTSCH of Florida, Mr. BORSKI of Pennsylvania, Mr. LANTOS of California, and Mr. RUSH of Illinois.

MEASURES REFERRED

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

H.R. 247. An act to amend the Housing and Community Development Act of 1974 to authorize communities to use community development block grant funds for construction of tornado-safe shelters in manufactured home parks; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 496. An act to amend the Communications Act of 1934 to promote deployment of advanced services and foster the development of competition for the benefit of consumers in all regions of the Nation by relieving unnecessary burdens on the Nation's two percent local exchange telecommunications carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 802. An act to authorize the Public Safety Officer Medal of Valor, and for other purposes; to the Committee on the Judiciary.

H.R. 1042. An act to prevent the elimination of certain reports; to the Committee on Governmental Affairs.

H.R. 1098. An act to improve the recording and discharging of maritime liens and expand the American Merchant Marine Memorial Wall of Honor, and for other purposes; to

the Committee on Commerce, Science, and Transportation.

H.R. 1099. An act to make changes in laws governing Coast Guard personnel, increase marine safety, renew certain groups that advise the Coast Guard on safety issues, make miscellaneous improvements to Coast Guard operations and policies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 43. Concurrent resolution authorizing the printing of a revised and updated version of the House document entitled ''Black Americans in Congress, 1870–1989''; to the Committee on Rules and Administration.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1124. A communication from the Director of Operations and Finance of the American Battle Monuments Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for Fiscal Year 2000; to the Committee on the Judiciary.

EC–1125. A communication from the Deputy Director of the Congressional Budget Office, transmitting, pursuant to law, the Sequestration Preview Report for Fiscal Year 2002; referred jointly, pursuant to the order of August 4, 1997; to the Committees on the Budget; and Governmental Affairs.

EC–1126. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals dated March 19, 2001; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986; to the Committees on the Budget; Appropriations; and Foreign Relations.

EC–1127. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services under a contract in the amount of $50,000,000 or more to Luxembourg, France; to the Committee on Foreign Relations.

EC–1128. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed Manufacturing License Agreement with Greece; to the Committee on Foreign Relations.

EC–1129. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–1130. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a certification of a proposed Technical Assistance Agreement with Canada, Australia, and New Zealand; to the Committee on Foreign Relations.

EC–1131. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services under a contract in the amount of $50,000,000 or more to Spain; to the Committee on Foreign Relations.

EC–1132. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services under a contract in the amount of $50,000,000 or more to Germany; to the Committee on Foreign Relations.

EC–1133. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or services under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–1134. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the annual report with respect to the Fair Debt Collection Practices Act for 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–1135. A communication from the Principal Deputy Under Secretary of Defense, Acquisition and Technology, Department of Defense, transmitting, pursuant to law, the report on the National Defense Stockpile Annual Materials Plan (AMP) for Fiscal Year 2001; to the Committee on Armed Services.

EC–1136. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the annual report on compensation program adjustments, current salary range structure, and the performance-based merit pay matrix for 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1137. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Diflubenzuron; Pesticide Tolerance Technical Correction'' (FRL6776–4) received on March 20, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1138. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, a report on Women, Minorities, and Persons With Disabilities in Science and Engineering for 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–1139. A communication from the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the biennial report on Atlantic Bluefin tuna for 1999 through 2000; to the Committee on Commerce, Science, and Transportation.

EC–1140. A communication from the Deputy Chief of the Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Federal-State Joint Board on Universal Service; Petition for Reconsideration Filed by AT&T'' ((CC Doc. 96–45)(FCC 01–85)) received on March 19, 2001; to the Committee on Commerce, Science, and Transportation.

EC–1141. A communication from the Acting Assistant Secretary of Defense, Reserve Affairs, Department of Defense, transmitting, pursuant to law, the annual report on the STARBASE Program for Fiscal Year 2000; to the Committee on Armed Services.

EC–1142. A communication from the Acting Assistant Secretary of Defense, Reserve Affairs, Department of Defense, transmitting, pursuant to law, a report on the delay of the Angel Gate Academy Program Report; to the Committee on Armed Services.

EC–1143. A communication from the Principal Deputy Under Secretary of Defense, Acquisition and Technology, Department of Defense, transmitting, pursuant to law, a report on the improvement of professionalism in the acquisition workforce; to the Committee on Armed Services.

EC–1144. A communication from the Principal Deputy Under Secretary of Defense, Acquisition and Technology, Department of Defense, transmitting, pursuant to law, the report on the distribution of depot maintenance workloads for Fiscal Years 1999 and 2000; to the Committee on Armed Services.

EC–1145. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—April 2001'' (Rev. Rul. 2001–17) received on March 13, 2001; to the Committee on Finance.

EC–1146. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Convention on Cultural Property Implementation Act, a report concerning the imposition of import restrictions on categories of archaeological material from Italy and Nicaragua; to the Committee on Finance.

EC–1147. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice 2001–29, Form 7004-Research Credit Suspension Period'' (OGI–110763–01) received on March 19, 2001; to the Committee on Finance.

EC–1148. A communication from the Chief of the Regulations Branch, United States Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Foreign Repairs to American Vessels'' (RIN1515–AC30) received on March 20, 2001; to the Committee on Finance.

EC–1149. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring: Delay of Effective Date'' (FRL6958–3) received on March 20, 2001; to the Committee on Environment and Public Works.

EC–1150. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works'' (FRL6955–7) received on March 20, 2001; to the Committee on Environment and Public Works.

EC–1151. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Control of Air Pollution from New Motor Vehicles; Amendment to the Tier 2/Gasoline Sulfur Regulations'' (FRL6768–1) received on March 21, 2001; to the Committee on Environment and Public Works.

EC–1152. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Project XL Site-Specific Rulemaking for Georgia-Pacific Corporations's Facility in Bid Island, Virginia'' (FRL6767–8) received on March 21, 2001; to the Committee on Environment and Public Works.

EC–1153. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting,

pursuant to law, the report of a rule entitled ''Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units'' (FRL6939–9) received on March 21, 2001; to the Committee on Environment and Public Works.

EC–1154. A communication from the Principal Deputy Under Secretary of Defense, Acquisition and Technology, Department of Defense, transmitting, pursuant to law, a report relating to the inventory of non-inherently governmental functions for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC–1155. A communication from the Secretary of the Mississippi River Commission, Corps of Engineers, Department of the Army, transmitting, pursuant to law, the Commission's report under the Government in the Sunshine Act for calendar year 2000; to the Committee on Governmental Affairs.

EC–1156. A communication from the Acting Director of the United States Office of Personnel Management, transmitting, pursuant to law, a report on actions needed to correct the Consumer Price Index error in the Civil Service Retirement System and the Federal Employees Retirement System; to the Committee on Governmental Affairs.

EC–1157. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, the report of additions to the procurement list received on March 19, 2001; to the Committee on Governmental Affairs.

EC–1158. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the Administration's report under the Government in the Sunshine Act for calendar year 2000; to the Committee on Governmental Affairs.

EC–1159. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, the report of additions to the procurement list received on March 19, 2001; to the Committee on Governmental Affairs.

EC–1160. A communication from the Principal Deputy Under Secretary of Defense, Acquisition and Technology, Department of Defense, transmitting, pursuant to law, the delay of the annual report concerning commercial activities for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC–1161. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports for January 2001; to the Committee on Governmental Affairs.

EC–1162. A communication from the Chairman of the Board of Directors, Tennessee Valley Authority, transmitting, pursuant to law, the Board's report under the Government in the Sunshine Act for calendar year 2000; to the Committee on Governmental Affairs.

EC–1163. A communication from the Chairman of the United States Merit Systems Protection Board, transmitting, pursuant to law, the Board's report under the Government in the Sunshine Act for calendar year 2000; to the Committee on Governmental Affairs.

EC–1164. A communication from the Executive Director of the National Science Board, transmitting, pursuant to law, the Board's report under the Government in the Sunshine Act for calendar year 2000; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

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

POM–3. A petition from a citizen from the State of Vermont entitled ''Reaffirm America''; to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. NICKLES:

S. 593. A bill to amend the Internal Revenue Code of 1986 to clarify that natural gas gathering lines are 7-year property for purposes of depreciation; to the Committee on Finance.

By Mr. NICKLES:

S. 594. A bill to amend the Internal Revenue Code of 1986 to simplify the excise tax on heavy truck tires; to the Committee on Finance.

By Mr. WELLSTONE (for himself, Mr. DASCHLE, and Mr. INOUYE):

S. 595. A bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to provide for nondiscriminatory coverage for substance abuse treatment services under private group and individual health coverage; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mr. DASCHLE, Mr. AKAKA, Mr. BAUCUS, Mr. BREAUX, Ms. CANTWELL, Mr. DORGAN, Mr. LEAHY, Mr. REID, Mr. SCHUMER, Mr. KENNEDY, Mr. ROCKEFELLER, Mrs. MURRAY, and Mr. TORRICELLI):

S. 596. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the production and use of efficient energy sources, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. DASCHLE, Mr. AKAKA, Mr. BAUCUS, Mr. BREAUX, Ms. CANTWELL, Mr. DORGAN, Mr. LEAHY, Mr. REID, Mr. SCHUMER, Mr. KENNEDY, Mrs. MURRAY, Mr. ROCKEFELLER, and Mr. TORRICELLI):

S. 597. A bill to provide for a comprehensive and balanced national energy policy; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself, Mr. SPECTER, Mrs. LINCOLN, Mr. STEVENS, Ms. LANDRIEU, Mr. NELSON of Nebraska, Mr. CLELAND, Mr. MILLER, and Mr. JOHNSON):

S. 598. A bill to provide for the reissuance of a rule relating to ergonomics; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROBERTS (for himself, Mr. GRAMM, and Mr. HAGEL):

S. 599. A bill to amend the Omnibus Trade and Competitiveness Act of 1988 to establish permanent trade negotiating and trade agreement implementing authority; to the Committee on Finance.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEAHY, and Mr. JEFFORDS):

S. 600. A bill to amend the Federal Election Campaign Act of 1971 to enhance criminal penalties for election law violations, to clarify current provisions of law regarding donations from foreign nationals, and for other purposes; to the Committee on Rules and Administration.

By Mr. SHELBY:

S. 601. A bill to authorize the payment of interest on certain accounts at depository institutions, to increase flexibility in setting reserve requirements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI:

S. 602. A bill to reform Federal election law; to the Committee on Rules and Administration.

By Mr. KENNEDY (for himself, Mr. SCHUMER, Mr. SARBANES , Ms. SNOWE, Mr. DODD, Mr. KERRY, Mr. FEINGOLD, Mr. LIEBERMAN, Mr. BIDEN, Ms. CANTWELL, Mrs. MURRAY, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Ms. MIKULSKI, and Mrs. BOXER):

S.J. Res. 10. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LIEBERMAN (for himself, Mr. LUGAR, Mr. GRAHAM, Mr. KYL, Mr. HELMS, Mr. ENSIGN, Mr. FEINGOLD, Mr. NELSON of Florida, Mr. TORRICELLI, Mr. SMITH of New Hampshire, Mr. SESSIONS, Mr. DEWINE, and Mr. SANTORUM):

S. Res. 62. A resolution expressing the sense of the Senate regarding the human rights situation in Cuba; to the Committee on Foreign Relations.

By Mr. CAMPBELL (for himself, Mr. HATCH, Mr. LEAHY, Mr. THURMOND, Mr. NICKLES, Mr. GREGG, Mr. HUTCHINSON, Mr. MILLER, Mrs. HUTCHISON, Mr. BIDEN, Mr. GRAMM, Mr. HELMS, Mr. BROWNBACK, Mr. COCHRAN, Mr. BINGAMAN, Mr. BOND, Mr. FRIST, Mr. INHOFE, Mr. ALLARD, Mr. DORGAN, Mr. EDWARDS, Mr. BYRD, Mr. REID, Mr. BAYH, Mr. AKAKA, Mr. DURBIN, Mr. DEWINE, Mr. THOMAS, Mr. CRAPO, Mr. DAYTON, Mr. SARBANES, Mr. KENNEDY, Mrs. BOXER, Mr. LEVIN, and Mr. VOINOVICH):

S. Res. 63. A resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 29

At the request of Mr. BOND, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 117

At the request of Mr. FEINGOLD, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 117, a bill to prohibit products that contain dry ultra-filtered milk products or casein from being labeled as domestic natural cheese, and for other purposes.

S. 126

At the request of Mr. CLELAND, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S.

126, a bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation.

S. 152

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 152, a bill to amend the Internal Revenue Code of 1986 to eliminate the 60-month limit and increase the income limitation on the student loan interest deduction.

S. 170

At the request of Mr. REID, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 177

At the request of Mr. AKAKA, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 177, a bill to amend the provisions of title 19, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 206

At the request of Mr. SHELBY, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 206, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 2001, and for other purposes.

S. 237

At the request of Mr. HUTCHINSON, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 237, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 321

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Missouri (Mrs. CARHAHAN) were added as cosponsors of S. 321, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 322

At the request of Mr. THOMAS, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 322, a bill to limit the acquisition by the United States of land located in a State in which 25 percent or more of the land in that State is owned by the United States.

S. 352

At the request of Mr. BINGAMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 352, a bill to increase the authorization of appropriations for low-income energy assistance, weatherization, and state energy conservation grant programs, to expand the use of energy savings performance contracts, and for other purposes.

S. 394

At the request of Mr. DOMENICI, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 394, a bill to make an urgent supplemental appropriation for fiscal year 2001 for the Department of Defense for the Defense Health Program.

S. 409

At the request of Mr. DURBIN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 409, a bill to amend title 38, United States Code, to clarify the standards for compensation for Persian Gulf veterans suffering from certain undiagnosed illnesses, and for other purposes.

S. 433

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 433, a bill to amend the Internal Revenue Code of 1986 to remove the limitation that certain survivor benefits can only be excluded with respect to individuals dying after December 31, 1996.

S. 472

At the request of Mr. DOMENICI, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 472, a bill to ensure that nuclear energy continues to contribute to the supply of electricity in the United States.

S. 515

At the request of Mr. DOMENICI, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 515, a bill to amend the Internal Revenue Code of 1986 to establish a permanent tax incentive for research and development, and for other purposes.

S. 543

At the request of Mr. WELLSTONE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 549

At the request of Mr. CRAPO, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 549, a bill to ensure the availability of spectrum to amateur radio operators.

S. 567

At the request of Mr. SESSIONS, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 567, a bill to amend the Internal Revenue Code of 1986 to provide capital gain treatment under section 631(b) of such Code for outright sales of timber by landowners.

S. 581

At the request of Mr. FITZGERALD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 581, a bill to amend title 10, United States Code, to authorize Army arsenals to undertake to fulfill orders or contracts for articles or services in advance of the receipt of payment under certain circumstances.

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Hawaii (Mr. AKAKA), and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. Con. Res. 11, a concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. CON. RES. 14

At the request of Mr. CAMPBELL, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it.

S. CON. RES. 17

At the request of Mr. SARBANES, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 17, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

S. RES. 16

At the request of Mr. THURMOND, the names of the Senator from Alaska (Mr. STEVENS), the Senator from New Hampshire (Mr. SMITH), the Senator from Georgia (Mr. MILLER), the Senator from Nebraska (Mr. HAGEL), the Senator from West Virginia (Mr. BYRD), the Senator from Mississippi (Mr. COCHRAN), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. Res. 16, a resolution designating August 16, 2001, as ''National Airborne Day.''

S. RES. 55

At the request of Mr. WELLSTONE, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 55, a resolution designating the third week of April as ''National Shaken Baby Syndrome Awareness Week'' for the year 2001 and all future years.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES:

S. 593. A bill to amend the Internal Revenue Code of 1986 to clarify that natural gas gathering lines are 7-year property for purposes of depreciation; to the Committee on Finance.

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

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

S. 593

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

SECTION 1. 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—

''(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or

''(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead to the point at which such gas first reaches—

''(i) a gas processing plant,

''(ii) an interconnection with a transmission pipeline certified by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

''(iii) an interconnection with an intrastate transmission pipeline, or

''(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.''.

(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. NICKLES:

S. 594. A bill to amend the Internal Revenue Code of 1986 to simplify the excise tax on heavy truck tires; to the Committee on Finance.

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

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

S. 594

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

SECTION 1. SIMPLIFICATION OF EXCISE TAX ON HEAVY TRUCK TIRES.

(a) TAX BASED ON TIRE LOAD CAPACITY NOT ON WEIGHT.—Subsection (a) of section 4071 of the Internal Revenue Code of 1986 (relating to imposition of tax on tires) is amended to read as follows:

''(a) IMPOSITION AND RATE OF TAX.—There is hereby imposed on tires of the type used on highway vehicles, if wholly or in part made of rubber, sold by the manufacturer, producer, or importer a tax equal to 8 cents for each 10 pounds of the tire load capacity in excess of 3500 pounds.''.

(b) TIRE LOAD CAPACITY.—Subsection (c) of section 4071 of the Internal Revenue Code of 1986 is amended to read as follows:

''(c) TIRE LOAD CAPACITY.—For purposes of this section, tire load capacity is the maximum load rating labeled on the tire pursuant to section 571.109 or 571.119 of title 49, Code of Federal Regulations. In the case of any tire that is marked for both single and dual loads, the higher of the 2 shall be used for purposes of this section.''.

(c) TIRES TO WHICH TAX APPLIES.—Subsection (b) of section 4072 of the Internal Revenue Code of 1986 (defining tires of the type used on highway vehicles) is amended by striking ''tires of the type'' the second place it appears and all that follows and inserting ''tires—

''(1) of the type used on—

''(A) motor vehicles which are highway vehicles, or

''(B) vehicles of the type used in connection with motor vehicles which are highway vehicles, and

''(2) marked for highway use pursuant to section 571.109 or 571.119 of title 49, Code of Federal Regulations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1 of the first calendar year which begins more than 30 days after the date of the enactment of this Act.

By Mr. WELLSTONE (for himself, Mr. DASCHLE, and Mr. INOUYE):

S. 595. A bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to provide for nondiscriminatory coverage for substance abuse treatment services under private group and individual health coverage, to the Committee on Health, Education, Labor, and Pensions.

Mr. WELLSTONE. Mr. President, I rise today to introduce legislation that will ensure that private health insurance companies cover the costs for drug and alcohol addiction treatment services at the same level that they pay for treatment for other disease. The purpose of this bill is to end discrimination in insurance coverage for drug and alcohol addition treatment. This bill, entitled Fairness in Treatment: The Drug and Alcohol Addition Recovery Act of 2001, offers the necessary provisions to provide this assurance.

For too long, the problem of drug and alcohol addiction has been viewed as a moral issue, rather than as a disease. Too often, a cloak of secrecy has surrounded this problem, causing people who have this disease to feel ashamed and afraid to seek treatment for their symptoms for fear that they will be seen as admitting to a moral failure, or a weakness in character. We have all seen portrayals of alcoholics and addicts that are intended to be humorous or derogatory, and only reinforce the biases against people who have problems with drug and alcohol addiction. I cannot imagine this type of portrayal of someone who has another kind of chronic illness, a heart problem, or who happens to carry a gene that predisposes them to diabetes.

It has been shown that some forms of addiction have a genetic basis, and yet we still try to deny the serious medical nature of this disease. We think of those with this disease as somehow different from us. We forget that someone who has a problem with drugs or alcohol can look just like the person we see in the mirror, or the person who is sitting next to us at work or on the subway, or like someone in our own family. In fact, it is likely that most of us know someone who has experienced drug and alcohol addiction, within our families or our circle of friends or coworkers.

Alcoholism and drug addiction are painful, private struggles with staggering public costs. A study prepared by Brandeis University's Schneider Institute for Health Policy estimated that untreated addiction costs America $400 billion per year. This estimate includes costs for alcohol addiction treatment and prevention costs, as well as costs associated with related illnesses, reduced job productivity or lost earnings, and other costs to society such as crime and social welfare programs.

The medical effects of drug addiction are far-reaching. According to the Physician leadership on National Drug Policy, heavy drinking contributes to illness in each of the top three causes of death: heart disease, cancer, and stroke. A 1996 article in Scientific American estimated that excessive alcohol consumption causes more than 100,000 deaths in the U.S. each year. Of these deaths, 24 percent are due to drunken driving, resulting in untold suffering and tragic loss of life.

We know that addiction to alcohol and other drugs contribute to other problems as well. Addictive substances have the potential for destroying the person who is addicted, their family, and their other relationships. We know, for example, that fetal alcohol syndrome is the leading known cause of mental retardation. If the woman who was addicted to alcohol could receive proper treatment, fetal alcohol syndrome for her baby would be 100 percent preventable, and more than 12,000 infants born in the U.S. each year would not suffer from fetal alcohol syndrome, with its irreversible physical and mental damage.

We know too of the devastation caused by addiction when violence between people is one of the consequences. A 1998 SAMHSA report outlined the links between domestic violence and substance abuse. We know from clinical reports that 25–50 percent of men who commit acts of domestic violence also have substance abuse problems. The report recognized the link between the victim of abuse and use of alcohol and drugs, and recommended that after the woman's safety has been addressed, the next step would be to help with providing treatment for her addiction as a step toward independence and health, and toward the prevention of the consequences for

the children who suffer the same abuse either directly, or indirectly by witnessing spousal violence.

People who have the disease of addiction can be found throughout our society. According to the 1997 National Household Survey on Drug Abuse published by SAMHSA, nearly 73 percent of all illegal drug users in the United States are employed. This number represents 6.7 million full-time workers and 1.6 million part-time workers. Although many of these workers could and should have insurance benefits that would cover treatment for this disease, they do not.

In addition to the health problems resulting from the failure to treat the illness, there are other serious consequences affecting the workplace, such as lost productivity, high employee turnover, low employee morale, mistakes, accidents, and increased worker's compensation insurance and health insurance premiums, all results of untreated addiction problems. Whether you are a corporate CEO or a small business owner, there are simple, effective steps that can be taken, including providing insurance coverage for this disease, ready access to treatment and workplace policies that support treatment, that can reduce these human and economic costs.

We know from the outstanding conducted at NIH, through the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism, that treatment for drug and alcohol addiction can be effective. We know that treatment of addiction is as success as treatment of other chronic disease such as diabetes, hypertension, and asthma. We know that drug treatment reduces drug use by 40–60 percent. And we know that treatment results in other positive changes in behavior, such as fewer psychological symptoms and increased work productivity. According to American Airlines, 75–85 percent of employees who received alcohol and other drug treatment remained abstinent from drugs during their one year follow up.

We must do more to prevent this illness and to treat those who are addicted to drugs and alcohol. Over the past several years, the principle of parity in insurance coverage for alcohol and drug rehabilitation and treatment has received the strong support of the White House, the Office for National Drug Control Policy, Former Surgeon General C. Everett Koop, Former President and Mrs. Gerald Ford, the U.S. Conference of Mayors, Kaiser Permanente Health Plans and many leading figures in medicine, business, government, journalism and entertainment who have successfully fought the battle of addiction with the help of treatment. Hearings held in the 106th Congress by the Senate Appropriations Committee and the Committee on Labor, Education, Labor, and Pensions highlighted the recent major advances in scientific information about the disease; the biological causes of addiction; the effectiveness and low cost of treatment; and many painful, personal stories of people, including children, who have been denied treatment. Recent hearings in the Judiciary Committee have also emphasized a greater Federal role in funding treatment and prevention programs.

We know that the failure of insurance companies to provide treatment can sometimes have devastating results. In a 1999 story, the New York Times highlighted the tragic suicide of a young man who desperately sought inpatient treatment care for his drug addiction and fought for 8 months to have the plan authorize the treatment that was in fact included in as part of his benefits. The authorization came through, but too late. He had died 3 weeks earlier from a drug overdose. This kind of denial of care for addiction treatment is not at all unique. The 1998 Hay Group Report on Employer Health Care Dollars Spent on Substance Abuse showed that from 1988 through 1998 the value of substance abuse treatment benefits decreased by 74.5 percent, as compared to a 11.5 percent decrease for overall health care benefits.

Addiction to alcohol and drugs is a disease that affects the brain, the body, and the spirit. We must provide adequate opportunities for the treatment of addiction in order to help those who are suffering and to prevent the health and social problems that it causes. This legislation will take an important step in this direction by requiring that health insurance plans eliminate discrimination for addiction treatment. The costs for this are very low. A 1999 study by the Rand Corporation found that the cost to managed care health plans is now only about $5 per person per year for unlimited substance abuse treatment benefits to employees of big companies. A 1997 Milliman and Robertson study found that complete substance abuse treatment parity would increase per capita health insurance premiums by only one half of 1 percent, or less than $1 per member per month, without even considering any of the obvious savings, that will result from treatment. Several studies have shown that for every $1 spent on treatment, more than $7 is saved in other health care expenses, and that these savings are in addition to the financial and other benefits of increased productivity, as well as participation in family and community life. Providing treatment for addiction also saves millions of dollars in the criminal justice system. But for treatment to be effective and helpful throughout our society all systems of care, including private insurance plans, must share this responsibility.

This legislation does not mandate that health insurers offer substance addiction treatment benefits. What it does is prohibit discrimination by health plans who offer substance addiction treatment from placing unfair and life-threatening limitations on caps, access, or financial requirements for addiction treatment that are different from other medical and surgical services.

We must move forward now to vigorously address the serious and life-threatening problem of drug and alcohol addiction in our country. It is long past time that insurance companies do their fair share in bearing the responsibility for treating this disease.

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

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

S. 595

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 ''Fairness in Treatment: The Drug and Alcohol Addiction Recovery Act of 2001''.

SEC. 2. PARITY IN SUBSTANCE ABUSE TREATMENT BENEFITS.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

''SEC. 2707. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

''(b) CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

''(2) to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(c) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

''(2) SMALL EMPLOYER.—For purposes of paragraph (1), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 25 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(3) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection:

''(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

''(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(e) DEFINITIONS.—For purposes of this section:

''(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

''(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

''(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

''(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

''(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse services' means any of the following items and services provided for the treatment of substance abuse:

''(A) Inpatient treatment, including detoxification.

''(B) Non-hospital residential treatment.

''(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

''(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

''(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.

''(f) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 713(f) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of the Public Health Service Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2707''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 714. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

''(b) CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

''(2) to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(c) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

''(2) SMALL EMPLOYER.—For purposes of paragraph (1), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 25 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(3) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection:

''(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

''(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(e) DEFINITIONS.—For purposes of this section:

''(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

''(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

''(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

''(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

''(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse services' means any of the following items and services provided for the treatment of substance abuse:

''(A) Inpatient treatment, including detoxification.

''(B) Non-hospital residential treatment.

''(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

''(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

''(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.

''(f) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.''.

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191(c)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(ii) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(iii) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Parity in the application of treatment limitations and financial requirements to substance abuse treatment benefits.''.

(3) INTERNAL REVENUE CODE AMENDMENTS.—

(A) IN GENERAL.—Subchapter B of chapter 100 of the Internal Revenue Code of 1986 is amended by inserting after section 9812, the following:

''SEC. 9813. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE TREATMENT BENEFITS.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and substance abuse treatment benefits, the plan or coverage shall not impose treatment limitations or financial requirements on the substance abuse treatment benefits unless similar limitations or requirements are imposed for medical and surgical benefits.

''(b) CONSTRUCTION.—Nothing in this section shall be construed—

''(1) as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any substance abuse treatment benefits; or

''(2) to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(c) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (and group

health insurance coverage offered in connection with a group health plan) for any plan year of a small employer.

''(2) SMALL EMPLOYER.—For purposes of paragraph (1), the term 'small employer' means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least 2 but not more than 25 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(3) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection:

''(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

''(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

''(e) DEFINITIONS.—For purposes of this section:

''(1) TREATMENT LIMITATION.—The term 'treatment limitation' means, with respect to benefits under a group health plan or health insurance coverage, any day or visit limits imposed on coverage of benefits under the plan or coverage during a period of time.

''(2) FINANCIAL REQUIREMENT.—The term 'financial requirement' means, with respect to benefits under a group health plan or health insurance coverage, any deductible, coinsurance, or cost-sharing or an annual or lifetime dollar limit imposed with respect to the benefits under the plan or coverage.

''(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan or coverage (as the case may be), but does not include substance abuse treatment benefits.

''(4) SUBSTANCE ABUSE TREATMENT BENEFITS.—The term 'substance abuse treatment benefits' means benefits with respect to substance abuse treatment services.

''(5) SUBSTANCE ABUSE TREATMENT SERVICES.—The term 'substance abuse services' means any of the following items and services provided for the treatment of substance abuse:

''(A) Inpatient treatment, including detoxification.

''(B) Non-hospital residential treatment.

''(C) Outpatient treatment, including screening and assessment, medication management, individual, group, and family counseling, and relapse prevention.

''(D) Prevention services, including health education and individual and group counseling to encourage the reduction of risk factors for substance abuse.

''(6) SUBSTANCE ABUSE.—The term 'substance abuse' includes chemical dependency.''.

(B) CONFORMING AMENDMENT.—The table of contents for chapter 100 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 9812 the following new item:

''Sec. 9813. Parity in the application of treatment limitations and financial requirements to substance abuse treatment benefits.''.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–41 et seq.) is amended by inserting after section 2752 the following:

''SEC. 2753. PARITY IN THE APPLICATION OF TREATMENT LIMITATIONS AND FINANCIAL REQUIREMENTS TO SUBSTANCE ABUSE BENEFITS.

''(a) IN GENERAL.—The provisions of section 2707 (other than subsection (e)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 713(f) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.''.

(2) CONFORMING AMENDMENT.—Section 2762(b)(2) of the Public Health Service Act (42 U.S.C. 300gg–62(b)(2)) is amended by striking ''section 2751'' and inserting ''sections 2751 and 2753''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (3), the amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 2002.

(2) INDIVIDUAL MARKET.—The amendments made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 2002.

(3) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made subsection (a) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 2002.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by subsection (a) shall not be treated as a termination of such collective bargaining agreement.

(d) COORDINATED REGULATIONS.—Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by striking ''this subtitle (and the amendments made by this subtitle and section 401)'' and inserting ''the provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, and the provisions of parts A and C of title XXVII of the Public Health Service Act, and chapter 1000 of the Internal Revenue Code of 1986''.

SEC. 3. PREEMPTION.

Nothing in the amendments made by this Act shall be construed to preempt any provision of State law that provides protections to enrollees that are greater than the protections provided under such amendments.

By Mr. BINGAMAN (for himself, Mr. DASCHLE, Mr. AKAKA, Mr. BAUCUS, Mr. BREAUX, Ms. CANTWELL, Mr. DORGAN, Mr. LEAHY, Mr. REID, Mr. SCHUMER, Mr. KENNEDY, Mr. ROCKEFELLER, Mrs. MURRAY, and Mr. TORRICELLI):

S. 596. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the production and use of efficient energy sources, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. DASCHLE, Mr. AKAKA, Mr. BAUCUS, Mr. BREAUX, Ms. CANTWELL, Mr. DORGAN, Mr. LEAHY, Mr. REID, Mr. SCHUMER, Mr. KENNEDY, Mrs. MURRAY, Mr. ROCKEFELLER and Mr. TORRICELLI):

S. 597. A bill to provide for a comprehensive and balanced national energy policy; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today, I, along with many of my colleagues in the Senate, members of the Democratic caucus, have introduced two bills: the Comprehensive and Balanced Energy Policy Act of 2001, and its companion measure, the Energy Security and Tax Incentive Act of 2001. I expect the first of those will be referred to the Committee on Energy and Natural Resources and the other will be referred to the Committee on Finance because it does contain tax provisions.

Mr. President, the Nation is facing important challenges to its energy future. For decades, we have been able to rely on the fact that our energy supplies were abundant, dependable, and affordable. Events in recent months have shaken the faith of many in that reliance. Volatile prices, high prices and outright failures of supply are reported in newspaper headlines almost daily.

Why are we seeing these problems emerge now? Energy prices remained relatively stable over the last decade due to increased productivity, lower energy use per dollar of GDP, and introduction of market competition. All of these factors acted to hold down prices, in spite of robust economic growth and increasing demand for energy. Before the introduction of competition into energy markets we had policies that required large excess capacity margins. We paid a lot for that excess capacity in the past, but we also benefitted from that buffer. It kept the system functioning as markets restructured with low prices and relatively minor bumps along the way. As the economic growth of recent years has used up that excess capacity in the fuels, power and natural gas sectors, the frictions and imperfections in those markets have become apparent. That is what we are seeing today.

Three weeks ago, when Senator MURKOWSKI, Chairman of the Energy Committee on which I serve, introduced the Republican energy message bill, I gave an outline of what I thought should be included in comprehensive energy legislation for the Congress to put together a balanced and adequate response to the energy issues that confront the Nation.

At that time I said that I strongly believed that a package with equal emphasis on both supply and demand side measures developed with bipartisan support is the only way we can pass energy legislation this Congress.

The key word is balance. The bill introduced by my Republican colleague is strong on the supply side and I support many of its provisions but short on the demand side of the equation. Many provisions of the Republican package I support, as do a number of my Democratic colleagues.

However, after reviewing that bill overall, I believe it is appropriate to introduce a countermeasure, a measure that addresses our energy needs as I see it in a more balanced and comprehensive way. This will help our discussion for final legislation in this area and help focus in on what the priorities need to be as we move forward.

The first of the issues left out of the Republican bill for any real consideration was the issue of climate change. In 1992, the Senate ratified the Rio Treaty calling for a reduction in carbon dioxide emissions to 1990 levels by the year 2000. I know some in this body do not believe we should have acted to approve that treaty, but we did. Last year, instead of reaching those 1990 levels by the year 2000, we were 17 percent above those levels.

We and the rest of the world have recognized the vital importance of preventing the potential for catastrophic climate change, that our human activities are, in fact, threatening. We have made commitments, but we have not met those commitments. We need to do so, not as some isolated exercise undertaken without regard to the economy, but as an integral part of our energy policy for the 21st century.

In my view, we cannot separate climate change policy from energy policy. To do one is to inextricably affect the other. The policy bill I am introducing creates a bipartisan national commission on energy and climate change to be appointed by this President and to conduct a study of measures that could achieve stabilization of greenhouse gas emissions in this country at 1990 levels by the year 2010—and below 1990 levels by the year 2020.

The commission would then develop recommendations concerning measures appropriate for implementation, for legislation, and for administrative action to implement this goal.

There are some who believe we should be looking at even deeper cuts to our emissions than to return to 1990 levels by 2010. I have some sympathy for that perspective. But if we are to take a bipartisan approach to the task of integrating climate change policy with energy policy, it is more realistic to start with a point that the Senate is on record as agreeing to. Most Members who were here at the time the vote occurred in 1992 on the Rio Treaty believe that commitment to go to 1990 levels by the year 2000, although on a voluntary basis, was a good-faith and reasonable commitment.

I believe there should not be objection to reaching that same goal given an extra 10 years in which to achieve it. The answer to how we get to this point may help illuminate the issues of what more aggressive actions are needed to reduce greenhouse gas emissions. The bill I am introducing calls for a much more vigorous effort by the U.S. Government to get U.S. clean energy technology into developing countries that are expected to experience major increases in their greenhouse gas emissions over the next decade.

The United States cannot solve the greenhouse gas problem by itself, and we all know that. Other countries need to do their part. But since our particular strength in this country has been the development of technology, we should be making every effort to help those developing countries adopt the cleanest technologies in each energy area that we have to offer.

It makes good business sense, it makes good climate sense, and the appropriate Federal agencies should help facilitate the process.

Another missing element in the Republican bill is the area of how to site energy infrastructure. There has been a lot of talk about the problem, but not much action beyond finger-pointing in this area. I believe we need to recognize the wisdom of the old Pogo adage, ''We have met the enemy and he is us.'' Even communities that are experiencing energy crunches are having trouble siting new energy infrastructure because of local sentiment against it. This is not principally a problem with environmental regulations, as some would suggest. It is NIMBY—''not in my backyard''—pure and simple.

If we are to effectively deal with this siting problem, we will need new tools and models. One that I think is particularly promising is regional cooperation, partly because most energy markets are regional. For example, as technologies for transmitting electricity have improved, electric utilities have come more and more to depend on the wholesale market for electricity supply. Those markets are increasingly regional in scope.

A similar picture can be painted for the natural gas market. In order to meet the challenges of these new market realities, we must change the regulatory institutions to reflect the structures of the market. The markets are regional. So we must think regionally.

We have seen regional bodies help site other important societal infrastructure, such as highways. But if a similar construct is to be helpful in the energy area, there will be a great need for technical assistance and for a regular forum where regional leaders and decision makers in Federal agencies can meet to discuss the real issues and problems. For that reason, the bill I am introducing has provisions that have the DOE meet these needs.

I realize that this is a small beginning, but I believe this is an important piece of this bill. I know that a number of States, particularly in the West and the Northeast, as well as other regions, are already engaged in varying degrees of cooperative effort to address the regionalization of energy markets. I look forward to working with the States, and with Federal agencies to develop a framework to support these efforts.

The bill that I am introducing requires a review of the adequacy of FERC transmission policies and its interpretation of market power. It calls for an investigation of the possibility using existing rights-of-way owned by Federal Power Marketing agencies for siting energy facilities.

As the electricity industry has changed, the structure for assuring the reliability of the power grid has come under fire. Many in the industry and the regulatory community believe that the old system of self-policing, voluntary compliance with rules generated by the suppliers will not continue to provide the reliability that we have come to expect.

Last year the Senate passed a bill that addressed this issue by creating a new entity to develop and enforce electric reliability rules. I have included that bill as part of this package, and the text is identical to what was included in the Republican bill I mentioned earlier.

This bill also contains a number of provisions intended to provide additional protection for electricity consumers. Among these are protections against such unfair trade practices as slamming and cramming; encouragement to the States to ensure universal and affordable service; a rural construction grant program; a comprehensive Indian energy program; greater transparency of information on the availability transmission and generating capacity; and a public benefits fund to help States with various energy efficiency, renewable energy and low income energy programs and to support investments in climate change mitigation.

Perhaps most importantly, this bill contains language to address the immediate crisis being experienced by California, both in terms of electricity and natural gas. We cannot ignore the problem of California, or simply sit back and give speeches heaping blame on their politicians and then think that we've done our job. The motto carved in stone over the desk of the Presiding Officer in this Chamber is ''E Pluribus Unum,'' or, ''Out of Many, One.'' A more colloquial version of that might be, ''We're all in this together.''

The market in California for electricity and gas is broken in several respects. In the two hearings we have held before the Committee on Energy and Natural Resources, it is clear that the prices received by many generators are far above the cost of production. It is also clear that market signals are not getting through to consumers. The provisions of this bill, which I have inserted at the request of Senator FEINSTEIN, take on both of those issues. These provisions to help Californians deserve full and careful attention by the Senate, because this issue is worsening as we speak.

One of the best ways to protect against market volatility in energy is to diversify supply sources. I believe that much can be done to increase energy supplies from traditional resources, and the bills that I am introducing, taken together have a robust mix of tax and policy provisions to see that we continue to develop our domestic energy resources effectively. Of particular importance are countercyclical tax measures that kick in when prices fall to very low levels, so that new domestic production does not come to a standstill. If we can even out some of the boom-and-bust quality of our domestic oil and gas drilling, we will maintain both the production and the skilled labor force in oil and natural gas exploration and production that this country needs.

The bill that I am introducing does not open ANWR to oil and gas drilling. I find it ironic that, at the same time the President is seeking to open up ANWR a wildlife refuge, he is being importuned by his brother, the Governor of Florida, to put a large and promising tract in the deepwater Gulf of Mexico off limits to oil and gas leasing. The policy bill that I am introducing today mandates that the lease sale go forward on its current schedule.

Let me just make reference to that with this chart. This chart shows the area at issue. It is called the Sale 181 area. As you can see most of it is over 100 miles from Florida:

It is this area fully 100 miles from Florida we believe should be offered for development without hesitation. It is scheduled for December, and we do not believe it is good public policy for us to back away from developing resources in an area where we have a demonstrated history of safe and environmentally sensitive development. This area in the deepwater should be made available for leasing and exploration, and we believe it will be if this legislation becomes law.

Although the Democratic energy legislation does not open ANWR, it does take what I think is a meaningful step to make sure that the abundant natural gas in Alaska, which is produced around Prudhoe Bay, makes it to the lower 48 States where it is needed. The Democratic energy tax bill contains a tax incentive for any Alaskan gas that enters interstate commerce before January 1, 2009. This should be a significant inducement to producers to get the various proposals for pipelines between Alaska and the lower 48 sorted out, and to start building a pipeline to bring that gas to our markets as soon as possible.

In addition to traditional energy sources, both bills that I am introducing encourage alternative energy supplies. This bill gives a great deal of attention to renewable resources, such as wind, solar, geothermal, biomass, hydroelectric and other renewable generation options, as well as encouraging development and deployment of fuel cells, distributed generation and combined heating and power facilities. We require Federal energy facilities to set the example by meeting targets for percentages of their electricity supply to be derived from renewable resources. We also require that the rules for interconnection of electricity customers who self-generate, especially with renewable resources, be spelled out and made equitable. The bill would ease access to the transmission system for intermittent sources such as wind generators.

That is a brief summary of what the Democratic bill does on energy supply. But, as I mentioned in the beginning of my remarks, this bill balances its emphasis on supply with a strong emphasis on demand reduction and efficiency.

Increasing the efficient use of energy is the single most effective and least-cost energy policy for the short term and long term. Just yesterday, the Wall Street Journal ran an article titled ''States Rediscover Energy Policies''.

Mr. President, I ask unanimous consent, following my remarks, to have printed in the RECORD this article from yesterday's issue of the Wall Street Journal.

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

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, the focus of the article is the fact that overall the last decade a number of States reduced their commitments to energy efficiency at a cost of 15,000 megawatts in power savings, and that now many States, through the National Association of State Energy Officials, are refocusing their attention on energy efficiency—the easiest and least cost source of energy.

Energy-efficient lighting, appliances, and buildings generate benefits in terms of energy savings, emission reductions and human health improvements. Improvements to installation practices for heating and cooling systems, including duct-work, could take considerable pressure off the power grid and natural gas supplies almost immediately.

We have included a number provisions that will help bring the next generation of ultra efficient appliances into the marketplace sooner. We would also establish a new program to make grants to local school districts to improve energy efficiency of school buildings and expand the use of renewable energy. Research has shown that better lighting, heating and cooling systems improve students' performance. We are urging the Secretary of Energy to work with energy-intensive industries to negotiate voluntary agreements to improve their energy intensity.

This bill also takes on the issue of energy efficiency in vehicles. That is a controversial issue. A lot has been said on this floor about the undesirability of depending on foreign sources of oil. But most of that oil goes into transportation fuel uses. If we're really serious about energy policy, climate policy, and national energy security, then we need to address vehicle fuel efficiency.

Hardly a speech is given on the Senate floor that does not talk about how unfortunate it is that our dependence on foreign oil continues to grow. We need to recognize what the main cause of that increased dependence is that we are consuming more and more petroleum in the transportation sector of our economy.

The top line on this chart shows the amount of consumption of petroleum in the transportation sector. This is up to the year 2000. Then you can see what is expected in the next 20 years with this enormous increase in the amount of petroleum going into our transportation sector.

The debate on fuel efficiency has often been sidetracked into a discussion of specific proposals to change the corporate average fuel economy, or CAFÉ standards. Disagreements on CAFÉ have kept us from making progress on fuel efficiency in this country at a huge cost to consumers and our economy.

At the same time, U.S.-based automobile manufacturers have entered into voluntary agreements with European countries to significantly increase the fuel efficiency of vehicles sold in Europe. While I recognize that there may be differences between Europe and the U.S., the concept of requiring a negotiation to see what can be done to further fuel efficiency in this country sounds like a reasonable idea to me. We ought to let the Department of Transportation take the lead, and authorize as much flexibility as possible in how an agreement is structured and what mechanisms are used to ensure the development of a vibrant market for fuel-efficient vehicles. That is exactly what this bill does on fuel efficiency does. It keeps the focus on the ultimate goal—how much petroleum gets consumed by light-duty vehicles. It allows consumption to grow slightly over the next few years, but requires implementation of policies that would cap the increase in fuel use in the light vehicle sector by the year 2008 by no more than 5 percent above the level of use in 2000. The effect of this proposal is to increase fuel efficiency by more than just closing the light truck ''loophole'' in the CAFÉ standards, while at the same time ensuring the light trucks needed by farmers, ranchers and

businesses are still available. The flexibility with respect to the mechanisms, but not the final result, will protect U.S. manufacturing jobs.

Let me show another chart that relates to this. The chart is entitled ''Potential Oil Supply From Arctic National Wildlife Refuge versus the Oil Savings From Improved Vehicle Fuel Economy.''

You can see the amount of oil supply anticipated from ANWR, according to the U.S. Geological Survey. It is this first column. If you double that, if you assume that estimate is wrong and double it, you get this volume.

Vehicle fuel economy by the year 2010 will yield a much greater savings to us in oil usage than we could possibly achieve by drilling in ANWR, and by the year 2020 there is absolutely no comparison, as I am sure this chart aptly demonstrates.

Beyond increases in vehicle fuel efficiency, this bill also seeks to relieve stress on our fuel system by studying how to move to regional or national fuel standards, so that there is more flexibility in the fuel delivery system to accommodate refinery shutdowns or pipeline problems. The bill would also require Federal fleet vehicles with alternative dual fuel capability to increase their use of the alternative fuel to 50 percent of the total use by 2003, and 75 percent by 2005. In addition, State highway agencies would be permitted to allow alternative fuel vehicles to use High Occupancy Vehicle lanes on highways, regardless of the number of passengers carried.

Along with the commitment to implementing available technologies must come a long-term commitment to development of new technologies. This bill would establish the framework for a comprehensive research, development and deployment program to reduce energy intensity by 1.9 percent per year through 2020, reduce total consumption by eight quadrillion Btu in 2020 and reduce total carbon dioxide emission from expected levels by 166 million tons per year by 2020.

This kind of commitment to a coordinated, comprehensive research and development program is essential if we are to meet the challenges that lie before us. One of the biggest disappointments of the new administration to date is its lack of attention to the importance of science and technology in general, and of energy R&D in particular. By all accounts, the new Bush administration is preparing to savage DOE energy technology programs, particularly in renewables and energy efficiency, in the detailed budget that it will be sending to the Congress in early April. I don't see how the administration can have a credible energy strategy at the same time that it is cutting energy R&D.

The bill that I am introducing recognizes that our energy future depends crucially on our ability to innovate to produce more energy, at lower cost, and to use the resulting energy more efficiently.

The Clinton administration—the previous administration— prepared a comprehensive plan for boosting energy research and development spending, but it could find very little support for that proposal in Congress. That was in 1997. We have taken that blueprint and we have updated it to reflect some of the past appropriations by the Congress. I believe that we have come up with a broad approach to boost research and development spending for energy efficiency and for every energy supply option that is on the table.

This bill also supports basic science that is related to energy that may lead to discoveries that could create entirely new energy technologies, such as happened when high-temperature superconductivity was discovered in the late 1980s. The Department of Energy's Office of Science has had a stagnant budget throughout the 1990s. We now see evidence that this lag negatively affected our productivity in basic areas such as chemistry, physics, and material sciences. The U.S. scientific productivity in these disciplines, which support both energy research and develpment as well as research and development in other high-tech areas, is markedly lower now than during the 1970s and 1980s. Many of us in Congress are talking about the need to double the budget for the National Institutes of Health. The administration is talking about that as well. I support doing that. But there is a similar national need to greatly increase our support for basic energy research and development. This effort to maintain research and development in this energy area is absolutely essential if Congress is going to do what needs to be done in this area.

Tax Policy. Along with the programs outlined above, we need to consider the use of tax incentives to encourage commercial activities that will meet the goals for increased efficiency and diversification of our energy supplies. To accomplish this we have included tax credits and incentives to accompany the policy programs that we have authorized, such as, stimulus for residential and commercial energy efficiency, renewable energy development, clean coal technology, and distributed generation. To complement these incentives and encourage further development of new traditional supplies we have also provided for tax incentives for heating fuels and storage and oil and gas production.

Mr. President, the lights went off again this week in California. We are all aware of that. Electricity bills throughout the West are causing businesses to shut down because they can't afford to operate. We are threatened with that in my own state of New Mexico. Citizens across the country have seen their gas bills double and in some cases triple the level they were a year ago. If you drive up to the gasoline pump you will see numbers that would have surprised and shocked you not too long ago. I think the citizens of this Nation know that the energy industries are in trouble, and that actually will mean trouble for them. We in Congress—we in Washington—need to respond.

This bill is an attempt to further the dialogue that has already begun in this Congress. Consider it as an outline. We need to hold hearings. We need to debate how best to respond. We need to develop a balanced response that takes advantage of all the options that are available to us. We can't supply our way out of this unfortunate circumstance. We can't just conserve our way out of it either. We must do both. I expect many changes in the content of this bill before we are finally finished. But this is a good beginning toward a comprehensive and balanced energy policy for the Nation.

Mr. President, I ask unanimous consent that the text of both bills be printed in the RECORD.

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

S. 596

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; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Energy Security and Tax Incentive Policy Act of 2001''.

(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.

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—ENERGY-EFFICIENT PROPERTY USED IN BUSINESS

Sec. 101. Credit for energy-efficient property used in business.

Sec. 102. Energy Efficient Commercial Building Property Deduction.

Sec. 103. Credit for energy-efficient appliances.

TITLE II—RESIDENTIAL ENERGY SYSTEMS

Sec. 201. Business credit for construction of new energy-efficient home.

Sec. 202. Credit for energy efficiency improvements to existing homes.

Sec. 203. Credit for residential solar, wind, and fuel cell energy property.

TITLE III—ELECTRICITY FACILITIES AND PRODUCTION

Sec. 301. Incentive for Distributed Generation.

Sec. 302. Modifications to credit for electricity produced from renewable and waste resources.

Sec. 303. Treatment of facilities using bagasse to produce energy as solid waste disposal facilities eligible for tax-exempt financing.

Sec. 304. Depreciation of property used in the transmission of electricity.

TITLE IV—INCENTIVES FOR EARLY COMMERCIAL APPLICATIONS OF ADVANCED CLEAN COAL TECHNOLOGIES

Sec. 401. Credit for investment in qualifying advanced clean coal technology.

Sec. 402. Credit for production from qualifying advanced clean coal technology.
Sec. 403. Risk pool for qualifying advanced clean coal technology.
TITLE V—HEATING FUELS AND STORAGE
Sec. 501. Full expensing of propane storage facilities.
Sec. 502. Arbitrage rules not to apply to prepayments for natural gas and other commodities.
Sec. 503. Private loan financing test not to apply to prepayments for natural gas and other commodities.
TITLE VI—OIL AND GAS PRODUCTION AND PETROLEUM PRODUCTS
Sec. 601. Credit for production of re-refined lubricating oil.
Sec. 602. Oil and gas from marginal wells.
Sec. 603. Deduction for delay rental payments.
Sec. 604. Election to expense geological and geophysical expenditures.
Sec. 605. Gas pipelines treated as 7-year property.
Sec. 606. Crude oil and natural gas development credit.
Sec. 607. Credit for capture of coalmine methane gas.
Sec. 608. Allocation of alcohol fuels credit to patrons of a cooperative.
Sec. 609. Extension of credit for producing fuel from a nonconventional source.

TITLE I—ENERGY-EFFICIENT PROPERTY USED IN BUSINESS

SEC. 101. CREDIT FOR CERTAIN ENERGY-EFFICIENT PROPERTY USED IN BUSINESS.

(a) IN GENERAL.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following:

"SEC. 48A. ENERGY CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the energy credit for any taxable year is the energy percentage of the basis of each energy property placed in service during such taxable year.

''(b) ENERGY PERCENTAGE.—

''(1) IN GENERAL.—The energy percentage is—

''(A) except as otherwise provided in this subparagraph, 10 percent,

''(B) in the case of energy property described in clauses (i), (iii), and (vi) of subsection (c)(1)(A), 20 percent,

''(C) in the case of energy property described in subsection (c)(1)(A)(v), 15 percent,

''(D) in the case of energy property described in subsection (c)(1)(A)(ii) relating to a high risk geothermal well, 20 percent, and

''(E) in the case of energy property described in subsection (c)(1)(A)(vii), 30 percent.

''(2) COORDINATION WITH REHABILITATION.—The energy percentage shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

''(c) ENERGY PROPERTY DEFINED.—

''(1) IN GENERAL.—For purposes of this subpart, the term 'energy property' means any property—

''(A) which is—

''(i) solar energy property,

''(ii) geothermal energy property,

''(iii) energy-efficient building property other than property described in clauses (iii)(I) and (v)(I) of subsection (d)(3)(A),

''(iv) combined heat and power system property,

''(v) low core loss distribution transformer property,

''(vi) qualified anaerobic digester property, or

''(vii) qualified wind energy systems equipment property,

''(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

''(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer.

''(C) which can reasonably be expected to remain in operation for at least 5 years,

''(D) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

''(E) which meets the performance and quality standards (if any) which—

''(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

''(ii) are in effect at the time of the acquisition of the property.

''(2) EXCEPTIONS.—

''(A) PUBLIC UTILITY PROPERTY.—Such term shall not include any property which is public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), except for property described in paragraph (1)(A)(iv).

''(B) CERTAIN WIND EQUIPMENT.—Such term shall not include equipment described in paragraph (1)(A)(vii) which is taken into account for purposes of section 45 for the taxable year.

''(d) DEFINITIONS RELATING TO TYPES OF ENERGY PROPERTY.—For purposes of this section—

''(1) SOLAR ENERGY PROPERTY.—

''(A) IN GENERAL.—The term 'solar energy property' means equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat.

''(B) SWIMMING POOLS, ETC. USED AS STORAGE MEDIUM.—The term 'solar energy property' shall not include property with respect to which expenditures are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage.

''(C) SOLAR PANELS.—No solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as solar energy property solely because it constitutes a structural component of the structure on which it is installed.

''(2) GEOTHERMAL ENERGY PROPERTY.—

''(A) IN GENERAL.—The term 'geothermal energy property' means equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage.

''(B) HIGH RISK GEOTHERMAL WELL.—The term 'high risk geothermal well' means a geothermal deposit (within the meaning of section 613(e)(2)) which requires high risk drilling techniques. Such deposit may not be located in a State or national park or in an area in which the relevant State park authority or the National Park Service determines the development of such a deposit will negatively impact on a State or national park.

''(3) ENERGY-EFFICIENT BUILDING PROPERTY.—

''(A) IN GENERAL.—The term 'energy-efficient building property' means—

''(i) a fuel cell which—

''(I) generates electricity using an electrochemical process,

''(II) has an electricity-only generation efficiency greater than 30 percent, and

''(III) has a minimum generating capacity of 2 kilowatts,

''(ii) an electric heat pump hot water heater which yields an energy factor of 1.7 or greater under test procedures prescribed by the Secretary of Energy,

''(iii)(I) an electric heat pump which has a heating system performance factor (HSPF) of at least 8.5 but less than 9 and a cooling seasonal energy efficiency ratio (SEER) of at least 13.5 but less than 15,

''(II) an electric heat pump which has a heating system performance factor (HSPF) of 9 or greater and a cooling seasonal energy efficiency ratio (SEER) of 15 or greater,

''(iv) a natural gas heat pump which has a coefficient of performance of not less than 1.25 for heating and not less than 0.70 for cooling,

''(v)(I) a central air conditioner which has a cooling seasonal energy efficiency ratio (SEER) of at least 13.5 but less than 15,

''(II) a central air conditioner which has a cooling seasonal energy efficiency ratio (SEER) of 15 or greater,

''(vi) an advanced natural gas water heater which—

''(I) increases steady state efficiency and reduces standby and vent losses, and

''(II) has an energy factor of at least 0.65,

''(vii) an advanced natural gas furnace which achieves a 90 percent AFUE and rated for seasonal electricity use of less than 300 kWh per year, and

''(viii) natural gas cooling equipment which meets all applicable standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and which—

''(I) has a coefficient of performance of not less than .60, or

''(II) uses desiccant technology and has an efficiency rating of not less than 50 percent.

''(B) LIMITATIONS.—The credit under subsection (a) for the taxable year may not exceed—

''(i) $500 in the case of property described in subparagraph (A) other than clauses (i), (iv), and (viii) thereof,

''(ii) $500 for each kilowatt of capacity in the case of any fuel cell described in subparagraph (A)(i),

''(iii) $1,000 in the case of any natural gas heat pump described in subparagraph (A)(iv), and

''(iv) $150 for each ton of capacity in the case of any natural gas cooling equipment described in subparagraph (A)(viii).

''(4) COMBINED HEAT AND POWER SYSTEM PROPERTY.—

''(A) IN GENERAL.—The term 'combined heat and power system property' means property—

''(i) comprising a system for the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with steam, heat, or other forms of useful energy,

''(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

''(iii) which produces—

''(I) at least 20 percent of its total useful energy in the form of thermal energy, and

''(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or a combination thereof), and

''(iv) the energy efficiency percentage of which exceeds—

''(I) 60 percent in the case of a system with an electrical capacity of less than 1 megawatt),

''(II) 65 percent in the case of a system with an electrical capacity of not less than 1 megawatt and not in excess of 50 megawatts), and

''(III) 70 percent in the case of a system with an electrical capacity in excess of 50 megawatts).

''(B) SPECIAL RULES.—

''(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

''(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and

''(II) the denominator of which is the lower heating value of the primary fuel source for the system.

''(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

''(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(iv) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), the taxpayer may only claim the credit under subsection (a)(1) if, with respect to such property, the taxpayer uses a normalization method of accounting.

''(5) LOW CORE LOSS DISTRIBUTION TRANSFORMER PROPERTY.—The term 'low core loss distribution transformer property' means a distribution transformer which has energy savings from a highly efficient core of at least 20 percent more than the average for power ratings reported by studies required under section 124 of the Energy Policy Act of 1992.

''(6) QUALIFIED ANAEROBIC DIGESTER PROPERTY.—The term 'qualified anaerobic digester property' means an anaerobic digester for manure or crop waste which achieves at least 65 percent efficiency measured in terms of the fraction of energy input converted to electricity and useful thermal energy.

''(7) QUALIFIED WIND ENERGY SYSTEMS EQUIPMENT PROPERTY.—The term 'qualified wind energy systems equipment property' means wind energy systems equipment with a turbine size of not more than 75 kilowatts rated capacity.

''(e) SPECIAL RULES.—For purposes of this section—

''(1) SPECIAL RULE FOR PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING OR INDUSTRIAL DEVELOPMENT BONDS.—

''(A) REDUCTION OF BASIS.—For purposes of applying the energy percentage to any property, if such property is financed in whole or in part by—

''(i) subsidized energy financing, or

''(ii) the proceeds of a private activity bond (within the meaning of section 141) the interest on which is exempt from tax under section 103, the amount taken into account as the basis of such property shall not exceed the amount which (but for this subparagraph) would be so taken into account multiplied by the fraction determined under subparagraph (B).

''(B) DETERMINATION OF FRACTION.—For purposes of subparagraph (A), the fraction determined under this subparagraph is 1 reduced by a fraction—

''(i) the numerator of which is that portion of the basis of the property which is allocable to such financing or proceeds, and

''(ii) the denominator of which is the basis of the property.

''(C) SUBSIDIZED ENERGY FINANCING.—For purposes of subparagraph (A), the term 'subsidized energy financing' means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy.

''(2) CERTAIN PROGRESS EXPENDITURE RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(f) APPLICATION OF SECTION.—

''(1) IN GENERAL.—Except as provided by paragraph (2), this section shall apply to property placed in service after December 31, 2001, and before January 1, 2009.

''(2) EXCEPTIONS.—

''(A) SOLAR ENERGY AND GEOTHERMAL ENERGY PROPERTY.—Paragraph (1) shall not apply to solar energy property or geothermal energy property.

''(B) CERTAIN ELECTRIC HEAT PUMPS AND CENTRAL AIR CONDITIONERS.—In the case of property which is described in subsection (d)(3)(A)(iii)(I) or (d)(3)(A)(v)(I), this section shall apply to property placed in service after December 31, 2001, and before January 1, 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 48 is amended to read as follows:

''SEC. 48. REFORESTATION CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the reforestation credit for any taxable year is 20 percent of the portion of the amortizable basis of any qualified timber property which was acquired during such taxable year and which is taken into account under section 194 (after the application of section 194(b)(1)).

''(b) DEFINITIONS.—For purposes of this subpart, the terms 'amortizable basis' and 'qualified timber property' have the respective meanings given to such terms by section 194.''.

(2) Section 39(d) is amended by adding at the end the following:

''(10) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit determined under section 48A may be carried back to a taxable year ending before January 1, 2002.''.

(3) Section 280C is amended by adding at the end the following:

''(d) CREDIT FOR ENERGY PROPERTY EXPENSES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the expenses for energy property (as defined in section 48A(c)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 48A(a).

''(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

''(A) the amount of the credit allowable for the taxable year under section 48A (determined without regard to section 38(c)), exceeds

''(B) the amount allowable as a deduction for the taxable year for expenses for energy property (determined without regard to paragraph (1)), the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

''(3) CONTROLLED GROUPS.—Paragraph (3) of subsection (b) shall apply for purposes of this subsection.''.

(4) Section 29(b)(3)(A)(i)(III) is amended by striking 'section 48(a)(4)(C)' and inserting 'section 48A(e)(1)(C)'.

(5) Section 50(a)(2)(E) is amended by striking 'section 48(a)(5)' and inserting 'section 48A(e)(2)'.

(6) Section 168(e)(3)(B) is amended—

(A) by striking clause (vi)(I) and inserting the following:

''(I) is described in paragraph (1) or (2) of section 48A(d) (or would be so described if 'solar and wind' were substituted for 'solar' in paragraph (1)(B)),'', and

(B) in the last sentence by striking ''section 48(a)(3)'' and inserting ''section 48A(c)(2)(A)''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 48 and inserting the following:

''Sec. 48. Reforestation credit.
''Sec. 48A. Energy credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2001, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 102. ENERGY-EFFICIENT COMMERCIAL BUILDING PROPERTY DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following:

''SEC. 199. ENERGY-EFFICIENT COMMERCIAL BUILDING PROPERTY.

''(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year an amount equal to the energy-efficient commercial building property expenditures made by a taxpayer for the taxable year.

''(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy-efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

''(1) $2.25, and

''(2) the square footage of the building with respect to which the expenditures are made.

''(c) YEAR DEDUCTION ALLOWED.—The deduction under subsection (a) shall be allowed in the taxable year in which the construction of the building is completed.

''(d) ENERGY-EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'energy-efficient commercial building property expenditures' means an amount paid or incurred for energy-efficient commercial building property installed on or in connection with new construction or reconstruction of property—

''(A) for which depreciation is allowable under section 167,

''(B) which is located in the United States, and

''(C) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1–1999 (described in paragraph (3)).

''(2) LABOR COSTS INCLUDED.—Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(3) ENERGY EXPENDITURES EXCLUDED.—Such term does not include any expenditures taken into account in determining any credit allowed under section 48A.

''(e) ENERGY-EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of subsection (d)—

''(1) IN GENERAL.—The term 'energy-efficient commercial building property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by

50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1–1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subparagraph (B) and certified by qualified professionals as provided under paragraph (6).

''(2) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of the 1998 California Nonresidential ACM Manual. These procedures shall meet the following requirements:

''(A) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage.

''(B) The calculational methodology shall require that compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that either—

''(i) the expenses taken into account under paragraph (1) shall not occur until the date designs for all energy-using systems of the building are completed, or

''(ii) the expenses taken into account under paragraph (1) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with subparagraph (C), and the energy performance of all systems and components not yet designed shall be assumed to comply minimally with the requirements of such Standard 90.1–1999.

''(C) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating system, and the lighting system shall be allocated to the appropriate building subsystem based on system-specific energy cost savings targets in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

''(D) The calculational methods under this paragraph need not comply fully with section 11 of such Standard 90.1–1999.

''(E) The calculational methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this section regardless of whether the heating source is a gas or oil furnace or an electric heat pump.

''(F) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such Standard 90.1–1999 or in the 1998 California Nonresidential ACM Manual, including the following:

''(i) Natural ventilation.

''(ii) Evaporative cooling.

''(iii) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

''(iv) Daylighting.

''(v) Designs utilizing semi-conditioned spaces which maintain adequate comfort conditions without air conditioning or without heating.

''(vi) Improved fan system efficiency, including reductions in static pressure.

''(vii) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

''(viii) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance which exceeds typical performance.

''(3) COMPUTER SOFTWARE.—

''(A) IN GENERAL.—Any calculation under this subsection shall be prepared by qualified computer software.

''(B) QUALIFIED COMPUTER SOFTWARE.—For purposes of this paragraph, the term 'qualified computer software' means software—

''(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

''(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

''(iii) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

''(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy-efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

''(5) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(B)(iii).

''(6) CERTIFICATION.—

''(A) IN GENERAL.—Except as provided in this paragraph, the Secretary, in consultation with the Secretary of Energy, shall establish requirements for certification and compliance procedures similar to the procedures under section 45F(d).

''(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

''(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

''(f) TERMINATION.—This section shall not apply with respect to any energy-efficient commercial building property expenditures in connection with property—

''(1) the plans for which are not certified under subsection (e)(6) on or before December 31, 2006, and

''(2) the construction of which is not completed on or before December 31, 2008.''.

(b) CONFORMING AMENDMENTS.—Section 1016(a) is amended by striking ''and'' at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting '', and'', and by inserting the following:

''(28) for amounts allowed as a deduction under section 199(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following:

''Sec. 199. Energy-efficient commercial building property.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 103. CREDIT FOR ENERGY-EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following:

''SEC. 45E. ENERGY-EFFICIENT APPLIANCE CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the energy-efficient appliance credit determined under this section for the taxable year is an amount equal to the applicable amount determined under subsection (b) with respect to qualified energy-efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a), the applicable amount determined under this subsection with respect to a taxpayer is the sum of—

''(1) in the case of an energy-efficient clothes washer described in subsection (d)(2)(A) or an energy-efficient refrigerator described in subsection (d)(3)(B)(i), an amount equal to—

''(A) $50, multiplied by

''(B) the number of such washers and refrigerators produced by the taxpayer during such calendar year, and

''(2) in the case of an energy-efficient clothes washer described in subsection (d)(2)(B) or an energy-efficient refrigerator described in subsection (d)(3)(B)(ii), an amount equal to—

''(A) $100, multiplied by

''(B) the number of such washers and refrigerators produced by the taxpayer during such calendar year.

''(c) LIMITATION ON MAXIMUM CREDIT.—

''(1) IN GENERAL.—The maximum amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall be—

''(A) $30,000,000 with respect to the credit determined under subsection (b)(1), and

''(B) $30,000,000 with respect to the credit determined under subsection (b)(2).

''(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

''(3) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

''(d) QUALIFIED ENERGY-EFFICIENT APPLIANCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified energy-efficient appliance' means—

''(A) an energy-efficient clothes washer, or

''(B) an energy-efficient refrigerator.

''(2) ENERGY-EFFICIENT CLOTHES WASHER.—The term 'energy-efficient clothes washer' means a residential clothes washer, including a residential style coin operated washer, which is manufactured with—

''(A) a 1.26 Modified Energy Factor (referred to in this paragraph as 'MEF') (as determined by the Secretary of Energy), or

''(B) a 1.42 MEF (as determined by the Secretary of Energy) (1.5 MEF for calendar years beginning after 2004).

''(3) ENERGY-EFFICIENT REFRIGERATOR.—The term 'energy-efficient refrigerator' means an automatic defrost refrigerator-freezer which—

''(A) has an internal volume of at least 16.5 cubic feet, and

''(B) consumes—

''(i) 10 percent less kWh per year than the energy conservation standards promulgated by the Department of Energy for such refrigerator for 2001, or

''(ii) 15 percent less kWh per year than such energy conservation standards.

''(e) SPECIAL RULES.—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

''(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as one person for purposes of subsection (a).

''(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

''(g) TERMINATION.—This section shall not apply—

''(1) with respect to energy-efficient refrigerators described in subsection (d)(3)(B)(i) produced in calendar years beginning after 2005, and

''(2) with respect to all other qualified energy-efficient appliances produced in calendar years beginning after 2007.''.

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by section 101(b)(2), is amended by adding at the end the following:

''(11) NO CARRYBACK OF ENERGY-EFFICIENT APPLIANCE CREDIT BEFORE 2002.—No portion of the unused business credit for any taxable year which is attributable to the energy-efficient appliance credit determined under section 45E may be carried to a taxable year beginning before January 1, 2002.''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable), as amended by section 102(b)(3), is amended by adding at the end the following:

''(e) CREDIT FOR ENERGY-EFFICIENT APPLIANCE EXPENSES.—No deduction shall be allowed for that portion of the expenses for qualified energy-efficient appliances (as defined in section 45E(d)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45E(a).''.

(d) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', plus'', and by adding at the end the following:

''(14) the energy-efficient appliance credit determined under section 45E(a).''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45D the following:

''Sec. 45E. Energy-efficient appliance credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

TITLE II—RESIDENTIAL ENERGY SYSTEMS

SEC. 201. CREDIT FOR CONSTRUCTION OF NEW ENERGY-EFFICIENT HOME.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 103(a), is amended by inserting after section 45E the following:

''SEC. 45F. NEW ENERGY-EFFICIENT HOME CREDIT.

''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy-efficient property installed in a qualified new energy-efficient home during construction of such home.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

''(A) IN GENERAL.—The credit allowed by this section with respect to a dwelling shall not exceed—

''(i) in the case of a dwelling described in subsection (c)(3)(D)(i), $1,500, and

''(ii) in the case of a dwelling described in subsection (c)(3)(D)(ii), $2,500.

''(B) PRIOR CREDIT AMOUNTS ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount under clause (i) or (ii) (as the case may be), reduced by the sum of the credits allowed under subsection (a) with respect to the dwelling for all prior taxable years.

''(2) COORDINATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—

''(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)) or to the energy percentage of energy property (as determined under section 48A(a)), and

''(B) expenditures taken into account under either section 47 or 48A(a) shall not be taken into account under this section.

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

''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means the person who constructed the new energy-efficient home, or in the case of a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280), the manufactured home producer of such home.

''(2) ENERGY-EFFICIENT PROPERTY.—The term 'energy-efficient property' means any energy-efficient building envelope component, and any energy-efficient heating or cooling equipment which can, individually or in combination with other components, meet the requirements of this section.

''(3) QUALIFIED NEW ENERGY-EFFICIENT HOME.—The term 'qualified new energy-efficient home' means a dwelling—

''(A) located in the United States,

''(B) the construction of which is substantially completed after December 31, 2000,

''(C) the original use of which is as a principal residence (within the meaning of section 121) which commences with the person who acquires such dwelling from the eligible contractor, and

''(D) which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner which is at least—

''(i) 30 percent less than the annual level of heating and cooling energy consumption of a reference dwelling constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code, or

''(ii) 50 percent less than such annual level of heating and cooling energy consumption.

''(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

''(5) ACQUIRE.—The term 'acquire' includes purchase and, in the case of reconstruction and rehabilitation, such term includes a binding written contract for such reconstruction or rehabilitation.

''(6) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling when installed in or on such dwelling, and

''(B) exterior windows (including skylights) and doors.

''(7) MANUFACTURED HOME INCLUDED.—The term 'dwelling' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(d) CERTIFICATION.—

''(1) METHOD.—A certification described in subsection (c)(3)(D) shall be determined on the basis of 1 of the following methods:

''(A) A component-based method, using the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy-efficient building envelope component or energy-efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages that are equivalent in energy performance to properties that qualify under subparagraph (B).

''(B) An energy performance-based method that calculates projected energy usage and cost reductions in the dwelling in relation to a reference dwelling—

''(i) heated by the same energy source and heating system type, and

''(ii) constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.

Computer software shall be used in support of an energy performance-based method certification under subparagraph (B). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 1998 California Residential Alternative Calculation Method Approval Manual.

''(2) PROVIDER.—Such certification shall be provided by—

''(A) in the case of a method described in paragraph (1)(A), a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

''(B) in the case of a method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

''(3) FORM.—

''(A) IN GENERAL.—Such certification shall be made in writing in a manner that specifies in readily verifiable fashion the energy-efficient building envelope components and energy-efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and in the case of a method described in paragraph (1)(B), accompanied by written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

''(B) FORM PROVIDED TO BUYER.—A form documenting the energy-efficient building envelope components and energy-efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the dwelling. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and Solar Heat Gain Coefficient for windows, skylights, and doors, labeled AFUE ratings for furnaces and boilers, labeled HSPF ratings for electric heat pumps, and labeled SEER ratings for air conditioners.

''(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the dwelling, or shall be otherwise permanently displayed in a readily inspectable location in the dwelling.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for energy performance-based certification methods, the

Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

''(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a home to qualify for the credit under this section regardless of whether the dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(f) TERMINATION.—Subsection (a) shall apply to dwellings purchased during the period beginning on January 1, 2001, and ending on December 31, 2005.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit), as amended by section 103(d), is amended by striking ''plus'' at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting '', plus'', and by adding at the end the following:

''(15) the new energy-efficient home credit determined under section 45F.''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable), as amended by section 103(c), is amended by adding at the end the following:

''(f) NEW ENERGY-EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a new energy-efficient home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45F.''.

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

(1) IN GENERAL.—Subsection (c) of section 38 (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 NEW ENERGY EFFICIENT HOME CREDIT.—

''(A) IN GENERAL.—In the case of the new energy efficient home 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 new energy efficient home credit).

''(B) NEW ENERGY EFFICIENT HOME CREDIT.—For purposes of this subsection, the term 'new energy efficient home credit' means the credit allowable under subsection (a) by reason of section 45F.''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting ''or the new energy efficient home credit'' after ''employment credit''.

(e) LIMITATION ON CARRYBACK.—Subsection (d) of section 39, as amended by section 103(b), is amended by adding at the end the following:

''(12) NO CARRYBACK OF NEW ENERGY-EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45F may be carried back to any taxable year ending before January 1, 2001.''.

(f) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Subsection (c) of section 196 is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting '', and'', and by adding after paragraph (8) the following:

''(9) the new energy-efficient home credit determined under section 45F.''.

(g) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 103(d), is amended by inserting after the item relating to section 45E the following:

''Sec. 45F. New energy-efficient home credit.''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2000.

SEC. 202. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

''SEC. 25B. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling shall not exceed $2,000.

''(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $2,000 reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, or any combination of energy efficiency measures which achieves at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

''(1) such component or combinations of measures is installed in or on a dwelling—

''(A) located in the United States, and

''(B) owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(2) the original use of such component or combination of measures commences with the taxpayer, and

''(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

''(e) CERTIFICATION.—The certification described in subsection (d) shall be—

''(1) in the case of any component described in subsection (d), determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components,

''(2) in the case of combinations of measures described in subsection (d), determined by the performance-based methods described in section 45F(d),

''(3) provided by a third party, such as a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, consistent with the requirements of section 45F(d)(2), and

''(4) made in writing on forms which specify in readily inspectable fashion the energy-efficient components and other measures and their respective efficiency ratings, and which shall include a permanent label affixed to the electrical distribution panel as described in section 45F(d)(3)(C).

''(f) DEFINITIONS AND SPECIAL RULES.—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having paid his proportionate share of the cost of qualified energy efficiency improvements made by such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the

term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling, and

''(B) exterior windows (including skylights) and doors.

''(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(h) TERMINATION.—Subsection (a) shall apply to qualified energy efficiency improvements installed during the period beginning on the date of the enactment of this section and ending on December 31, 2005.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 23 is amended by inserting '', section 25B, and section 1400C'' after ''other than this section''.

(2) Subparagraph (C) of section 25(e)(1) is amended by striking ''section 23'' and inserting ''sections 23, 25B, and 1400C''.

(3) Subsection (d) of section 1400C is amended by inserting ''and section 25B'' after ''other than this section''.

(4) Subsection (a) of section 1016, as amended by section 102(b), is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ''; and'', and by adding at the end the following:

''(29) to the extent provided in section 25B(f), in the case of amounts with respect to which a credit has been allowed under section 25B.''.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following new item:

''Sec. 25B. Energy efficiency improvements to existing homes.''.

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

SEC. 203. CREDIT FOR RESIDENTIAL SOLAR, WIND, AND FUEL CELL ENERGY PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 201(a), is amended by inserting after section 25B the following:

''SEC. 25C. RESIDENTIAL SOLAR, WIND, AND FUEL CELL ENERGY PROPERTY.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) 15 percent of the qualified photovoltaic property expenditures,

''(2) 15 percent of the qualified solar water heating property expenditures,

''(3) 30 percent of the qualified wind energy property expenditures, and

''(4) 20 percent for the qualified fuel cell property expenditures,

made by the taxpayer during the taxable year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed under subsection (a)(2) shall not exceed $2,000 for each system of solar energy property.

''(2) TYPE OF PROPERTY.—No expenditure may be taken into account under this section unless such expenditure is made by the taxpayer for property installed on or in connection with a dwelling unit which is located in the United States and which is used as a residence.

''(3) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

''(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed, and

''(B) in the case of a photovoltaic, wind energy, or fuel cell property, such property meets appropriate fire and electric code requirements.

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

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property which uses solar energy to heat water for use in a dwelling unit with respect to which a majority of the energy is derived from the sun.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit.

''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

''(4) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in a dwelling unit.

''(5) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for property which uses an electrochemical fuel cell system to generate electricity for use in a dwelling unit.

''(6) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), or (5) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

''(7) ENERGY STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which such individual owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) JOINT OWNERSHIP OF ITEMS OF SOLAR OR WIND ENERGY PROPERTY.—

''(A) IN GENERAL.—Any expenditure otherwise qualifying as an expenditure described in paragraph (1), (2), or (4) of subsection (c) shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

''(B) LIMITS APPLIED SEPARATELY.—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

''(5) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of this paragraph, use for a swimming pool shall be treated as use which is not for residential purposes.

''(6) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

''(7) REDUCTION OF CREDIT FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—The rules of section 29(b)(3) shall apply for purposes of this section.

''(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of

such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(f) TERMINATION.—The credit allowed under this section shall not apply to taxable years beginning after December 31, 2011.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016, as amended by section 201(b)(4), is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting ''; and'', and by adding at the end the following:

''(30) to the extent provided in section 25C(e), in the case of amounts with respect to which a credit has been allowed under section 25C.''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 201(b)(2), is amended by inserting after the item relating to section 25B the following:

''Sec. 25C. Residential solar, wind, and fuel cell energy property.''.

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

TITLE III—ELECTRICITY FACILITIES AND PRODUCTION

SEC. 301. INCENTIVE FOR DISTRIBUTED GENERATION.

(a) DEPRECIATION OF DISTRIBUTED POWER PROPERTY.—

(1) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to 7-year property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following:

''(ii) any distributed power property, and''.

(2) 10-YEAR CLASS LIFE.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(i) the following:

''(C)(ii) ..... 10''.

(b) DISTRIBUTED POWER PROPERTY.—Section 168(i) is amended by adding at the end the following:

''(15) DISTRIBUTED POWER PROPERTY.—The term 'distributed power property' means property—

''(A) which is used in the generation of electricity for primary use—

''(i) in nonresidential real or residential rental property used in the taxpayer's trade or business, or

''(ii) in the taxpayer's industrial manufacturing process or plant activity, with a rated total capacity in excess of 500 kilowatts,

''(B) which also may produce usable thermal energy or mechanical power for use in a heating or cooling application, as long as at least 40 percent of the total useful energy produced consists of—

''(i) with respect to assets described in subparagraph (A)(i), electrical power (whether sold or used by the taxpayer), or

''(ii) with respect to assets described in subparagraph (A)(ii), electrical power (whether sold or used by the taxpayer) and thermal or mechanical energy used in the taxpayer's industrial manufacturing process or plant activity,

''(C) which is not used to transport primary fuel to the generating facility or to distribute energy within or outside of the facility, and

''(D) where it is reasonably expected that not more than 50 percent of the produced electricity will be sold to, or used by, unrelated persons.

For purposes of subparagraph (B), energy output is determined on the basis of expected annual output levels, measured in British thermal units (Btu), using standard conversion factors established by the Secretary.''.

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

SEC. 302. MODIFICATIONS TO CREDIT FOR ELECTRICITY PRODUCED FROM RENEWABLE AND WASTE PRODUCTS.

(a) INCREASE IN CREDIT RATE.—

(1) IN GENERAL.—Section 45(a)(1) is amended by striking ''1.5 cents'' and inserting ''1.8 cents''.

(2) CONFORMING AMENDMENTS.—

(A) Section 45(b)(2) is amended by striking ''1.5 cent'' and inserting ''1.8 cent''.

(B) Section 45(d)(2)(B) is amended by inserting ''(calendar year 2001 in the case of the 1.8 cent amount in subsection (a))'' after ''1992''.

(b) EXPANSION OF QUALIFIED RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) (relating to qualified energy resources) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following:

''(D) alternative resources.''.

(2) DEFINITION OF ALTERNATIVE RESOURCES.—Section 45(c) (relating to definitions) is amended—

(A) by redesignating paragraph (3) as paragraph (5),

(B) by redesignating paragraph (4) as paragraph (3), and

(C) by inserting after paragraph (3), as redesignated by subparagraph (B), the following:

''(4) ALTERNATIVE RESOURCES.—

''(A) IN GENERAL.—The term 'alternative resources' means—

''(i) solar,

''(ii) biomass (other than closed loop biomass),

''(iii) municipal solid waste,

''(iv) incremental hydropower,

''(v) geothermal,

''(vi) landfill gas, and

''(vii) steel cogeneration.

''(B) BIOMASS.—The term 'biomass' means any solid, nonhazardous, cellulosic waste material or any organic carbohydrate matter, which is segregated from other waste materials, and which is derived from—

''(i) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber,

''(ii) waste pallets, crates, dunnage, untreated wood waste from construction or manufacturing activities, and landscape or right-of-way tree trimmings, but not including unsegregated municipal solid waste or post-consumer wastepaper, or

''(iii) any of the following agriculture sources: orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues, including any packaging and other materials which are nontoxic and biodegradable and are associated with the processing, feeding, selling, transporting, and disposal of such agricultural materials.

''(C) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the same meaning given the term 'solid waste' under section 2(27) of the Solid Waste Utilization Act (42 U.S.C. 6903).

''(D) INCREMENTAL HYDROPOWER.—The term 'incremental hydropower' means additional generating capacity achieved from—

''(i) increased efficiency, or

''(ii) additions of new capacity,

at a licensed non-Federal hydroelectric project originally placed in service before the date of the enactment of this paragraph.

''(E) GEOTHERMAL.—The term 'geothermal' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage.

''(F) LANDFILL GAS.—The term 'landfill gas' means gas generated from the decomposition of any household solid waste, commercial solid waste, and industrial solid waste disposed of in a municipal solid waste landfill unit (as such terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.).

''(G) STEEL COGENERATION.—The term 'steel cogeneration' means the production of electricity and steam (or other form of thermal energy) from any or all waste sources defined in paragraphs (2) and (3) and subparagraphs (B) and (C) of this paragraph within an operating facility which produces or integrates the production of coke, direct reduced iron ore, iron, or steel provided that the cogeneration meets any regulatory energy-efficiency standards established by the Secretary, and only to the extent that such energy is produced from—

''(i) gases or heat generated from the production of metallurgical coke,

''(ii) gases or heat generated from the production of direct reduced iron ore or iron, from blast furnace or direct ironmaking processes, or

''(iii) gases or heat generated from the manufacture of steel.''.

(3) QUALIFIED FACILITY.—Section 45(c)(5) (defining qualified facility), as redesignated by paragraph 2(A), is amended by adding at the end the following:

''(D) ALTERNATIVE RESOURCES FACILITY.—

''(i) IN GENERAL.—Except as provided in clauses (ii), (iii), and (iv), in the case of a facility using alternative resources to produce electricity, the term 'qualified facility' means any facility of the taxpayer which is originally placed in service after the date of the enactment of this subparagraph.

''(ii) BIOMASS FACILITY.—In the case of a facility using biomass described in paragraph (4)(A)(ii) to produce electricity, the term 'qualified facility' means any facility of the taxpayer.

''(iii) GEOTHERMAL FACILITY.—In the case of a facility using geothermal to produce electricity, the term 'qualified facility' means any facility of the taxpayer which is originally placed in service after December 31, 1992.

''(iv) STEEL COGENERATION FACILITIES.—In the case of a facility using steel cogeneration to produce electricity, the term 'qualified facility' means any facility permitted to operate under the environmental requirements of the Clean Air Act Amendments of 1990 which is owned by the taxpayer and originally placed in service after the date of the enactment of this subparagraph. Such a facility may be treated as originally placed in service when such facility was last upgraded to increase efficiency or generation capability after such date.

''(v) SPECIAL RULES.—In the case of a qualified facility described in this subparagraph, the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.''.

(4) GOVERNMENT-OWNED FACILITY.—Section 45(d)(6) (relating to credit eligibility in the case of government-owned facilities using poultry waste) is amended—

(A) by inserting ''or alternative resources'' after ''poultry waste'', and

(B) by inserting ''OR ALTERNATIVE RESOURCES'' after ''POULTRY WASTE'' in the heading thereof.

(5) QUALIFIED FACILITIES WITH CO-PRODUCTION.—Section 45(b) (relating to limitations

and adjustments) is amended by adding at the end the following:

''(4) INCREASED CREDIT FOR CO-PRODUCTION FACILITIES.—

''(A) IN GENERAL.—In the case of a qualified facility described in subsection (c)(3)(D)(i) which has a co-production facility or a qualified facility described in subparagraph (A), (B), or (C) of subsection (c)(3) which adds a co-production facility after the date of the enactment of this paragraph, the amount in effect under subsection (a)(1) for an eligible taxable year of a taxpayer shall (after adjustment under paragraph (2) and before adjustment under paragraphs (1) and (3)) be increased by .25 cents.

''(B) CO-PRODUCTION FACILITY.—For purposes of subparagraph (A), the term 'co-production facility' means a facility which—

''(i) enables a qualified facility to produce heat, mechanical power, chemicals, liquid fuels, or minerals from qualified energy resources in addition to electricity, and

''(ii) produces such energy on a continuous basis.

''(C) ELIGIBLE TAXABLE YEAR.—For purposes of subparagraph (A), the term 'eligible taxable year' means any taxable year in which the amount of gross receipts attributable to the co-production facility of a qualified facility are at least 10 percent of the amount of gross receipts attributable to electricity produced by such facility.''.

(6) QUALIFIED FACILITIES LOCATED WITHIN QUALIFIED INDIAN LANDS.—Section 45(b) (relating to limitations and adjustments), as amended by paragraph (5), is amended by adding at the end the following:

''(5) INCREASED CREDIT FOR QUALIFIED FACILITY LOCATED WITHIN QUALIFIED INDIAN LAND.—In the case of a qualified facility described in subsection (c)(3)(D) which—

''(A) is located within—

''(i) qualified Indian lands (as defined in section 7871(c)(3)), or

''(ii) lands which are held in trust by a Native Corporation (as defined in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)) for Alaska Natives, and

''(B) is operated with the explicit written approval of the Indian tribal government or Native Corporation (as so defined) having jurisdiction over such lands,

the amount in effect under subsection (a)(1) for a taxable year shall (after adjustment under paragraphs (2) and (4) and before adjustment under paragraphs (1) and (3)) be increased by .25 cents.''.

(7) ELECTRICITY PRODUCED FROM CERTAIN RESOURCES CO-FIRED IN COAL PLANTS.—Section 45(d) (relating to definitions and special rules) is amended by adding at the end the following:

''(8) SPECIAL RULE FOR ELECTRICITY PRODUCED FROM CERTAIN RESOURCES CO-FIRED IN COAL PLANTS.—In the case of electricity produced from biomass (including closed loop biomass), municipal solid waste, or animal waste, co-fired in a facility which produces electricity from coal—

''(A) subsection (a)(1) shall be applied by substituting '1 cent' for '1.8 cents',

''(B) such facility shall be considered a qualified facility for purposes of this section, and

''(C) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this paragraph.''.

(8) CONFORMING AMENDMENTS.—

(A) The heading for section 45 is amended by inserting ''and waste energy'' after ''renewable''.

(B) The item relating to section 45 in the table of sections subpart D of part IV of subchapter A of chapter 1 is amended by inserting ''and waste energy'' after ''renewable''.

(c) ADDITIONAL MODIFICATIONS OF RENEWABLE AND WASTE ENERGY RESOURCE CREDIT.—

(1) CREDITS FOR CERTAIN TAX EXEMPT ORGANIZATIONS AND GOVERNMENTAL UNITS.—Section 45(d) (relating to definitions and special rules), as amended by subsection (b)(7), is amended by adding at the end the following:

''(9) CREDITS FOR CERTAIN TAX EXEMPT ORGANIZATIONS AND GOVERNMENTAL UNITS.—

''(A) ALLOWANCE OF CREDIT.—Any credit which would be allowable under subsection (a) with respect to a qualified facility of an entity if such entity were not exempt from tax under this chapter shall be treated as a credit allowable under subpart C to such entity if such entity is—

''(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(ii) an organization described in section 1381(a)(2)(C), or

''(iii) an entity the income of which is excludable from gross income under section 115.

''(B) USE OF CREDIT.—

''(i) TRANSFER OF CREDIT.—An entity described in subparagraph (A) may assign, trade, sell, or otherwise transfer any credit allowable to such entity under subparagraph (A) to any taxpayer.

''(ii) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of an entity described in clause (i) or (ii) of subparagraph (A), any credit allowable to such entity under subparagraph (A) may be applied by such entity, without penalty, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).

''(C) CREDIT NOT INCOME.—Neither a transfer under clause (i) or a use under clause (ii) of subparagraph (B) of any credit allowable under subparagraph (A) shall result in income for purposes of section 501(c)(12).

''(D) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by an entity described in subparagraph (A)(iii) from the transfer of any credit under subparagraph (B)(i) shall be treated as arising from an essential government function.

''(E) CREDITS NOT REDUCED BY TAX-EXEMPT BONDS OR CERTAIN OTHER SUBSIDIES.—Subsection (b)(3) shall not apply to reduce any credit allowable under subparagraph (A) with respect to—

''(i) proceeds described in subparagraph (A)(ii) of such subsection, or

''(ii) any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.),

used to provide financing for any qualified facility.

''(F) TREATMENT OF UNRELATED PERSONS.—For purposes of this paragraph, sales among and between entities described in subparagraph (A) shall be treated as sales between unrelated parties.''.

(2) COORDINATION WITH OTHER CREDITS.—Section 45(d), as amended by paragraph (1), is amended by adding at the end the following:

''(10) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any qualified facility with respect to which a credit under any other section is allowed for the taxable year unless the taxpayer elects to waive the application of such credit to such facility.''.

(3) EXPANSION TO INCLUDE ANIMAL WASTE.—Section 45 (relating to electricity produced from certain renewable resources), as amended by paragraphs (2) and (4) of subsection (b), is amended—

(A) by striking ''poultry'' each place it appears in subsection (c)(1)(C) and subsection (d)(6) and inserting ''animal'',

(B) by striking ''POULTRY'' in the heading of paragraph (6) of subsection (d) and inserting ''ANIMAL'',

(C) by striking paragraph (3) of subsection (c) and inserting the following:

''(3) ANIMAL WASTE.—The term 'animal waste' means poultry manure and litter and other animal wastes, including—

''(A) wood shavings, straw, rice hulls, and other bedding material for the disposition of manure, and

''(B) byproducts, packaging, and other materials which are nontoxic and biodegradable and are associated with the processing, feeding, selling, transporting, and disposal of such animal wastes.'', and

(D) by striking subparagraph (C) of subsection (c)(5) and inserting the following:

''(C) ANIMAL WASTE FACILITY.—

''(i) IN GENERAL.—Except as provided in clause (ii), in the case of a facility using animal waste (other than poultry) to produce electricity, the term 'qualified facility' means any facility of the taxpayer which is originally placed in service after the date of the enactment of this clause.

''(ii) POULTRY WASTE.—In the case of a facility using animal waste relating to poultry to produce electricity, the term 'qualified facility' means any facility of the taxpayer which is originally placed in service after December 31, 1999.''.

(4) TREATMENT OF QUALIFIED FACILITIES NOT IN COMPLIANCE WITH POLLUTION LAWS.—Section 45(c)(5) (relating to qualified facilities), as amended by paragraphs (2) and (3) of subsection (b), is amended by adding at the end the following:

''(E) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this paragraph, a facility which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified facility during such period.''.

(5) PERMANENT EXTENSION OF QUALIFIED FACILITY DATES.—Section 45(c)(5) (relating to qualified facility), as redesignated by subsection (b)(2), is amended by striking '', and before January 1, 2002'' in subparagraphs (A) and (B).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity and other energy produced after the date of the enactment of this Act.

SEC. 303. TREATMENT OF FACILITIES USING BAGASSE TO PRODUCE ENERGY AS SOLID WASTE DISPOSAL FACILITIES ELIGIBLE FOR TAX-EXEMPT FINANCING.

(a) IN GENERAL.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following:

''(k) SOLID WASTE DISPOSAL FACILITIES.—For purposes of subsection (a)(6), the term 'solid waste disposal facilities' includes property located in Hawaii and used for the collection, storage, treatment, utilization, processing, or final disposal of bagasse in the manufacture of ethanol.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 304. DEPRECIATION OF PROPERTY USED IN THE TRANSMISSION OF ELECTRICITY.

(a) DEPRECIATION OF PROPERTY USED IN THE TRANSMISSION OF ELECTRICITY.—

(1) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to 7-year property), as amended by section 301(a)(1), is amended by striking ''and'' at the end of clause (ii), by redesignating clause (iii) as clause (iv), and by inserting after clause (ii) the following:

''(iii) any property used in the transmission of electricity, and''.

(2) 10-YEAR CLASS LIFE.—The table contained in section 168(g)(3)(B), as amended by section 301(a)(2), is amended by inserting after the item relating to subparagraph (C)(ii) the following:

''(C)(iii) ..... 10''.

(b) DEFINITION OF PROPERTY USED IN THE TRANSMISSION OF ELECTRICITY.—Section 168(i), as amended by section 301(b), is amended by adding at the end the following:

''(16) PROPERTY USED IN THE TRANSMISSION OF ELECTRICITY.—The term 'property used in the transmission of electricity' means property used in the transmission of electricity for sale.''.

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

TITLE IV—INCENTIVES FOR EARLY COMMERCIAL APPLICATIONS OF ADVANCED CLEAN COAL TECHNOLOGIES

SEC. 401. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY CREDIT.—Section 46 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following:

''(4) the qualifying advanced clean coal technology facility credit.''.

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by section 101(a), is amended by inserting after section 48A the following:

''SEC. 48B. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology facility credit for any taxable year is an amount equal to 10 percent of the qualified investment in a qualifying advanced clean coal technology facility for such taxable year.

''(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology facility' means a facility of the taxpayer which—

''(A)(i)(I) replaces a conventional technology facility of the taxpayer and the original use of which commences with the taxpayer, or

''(II) is a retrofitted or repowered conventional technology facility, the retrofitting or repowering of which is completed by the taxpayer (but only with respect to that portion of the basis which is properly attributable to such retrofitting or repowering), or

''(ii) is acquired through purchase (as defined by section 179(d)(2)),

''(B) is depreciable under section 167,

''(C) has a useful life of not less than 4 years,

''(D) is located in the United States, and

''(E) uses qualifying advanced clean coal technology.

''(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a facility which—

''(A) is originally placed in service by a person, and

''(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such facility was originally placed in service, for a period of not less than 12 years,

such facility shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

''(3) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'qualifying advanced clean coal technology' means, with respect to clean coal technology—

''(i) multiple applications, with a combined capacity of not more than 2,000 megawatts, of advanced pulverized coal or atmospheric fluidized bed combustion technology—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2001 and 2011, and

''(III) with a design net heat rate of not more than 9,500 Btu per kilowatt hour when the design coal has a heat content of more than 8,000 Btu per pound, or a design net heat rate of not more than 9,900 Btu per kilowatt hour when the design coal has a heat content of 8,000 Btu per pound or less,

''(ii) multiple applications, with a combined capacity of not more than 1,000 megawatts, of pressurized fluidized bed combustion technology—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2001 and 2015, and

''(III) with a design net heat rate of not more than 8,400 Btu per kilowatt hour when the design coal has a heat content of more than 8,000 Btu per pound, or a design net heat rate of not more than 9,900 Btu per kilowatt hour when the design coal has a heat content of 8,000 Btu per pound or less,

''(iii) multiple applications, with a combined capacity of not more than 5,000 megawatts, of integrated gasification combined cycle technology, with or without fuel or chemical co-production—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2001 and 2015,

''(III) with a design net heat rate of not more than 8,550 Btu per kilowatt hour when the design coal has a heat content of more than 8,000 Btu per pound, or a design net heat rate of not more than 9,900 Btu per kilowatt hour when the design coal has a heat content of 8,000 Btu per pound or less, and

''(IV) with a net thermal efficiency on any fuel or chemical co-production of not less than 39 percent (higher heating value), and

''(iv) multiple applications, with a combined capacity of not more than 2,000 megawatts of technology for the production of electricity—

''(I) installed as a new, retrofit, or repowering application,

''(II) operated between 2001 and 2015, and

''(III) with a carbon emission rate which is not more than 85 percent of conventional technology.

''(B) EXCEPTIONS.—Such term shall not include clean coal technology projects receiving or scheduled to receive funding under the Clean Coal Technology Program of the Department of Energy.

''(C) CLEAN COAL TECHNOLOGY.—The term 'clean coal technology' means advanced technology which uses coal to produce 75 percent or more of its thermal output as electricity including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle with or without fuel or chemical co-production, and any other technology for the production of electricity which exceeds the performance of conventional technology.

''(D) CONVENTIONAL TECHNOLOGY.—The term 'conventional technology' means—

''(i) coal-fired combustion technology with a design net heat rate of not less than 9,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.54 pounds of carbon per kilowatt hour when the design coal has a heat content of more than 8,000 Btu per pound,

''(ii) coal-fired combustion technology with a design net heat rate of not less than 10,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.60 pounds of carbon per kilowatt hour when the design coal has a heat content of 8,000 Btu per pound or less, or

''(iii) natural gas-fired combustion technology with a design net heat rate of not less than 7,500 Btu per kilowatt hour (HHV) and a carbon equivalents emission rate of not more than 0.24 pounds of carbon per kilowatt hour.

''(E) DESIGN NET HEAT RATE.—The design net heat rate shall be based on the design annual heat input to and the design annual net electrical output from the qualifying advanced clean coal technology (determined without regard to such technology's co-generation of steam).

''(F) SELECTION CRITERIA.—Selection criteria for clean coal technology facilities—

''(i) shall be established by the Secretary of Energy as part of a competitive solicitation,

''(ii) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, and lowest cost to the government, and

''(iii) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

''(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a facility which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology facility during such period.

''(c) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology facility placed in service by the taxpayer during such taxable year.

''(d) QUALIFIED PROGRESS EXPENDITURES.—

''(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (c) without regard to this section) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology facility which is being constructed by or for the taxpayer when it is placed in service.

''(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

''(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to

another person for the construction of such property.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

''(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

''(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

''(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

''(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

''(e) CREDITS FOR CERTAIN TAX EXEMPT ORGANIZATIONS AND GOVERNMENTAL UNITS.—

''(1) ALLOWANCE OF CREDIT.—Any credit which would be allowable under subsection (a) with respect to a qualifying advanced clean coal technology facility of an entity if such entity were not exempt from tax under this chapter shall be treated as a credit allowable under subpart C to such entity if such entity is—

''(A) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(B) an organization described in section 1381(a)(2)(C),

''(C) an entity the income of which is excludable from gross income under section 115, or

''(D) the Tennessee Valley Authority.

''(2) USE OF CREDIT.—

''(A) TRANSFER OF CREDIT.—An entity described in subparagraph (A), (B), or (C) of paragraph (1) may assign, trade, sell, or otherwise transfer any credit allowable to such entity under paragraph (1) to any taxpayer.

''(B) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of an entity described in subparagraph (A) or (B) of paragraph (1), any credit allowable to such entity under paragraph (1) may be applied by such entity, without penalty, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).

''(C) USE BY TVA.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, in the case of an entity described in paragraph (1)(D), any credit allowable under paragraph (1) to such entity may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

''(ii) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1) shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

''(iii) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described in paragraph (1) exceeds the aggregate amount of payment obligations described in clause (i), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this subparagraph.

''(3) CREDIT NOT INCOME.—Neither a transfer under subparagraph (A) or a use under subparagraph (B) of paragraph (2) of any credit allowable under paragraph (1) shall result in income for purposes of section 501(c)(12).

''(4) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by an entity described in paragraph (1)(C) from the transfer of any credit under paragraph (2)(A) shall be treated as arising from an essential government function.

''(f) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48A is allowed unless the taxpayer elects to waive the application of such credit to such property.

''(g) TERMINATION.—This section shall not apply with respect to any qualified investment made more than 10 years after the effective date of this section.''.

(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following:

''(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48B, the following shall apply:

''(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology facility (as defined by section 48B(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology facility disposed of, and whose denominator is the total number of years over which such facility would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology facility property shall be treated as a year of remaining depreciation.

''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology facility under section 48B, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

''(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology facility.''.

(d) TRANSITIONAL RULE.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules), as amended by section 201(e), is amended by adding at the end the following:

''(13) NO CARRYBACK OF SECTION 48B CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology facility credit determined under section 48B may be carried back to a taxable year ending before January 1, 2002.''.

(e) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

''(iv) the portion of the basis of any qualifying advanced clean coal technology facility attributable to any qualified investment (as defined by section 48B(c)).''.

(2) Section 50(a)(4) is amended by striking ''and (2)'' and inserting ''(2), and (6)''.

(3) Section 50(c) is amended by adding at the end the following:

''(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any advanced clean coal technology facility credit under section 48B.''.

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by section 101(c), is amended by inserting after the item relating to section 48A the following:

''Sec. 48B. Qualifying advanced clean coal technology facility credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2001, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 402. CREDIT FOR PRODUCTION FROM QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) CREDIT FOR PRODUCTION FROM QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits), as amended by section 201(a), is amended by adding at the end the following:

''SEC. 45G. CREDIT FOR PRODUCTION FROM QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

''(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

''(1) the applicable amount of advanced clean coal technology production credit, multiplied by

''(2) the sum of—

''(A) the kilowatt hours of electricity, plus

''(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology facility during the 10-year period beginning on the date the facility was originally placed in service.

''(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology facility shall be determined as follows:

''(1) Where the design coal has a heat content of more than 8,000 Btu per pound:

''(A) In the case of a facility originally placed in service before 2008, if—

''The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,400	$.0050	$.0030
More than 8,400 but not more than 8,550.	$.0010	$.0010
More than 8,550 but not more than 8,750.	$.0005	$.0005.

''(B) In the case of a facility originally placed in service after 2007 and before 2012, if—

"The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0090	$.0075
More than 7,770 but not more than 8,125.	$.0070	$.0050
More than 8,125 but not more than 8,350.	$.0060	$.0040.

"(C) In the case of a facility originally placed in service after 2011 and before 2015, if—

"The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0120	$.0090
More than 7,380 but not more than 7,720.	$.0095	$.0070.

"(2) Where the design coal has a heat content of not more than 8,000 Btu per pound:

"(A) In the case of a facility originally placed in service before 2008, if—

"The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	$.0050	$.0030
More than 8,500 but not more than 8,650.	$.0010	$.0010
More than 8,650 but not more than 8,750.	$.0005	$.0005.

"(B) In the case of a facility originally placed in service after 2007 and before 2012, if—

"The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,000	$.0090	$.0075
More than 8,000 but not more than 8,250.	$.0070	$.0050
More than 8,250 but not more than 8,400.	$.0060	$.0040.

"(C) In the case of a facility originally placed in service after 2011 and before 2015, if—

"The facility design net heat rate, Btu/kWh (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,800	$.0120	$.0090
More than 7,800 but not more than 7,950.	$.0095	$.0070.

"(3) Where the clean coal technology facility is producing fuel or chemicals:

"(A) In the case of a facility originally placed in service before 2008, if—

"The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent	$.0050	$.0030
Less than 40.6 but not less than 40 percent.	$.0010	$.0010
Less than 40 but not less than 39 percent.	$.0005	$.0005.

"(B) In the case of a facility originally placed in service after 2007 and before 2012, if—

"The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent	$.0090	$.0075
Less than 43.9 but not less than 42 percent.	$.0070	$.0050
Less than 42 but not less than 40.9 percent.	$.0060	$.0040.

"(C) In the case of a facility originally placed in service after 2011 and before 2015, if—

"The facility design net thermal efficiency (HHV) is equal to:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent	$.0120	$.0090
Less than 44.2 but not less than 43.6 percent.	$.0095	$.0070.

"(c) INFLATION ADJUSTMENT FACTOR.—For calendar years after 2001, each amount in paragraphs (1), (2), and (3) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) IN GENERAL.—Any term used in this section which is also used in section 48B shall have the meaning given such term in section 48B.

"(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) and section 48B(e) shall apply.

"(3) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2000.

"(4) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by section 201(b), is amended by striking "plus" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", plus", and by adding at the end the following:

"(16) the qualifying advanced clean coal technology production credit determined under section 45G(a).".

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by section 401(d), is amended by adding at the end the following:

"(14) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 201(g), is amended by adding at the end the following:

"Sec. 45G. Credit for production from qualifying advanced clean coal technology.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act.

SEC. 403. RISK POOL FOR QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish a financial risk pool which shall be available to any United States owner of a qualifying advanced clean coal technology which has qualified for an advanced clean coal technology production credit (as defined in section 45G of the Internal Revenue Code of 1986, as added by section 402) to offset for the first 3 years of the operation of such technology the costs (not to exceed 5 percent of the total cost of installation) for modifications resulting from the technology's failure to achieve its design performance.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

TITLE V—HEATING FUELS AND STORAGE.

SEC. 501. FULL EXPENSING OF HOME HEATING OIL AND PROPANE STORAGE FACILITIES.

(a) IN GENERAL.—Section 179(b) (relating to limitations) is amended by adding at the end the following:

"(5) FULL EXPENSING OF HOME HEATING OIL AND PROPANE STORAGE FACILITIES.—Paragraphs (1) and (2) shall not apply to section 179 property which is any storage facility (not including a building or its structural components) used in connection with the distribution of home heating oil or liquefied petroleum gas.".

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

SEC. 502. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS AND OTHER COMMODITIES.

(a) IN GENERAL.—Subsection (b) of section 148 (defining higher yielding investments) is amended by adding at the end the following:

"(4) INVESTMENT PROPERTY NOT TO INCLUDE CERTAIN PREPAYMENTS TO ENSURE COMMODITY SUPPLY.—The term 'investment property' shall not include a prepayment entered into for the purpose of obtaining a supply of a commodity reasonably expected to be used in a business of one or more utilities each of which is owned and operated by a State or local government, any political subdivision or instrumentality thereof, or any governmental unit acting for or on behalf of such a utility.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 503. PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS AND OTHER COMMODITIES.

(a) IN GENERAL.—Section 141(c)(2) (providing exceptions to the private loan financing test) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following:

"(C) arises from a transaction described in section 148(b)(4).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

TITLE VI—OIL AND GAS PRODUCTION

SEC. 601. CREDIT FOR PRODUCTION OF RE-REFINED LUBRICATING OIL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 402(a), is amended by adding at the end the following:

"SEC. 45H. CREDIT FOR PRODUCING RE-REFINED LUBRICATING OIL.

''(a) GENERAL RULE.—For purposes of section 38, the re-refined lubricating oil production credit of any taxpayer for any taxable year is equal to $4.05 per barrel of qualified re-refined lubricating oil production which is attributable to the taxpayer (within the meaning of section 29(d)(3)).

''(b) QUALIFIED RE-REFINED LUBRICATING OIL PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified re-refined lubricating oil production' means a base oil manufactured from at least 95 percent used oil and not more than 2 percent of previously unused oil by a re-refining process at a qualified facility which effectively removes physical and chemical impurities and spent and unspent additives to the extent that such base oil meets industry standards for engine oil as defined by the American Petroleum Institute document API 1509 as in effect on the date of the enactment of this section.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—Re-refined lubricating oil produced during any taxable year shall not be treated as qualified re-refined lubricating oil production but only to the extent average daily production during the taxable year exceeds 7,000 barrels.

''(3) BARREL.—The term 'barrel' has the meaning given such term by section 613A(e)(4).

''(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of paragraph (1), a facility which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified facility during such period.

(c) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2001, the dollar amount contained in subsection (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 29(d)(2)(B) by substituting '2000' for '1979').''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by section 402(b), is amended by striking 'plus' at the end of paragraph (15), by striking the period at the end of paragraph (16), and inserting ', plus', and by adding at the end the following:

''(17) the re-refined lubricating oil production credit determined under section 45H(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 402(d), is amended by adding at the end the following:

''Sec. 45H. Credit for producing re-refined lubricating oil.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act.

SEC. 602. OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by section 601(a), is amended by adding at the end the following:

"SEC. 45I. 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 credit 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 of 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 2001, 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 '2000' 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 qualified 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 or 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) QUALIFIED MARGINAL WELL.—The term 'qualified 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 conversation 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 qualified 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 qualified 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.

''(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subsection (c)(3)(A), a marginal well which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified marginal well during such period.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by section 601(b), is amended by striking 'plus' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following:

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

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

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 201(d)(1), is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following:

''(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 45I(a).''.

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 201(d)(2), and subclause (II) of section 38(c)(3)(A)(ii), as added by section 201(d)(1), are each amended by inserting ''or the marginal oil and gas well production credit'' after ''home credit''.

(d) CARRYBACK.—Subsection (a) of section 39 (relating to carryback and carryforward of

unused credits generally) is amended by adding at the end the following:

''(3) 10-YEAR CARRYBACK FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—In the case of the marginal oil and gas well production credit—

''(A) this section shall be applied separately from the business credit (other than the marginal oil and gas well production credit),

''(B) paragraph (1) shall be applied by substituting '10 taxable years' for '1 taxable years' in subparagraph (A) thereof, and

''(C) paragraph (2) shall be applied—

''(i) by substituting '31 taxable years' for '21 taxable years' in subparagraph (A) thereof, and

''(ii) by substituting '30 taxable years' for '20 taxable years' in subparagraph (A) thereof.''.

(e) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.

(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter I, as amended by section 601(c), is amended by adding at the end the following:

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

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2001.

SEC. 603. DEDUCTION FOR DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding at the end the following:

''(j) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a taxpayer may elect to treat delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) as payments which are not chargeable to capital account. Any payments so treated shall be allowed as a deduction in the taxable year in which paid or incurred.

''(2) DELAY RENTAL PAYMENTS.—For purposes of paragraph (1), the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.''.

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting ''263(j),'' after '263(i),'.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001.

SEC. 604. ELECTION TO EXPENSE GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 263 (relating to capital expenditures), as amended by section 603(a), is amended by adding at the end the following:

''(k) GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.—Notwithstanding subsection (a), a taxpayer may elect to treat geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) as expenses which are not chargeable to capital account. Any expenses so treated shall be allowed as a deduction in the taxable year in which paid or incurred.''.

(b) CONFORMING AMENDMENT.—Section 263A(c)(3), as amended by section 603(b), is amended by inserting ''263(k),'' after ''263(j),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2001.

SEC. 605. GAS PIPELINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property), as amended by section 304(a)(1), is amended by striking ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following:

''(iv) any gas pipeline, and''.

(b) GAS PIPELINE.—Subsection (i) of section 168, as amended by section 304(b), is amended by adding at the end the following:

''(17) GAS PIPELINE.—The term 'gas pipeline' means the pipe, storage facilities, equipment, distribution infrastructure, and appurtenances used to deliver natural gas.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service on or after the date of the enactment of this Act.

(2) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If any gas pipeline is public utility property (as defined in section 46(f)(5) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990), the amendments made by this section shall only apply to such property if, with respect to such property, the taxpayer uses a normalization method of accounting.

SEC. 606. CRUDE OIL AND NATURAL GAS DEVELOPMENT CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 602(a), is amended by adding at the end the following:

''SEC. 45J. CRUDE OIL AND NATURAL GAS DEVELOPMENT CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the crude oil and natural gas development credit determined under this section for any taxable year shall be an amount equal to the taxpayer's qualified investment for the taxable year.

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

''(1) IN GENERAL.—The amount which would (but for this subsection) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this subsection) as—

''(A) the excess (if any) of the applicable reference price over $11, bears to

''(B) $3.

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

''(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2001, each of the dollar amounts contained in paragraph (1) 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 '2000' for '1990').

''(3) REFERENCE PRICE.—For purposes of this subsection, the term 'reference price' means, with respect to any calendar year, the reference price determined under section 29(d)(2)(C).

''(c) QUALIFIED INVESTMENT.—For purposes of this section, the term 'qualified investment' means amounts paid or incurred—

''(1) for the purpose of drilling and equipping crude oil and natural gas wells (including pollution control equipment used in connection with such wells), or

''(2) for the purpose of performing secondary or tertiary recovery techniques, on properties located within the United States (as defined in section 638), but only to the extent that the expenditure is not taken into account for purposes of a credit under any other section.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) AGGREGATION OF QUALIFIED INVESTMENT EXPENSES.—

''(A) CONTROLLED GROUPS; COMMON CONTROL.—In determining the amount of the credit under this section, all members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as a single taxpayer for purposes of this section.

''(B) APPORTIONMENT OF CREDIT.—The credit (if any) allowable by this section to members of any group (or to any person) described in subparagraph (A) shall be such member's or person's proportionate share of the qualified investment expenses giving rise to the credit determined under regulations prescribed by the Secretary.

''(2) PARTNERSHIPS, S CORPORATIONS, ESTATES AND TRUSTS.—

''(A) PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership, the credit shall be allocated among partners under regulations prescribed by the Secretary. A similar rule shall apply in the case of an S corporation and its shareholders.

''(B) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(3) ADJUSTMENTS FOR CERTAIN ACQUISITIONS AND DISPOSITIONS.—Under regulations prescribed by the Secretary, rules similar to the rules contained in section 41(f)(3) shall apply with respect to the acquisition or disposition of a taxpayer.

''(4) SHORT TAXABLE YEARS.—In the case of any short taxable year, qualified investment expenses shall be annualized in such circumstances and under such methods as the Secretary may prescribe by regulation.

''(5) DENIAL OF DOUBLE BENEFIT.—

''(A) DISALLOWANCE OF DEDUCTION.—Any deduction allowable under this chapter for any costs taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such costs.

''(B) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditures shall be reduced by the amount of the credit so allowed.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by section 602(b), is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following:

''(19) the crude oil and natural gas development credit determined under section 45J(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by section 402(c), is amended by adding at the end the following:

''(15) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the crude oil and natural gas development credit determined under section 48J may be carried back to a taxable year ending before January 1, 2002.''.

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

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 602(c)(1), is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following:

''(5) SPECIAL RULES FOR CRUDE OIL AND NATURAL GAS DEVELOPMENT CREDIT.—

''(A) IN GENERAL.—In the case of the crude oil and natural gas development 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 crude oil and natural gas development credit).

''(B) CRUDE OIL AND NATURAL GAS DEVELOPMENT CREDIT.—For purposes of this subsection, the term 'crude oil and natural gas development credit' means the credit allowable under subsection (a) by reason of section 45J(a).''.

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii) and subclause (II) of section 38(c)(3)(A)(ii), as amended by section 602(c)(2), and subclause (II) of section 38(c)(4)(A)(ii), as added by section 602(c)(1), are each amended by inserting ''or the crude oil and natural gas development credit'' after ''well production credit''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 602(f), is amended by adding at the end the following:

''Sec. 45J. Crude oil and natural gas development credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2001.

SEC. 607. CREDIT FOR CAPTURE OF COALMINE METHANE GAS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by section 606(a), is amended by adding at the end the following:

''SEC. 45K. CAPTURE OF COALMINE METHANE GAS.

''(a) IN GENERAL.—For purposes of section 38, the coalmine methane gas capture credit of any taxpayer for any taxable year is $1.21 for 1,000,000 Btu of coalmine methane gas captured by the taxpayer and utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).

''(b) COALMINE METHANE GAS.—For purposes of this section, the term 'coalmine methane gas' means any methane gas which is being liberated, or would be liberated, during qualified coal mining operations or as a result of past qualified coal mining operations, or which is extracted up to 10 years in advance of qualified coal mining operations as part of specific plan to mine a coal deposit.

''(c) SPECIAL RULE FOR ADVANCED EXTRACTION.—In the case of coalmine methane gas which is captured in advance of qualified coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine methane gas was removed.

''(d) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subsections (b) and (c), coal mining operations which are not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be qualified coal mining operations during such period.

''(e) APPLICATION OF RULES.—For purposes of this section, rules similar to the rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by section 606(b), is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following:

''(20) the coalmine methane gas capture credit determined under section 45K(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 606(c), is amended by adding at the end the following:

''Sec. 45K. Capture of coalmine methane gas.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the capture of coalmine methane gas after the date of the enactment of this Act.

SEC. 608. ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.

(a) IN GENERAL.—Section 40(d) (relating to alcohol used as fuel) is amended by adding at the end the following:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization made on a timely filed return (including extensions) for such year, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year. Such an election, once made, shall be irrevocable for such taxable year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons pursuant to subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) for the taxable year of the organization, and

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron in which the patronage dividend for the taxable year referred to in subparagraph (A) is includible in gross income.

''(C) SPECIAL RULE FOR DECREASING CREDIT FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the cooperative organization's return for such year, an amount equal to the excess of such reduction over the amount not apportioned to the patrons under subparagraph (A) for the taxable year shall be treated as an increase in tax imposed by this chapter on the organization. Any such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G of this part.''.

(b) TECHNICAL AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following:

''(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(d)(6).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 609. EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) INCLUSION OF ALASKA NATURAL GAS.—Section 29(c)(1) (defining qualified fuels) is amended by striking ''and'' at the end of subparagraph (B)(ii), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following:

''(D) Alaska natural gas.''.

(b) DEFINITION.—Section 29(c) is amended by adding at the end the following:

''(4) ALASKA NATURAL GAS.—The term 'Alaska natural gas' means gas produced in compliance with the applicable State and Federal pollution prevention, control, and permit requirements from the area generally known as the North Slope of Alaska (including the continental shelf thereof within the meaning of section 638(1)), determined without regard to the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)).''.

(c) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 29(a)(1) (relating to allowance of credit) is amended by inserting ''($1.45 in the case of a qualified fuel described in subsection (c)(1)(D))'' after ''$3''.

(2) CONFORMING AMENDMENTS.—

(A) Section 29(b)(2) is amended by striking ''The $3 amount'' and inserting ''The $3 and $1.45 amounts''.

(B) Section 29(d)(2)(B) is amended by inserting ''(calendar year 2001 in the case of the $1.45 amount in subsection (a)(1))'' after ''1979''.

(d) EXTENSION OF CREDIT.—Section 29(g) (relating to extension for certain facilities) is amended by adding at the end the following:

''(3) SPECIAL RULE FOR ALASKA NATURAL GAS WELLS.—In the case of a well for producing qualified fuel described in subsection (c)(1)(D)—

''(A) for purposes of subsection (f)(1)(A), such well shall be treated as being placed in service before January 1, 1993, if such well is placed in service before January 1, 2009, and

''(B) subsection (f)(2) shall be applied with respect to such well by substituting 'after December 31, 2001, and before January 1, 2009' for 'before January 1, 2003'.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2001.

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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 ''Comprehensive and Balanced Energy Policy Act of 2001.''

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into five divisions as follows:

(1) Division A—National Energy Policy Planning and Coordination.

(2) Division B—Reliable and Diverse Power Generation and Transmission.

(3) Division C—Domestic Oil and Gas Production and Transportation.

(4) Division D—Diversifying Energy Demand and Improving Efficiency.

(5) Division E—Enhancing Research, Development, and Training.

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

Sec. 1. Short title.
Sec. 2. Table of contents.

DIVISION A—NATIONAL ENERGY POLICY PLANNING AND COORDINATION

TITLE I—INTEGRATION OF ENERGY POLICY AND CLIMATE CHANGE POLICY

Subtitle A—National Commission on Energy and Climate Change

Sec. 101. National Commission on Energy and Climate Change.
Sec. 102. Duties of the Commission.
Sec. 103. Powers of the Commission.
Sec. 104. Commission personnel matters.
Sec. 105. Termination.
Sec. 106. Authorization of appropriations.
Sec. 107. Definition of Commission.

Subtitle B—International Clean Energy Technology Transfer

Sec. 111. International Clean Energy Technology Transfer.

TITLE 11—REGIONAL COORDINATION ON ENERGY INFRASTRUCTURE

Sec. 201. Policy on regional coordination.
Sec. 202. Federal support for regional coordination.

TITLE III—REGULATORY REVIEWS AND STUDIES

Sec. 301. Regulatory reviews for new technologies and processes.
Sec. 302. Review of FERC policies on transmission and wholesale power markets.
Sec. 303. Study of policies to address volatility in domestic oil and gas investment.
Sec. 304. Power marketing administration rights-of-way study.
Sec. 305. Review of natural gas pipeline certification procedures.
Sec. 306. Streamlining fuel specifications.
Sec. 307. Study on financing for new technologies.
Sec. 308. Study on the use of the Strategic Petroleum Reserve.

DIVISION B—RELIABLE AND DIVERSE POWER GENERATION AND TRANSMISSION

TITLE IV—ELECTRIC ENERGY TRANSMISSION RELIABILITY

See. 401. Electric reliability organization and oversight.
Sec. 402. Application of antitrust laws.

TITLE V—IMPROVED ELECTRICITY CAPACITY AND ACCESS

Sec. 501. Universal and affordable service.
Sec. 502. Public benefits fund.
Sec. 503. Rural construction grants.
Sec. 504. Comprehensive Indian energy program.
Sec. 505. Environmental disclosure to consumers.
Sec. 506. Consumer protections.
Sec. 507. Wholesale electricity market data.
Sec. 508. Wholesale electric energy rates in the western energy market.
Sec. 509. Natural gas rate ceiling in California.
Sec. 510. Sale price in bundled natural gas transactions.

TITLE VI—RENEWABLES AND DISTRIBUTED GENERATION

Sec. 601. Assessment of available renewable energy resources.
Sec. 602. Federal purchase requirement.
Sec. 603. Interconnection standards.
Sec. 604. Net metering.
Sec. 605. Access to transmission by intermittent generators.

TITLE VII—HYDROELECTRIC RELICENSING

Sec. 701. Alternative conditions.
Sec. 702. Disposition of hydroelectric charges.
Sec. 703. Relicensing study.

TITLE VIII—COAL

Sec. 801. Definitions.

Subtitle A—National Coal-Based Technology Development and Applications Program

Sec. 811. Cost and performance goals.
Sec. 812. Study.
Sec. 813. Technology research and development programs.
Sec. 814. Authorization of appropriations.

Subtitle B—Power Plant Improvement Initiative

Sec. 821. Power plant improvement initiative program.
Sec. 822. Financial assistance.
Sec. 823. Funding.

TITLE IX—PRICE-ANDERSON ACT REAUTHORIZATION

Sec. 901. Short title.
Sec. 902. Indemnification authority.
Sec. 903. Maximum assessment.
Sec. 904. DOE liability limit.
Sec. 905. Incidents outside the United States.
Sec. 906. Reports.
Sec. 907. Inflation adjustment.
Sec. 908. Civil penalties.
Sec. 909. Effective date.

DIVISION C—DOMESTIC OIL AND GAS PRODUCTION AND TRANSPORTATION

TITLE X—OIL AND GAS PRODUCTION

Sec. 1001. Outer Continental Shelf Oil and Gas Lease Sale 181.
Sec. 1002. Federal onshore leasing programs for oil and gas.
Sec. 1003. Increasing production on State and private lands.

TITLE XI—PIPELINE SAFETY RESEARCH AND DEVELOPMENT

Sec. 1101. Pipeline integrity research and development.
Sec. 1102. Pipeline integrity technical advisory committee.
Sec. 1103. Authorization of appropriations.

DIVISION D—DIVERSIFYING ENERGY DEMAND AND IMPROVING EFFICIENCY

TITLE XII—VEHICLES

Sec. 1201. Vehicle fuel efficiency.
Sec. 1202. Increased use of alternative fuels by federal fleets.
Sec. 1203. Exception to HOV passenger requirements for alternative fuel vehicles.

TITLE XIII—FACILITIES

Sec. 1301. Federal energy bank.
Sec. 1302. Incentives for energy-efficient schools.
Sec. 1303. Voluntary commitments to reduce industrial energy intensity.

DIVISION E—ENHANCING RESEARCH, DEVELOPMENT, AND TRAINING

TITLE XIV—RESEARCH AND DEVELOPMENT PROGRAMS

Sec. 1401. Short title and findings.
Sec. 1402. Enhanced energy efficiency research and development.
Sec. 1403. Enhanced renewable energy research and development.
Sec. 1404. Enhanced fossil energy research and development.
Sec. 1405. Enhanced nuclear energy research and development.
Sec. 1406. Enhanced programs in fundamental energy science.

TITLE XV—MANAGEMENT OF DOE SCIENCE AND TECHNOLOGY PROGRAMS

Sec. 1501. Merit review.
Sec. 1502. Cost sharing.
Sec. 1503. Improved coordination and management of science and technology.

TITLE XVI— PERSONNEL AND TRAINING

Sec. 1601. Workforce trends and traineeship grants.
Sec. 1602. Training guidelines for electric energy industry personnel.

DIVISION A—NATIONAL ENERGY POLICY PLANNING AND COORDINATION

TITLE I—INTEGRATION OF ENERGY POLICY AND CLIMATE CHANGE POLICY

Subtitle A—National Commission on Energy and Climate Change

SEC. 101. NATIONAL COMMISSION ON ENERGY AND CLIMATE CHANGE.

(a) ESTABLISHMENT.—There is established a National Commission on Energy and Climate Change, which shall be an independent establishment within the executive branch.

(b) MEMBERS.—

(1) APPOINTMENT.—The Commission shall consist of 11 members who shall be appointed by the President not later than 30 days after the date of enactment of this title.

(2) COMPOSITION.—The members of the Commission shall be—

(A) eminent in the field of—

(i) energy production, distribution, or conservation,

(ii) energy science or technology,

(iii) environmental sciences,

(iv) global change sciences, or

(v) energy economics; and

(B) selected to reflect a fair balance among the points of view represented.

(3) POLITICAL AFFILIATION.—No more than 6 members of the Commission may be members of the same political party as the President. Not less than half of the members of the minority party shall be appointed from among a list of 12 persons nominated by the Democratic Leader of the United States Senate and the Minority Leader of the United States House of Representatives.

(4) CHAIRPERSON.—The President shall designate a member of the Commission to serve as its chairperson.

(5) TERM.—Members shall be appointed for the life of the Commission and may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

(6) VACANCIES.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

SEC. 102. DUTIES OF THE COMMISSION.

(a) ENERGY AND CLIMATE CHANGE STUDY.—

(1) IN GENERAL.—The Commission shall conduct a study of measures that—

(A) could achieve stabilization of greenhouse gas emissions in the United States—

(i) at the 1990 level by not later than 2010; and

(ii) below the 1990 level by not later than 2020;

(B) are consistent with the goals of an overall United States energy and environmental policy; and

(C) will lead to the long-term stabilization of greenhouse gas concentrations.

(2) TYPES OF MEASURES.—The measures to be studied under paragraph (1) shall include—

(A) a variety of cost-effective Federal and State policies, programs, standards, and incentives;

(B) a domestic or international system that integrates innovative, market-based solutions; and

(C) participation in other international institutions, or in the support of international activities, that are established to achieve economically and enviromnentally sound greenhouse gas stabilization solutions.

(b) RECOMMENDATIONS.—The Commission shall develop recommendations concerning—

(1) the measures described in subsection (a)(1) that the Commission determines to be appropriate for implementation, giving preference to cost-effective, voluntary, and technologically feasible measures that will—

(A) produce measurable net reductions in United States emissions that lead toward the stabilization described in subsection (a)(1)(A); and

(B) minimize any adverse impacts on the economy of the United States; and

(2) the text of legislation and administrative actions that would be necessary to effectuate the measures.

(c) STRATEGY.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this title, the Commission shall develop and submit to the Congress a United States greenhouse gas management strategy that contains—

(A) a detailed statement of the findings and conclusions of the Commission;

(B) the recommendations of the Commission for such legislative and administrative actions as the Commissions considers appropriate; and

(C) appropriate funding recommendations to carry out the recommendations under subparagraph (B).

(2) REQUIRED RECOMMENDATIONS.—Recommendations under paragraph (1)(B) shall include specific recommendations concerning—

(A) the development of—

(i) advanced technologies for a full range of energy sources;

(ii) enhanced energy efficiency and conservation measures; and

(iii) alternative energy technologies and energy sources;

(B) economically and environmentally sound emission reduction strategies to stabilize atmospheric concentrations of greenhouse gases;

(C) such changes in institutional and technological systems as are necessary to adapt to climate change in the near tenn and the long term; and

(D) such review, modification, and enhancement of the scientific and economic research efforts of the United States, and improvements to the data resulting from such research, as are appropriate to improve the accuracy of predictions concerning climate change and economic costs and opportunities.

SEC. 103. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the duties of the Commission under this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the duties of Commission under this title. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 104. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—A member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(c) STAFF.—

(1) APPOINTMENT.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The appointment and termination of the executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon the request of the Chairperson of the Commission, the head of any Federal department or agency may detail employees to the Commission without reimbursement, and without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY OR INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

SEC. 105. TERMINATION.

The Commission shall terminate 90 days after the date on which the Commission submits the report under section 102(b).

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this section, which shall remain available until expended.

SEC. 107. DEFINITION OF COMMISSION.

For purposes of this title, the term ''Commission'' means the National Commission on Energy and Climate Change established by section 101(a).

Subtitle B—International Clean Energy Technology Transfer

SEC. 111. INTERNATIONAL CLEAN ENERGY TECHNOLOGY TRANSFER

(a) DEFINITIONS.—In this section:

(1) CLEAN ENERGY TECHNOLOGY.—The term ''clean energy technology'' means an energy supply or end-use technology that, over its lifecycle and compared to a similar technology already in commercial use in developing countries or countries in transition—

(A) emits substantially lower levels of pollutants or greenhouse gases; and

(B) generates substantially smaller or less toxic volumes of solid or liquid waste.

(2) INTERAGENCY WORKING GROUP.—The term ''interagency working group'' means the Interagency Working Group on Clean Energy Technology Transfer established under subsection (b).

(b) INTERAGENCY WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary of Energy, the Secretary of Commerce, and the Administrator of the U.S. Agency for International Development shall jointly establish a Interagency Working Group on Clean Energy Technology Transfer. The interagency working group will focus on the transfer of clean energy technology to the developing countries and countries in transition that are expected to experience, over the next 20 years, the most significant growth in energy production and associated greenhouse gas emissions.

(2) MEMBERSHIP.—The interagency working group shall be jointly chaired by representatives appointed by the agency heads under paragraph (1) and shall also include representatives from the Department of State, the Department of Treasury, the Environmental Protection Agency, the Export-Import Bank, the Overseas Private Investment Corporation, the Trade and Development Agency, and other federal agencies as deemed appropriate by all three agency head under paragraph (1).

(3) DUTIES.—The interagency working group shall—

(A) analyze technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology;

(B) investigate issues associated with building capacity to deploy clean energy technology in developing countries and countries in transition, including—

(i) energy-sector reform;

(ii) creation of open, transparent, and competitive markets for energy technologies;

(iii) availability of trained personnel to deploy and maintain the technology; and

(iv) demonstration and cost-buydown mechanisms to promote first adoption of the technology;

(C) consult with the private sector and other interested groups on the export and deployment of clean energy technology;

(D) monitor each agency's progress towards meeting goals in the 5-year strategic plan submitted to Congress pursuant to the Energy and Water Development Appropriations Act, 2001,

(E) make recommendations to heads of appropriate Federal agencies on ways to streamline federal programs and policies improve each agency's role in the international development, demonstration, and deployment of clean energy technology.

(c) FEDERAL SUPPORT FOR CLEAN ENERGY TECHNOLOGY TRANSFER.—Notwithstanding any other provision of law, each federal agency or government corporation carrying out an assistance program in support of the activities of United States persons in the environment or energy sector of a developing country or country in transition shall support, to the maximum extent practicable, the transfer of United States clean energy technology as part of that program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the departments, agencies, and entities of the United States described in subsection (b) such sums as may be necessary to support the transfer of clean energy technology, consistent with the subsidy codes of the World Trade Organization, as part of assistance programs carried out by those departments, agencies, and entities in support of activities of United States persons in the energy sector of a developing country or country in transition.

TITLE II—REGIONAL COORDINATION ON ENERGY INFRASTRUCTURE

SEC. 201. POLICY ON REGIONAL COORDINATION.

(a) STATEMEENT OF POLICY.—It is the policy of the Federal Government to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable energy services to the public while minimizing the impact of providing energy services on communities and the environment.

(b) DEFINITION OF ENERGY SERVICES.—For purposes of this section, the term ''energy services'' means—

(1) the generation or transmission of electric energy,

(2) the transportation, storage, and distribution of crude oil, residual fuel oil, refined petroleum product, or natural gas, or

(3) the reduction in load through increased efficiency, conservation, or load control measures.

SEC. 202. FEDERAL SUPPORT FOR REGIONAL COORDINATION.

(a) TECHNICAL ASSISTANCE.—The Secretary of Energy may provide technical assistance to States and regional organizations formed by two or more States to assist them in coordinating their energy policies on a regional basis. Such technical assistance may include assistance in—

(1) assessing future supply availability and demand requirements,

(2) planning and siting additional energy infrastructure, including generating facilities, electric transmission facilities, pipelines, refineries, and distributed generation facilities to meet regional needs,

(3) identifying and resolving problems in distribution networks,

(4) developing plans to respond to surge demand or emergency needs, and

(5) developing energy efficiency, conservation, and load control programs.

(b) ANNUAL CONFERENCE ON REGIONAL ENERGY COORDINATION.—

(1) ANNUAL CONFERENCE.—The Secretary of Energy shall convene an annual conference to promote regional coordination on energy policy and infrastructure issues.

(2) PARTICIPATION.—The Secretary of Energy shall invite appropriate representatives of federal, state, and regional energy organizations, and other interested parties.

(3) FEDERAL AGENCY COOPERATION.—The Secretary of Energy shall consult and cooperate with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the Chairman of the Federal Energy Regulatory Commission, the Administrator of the Environmental Protection Agency, and the Chairman of the Council on Environmental Quality in the planning and conduct of the conference.

(4) AGENDA.—The Secretary of Energy, in consultation with the officials identified in paragraph (3) and participants identified in paragraph (2), shall establish an agenda for each conference that promotes regional coordination on energy policy and infrastructure issues.

(5) RECOMMENDATIONS.—Not later than 60 days after the conclusion of each annual conference, the Secretary of Energy shall report to the President and the Congress recommendations arising out of the conference that may improve—

(A) regional coordination on energy policy and infrastructure issues, and

(B) federal support for regional coordination.

TITLE III—REGULATORY REVIEWS AND STUDIES

SEC. 301. REGULATORY REVIEWS FOR NEW TECHNOLOGIES AND PROCESSES

(a) REGULATORY REVIEWS.—Not later than one year after the date of enactment of this section and every five years thereafter, each Federal agency shall review its regulations and standards to identify—

(1) existing regulations or standards that act as barriers to market entry for emerging energy technologies (including fuel cells, combined heat and power, distributed generation, and small-scale renewable energy), and

(2) actions the agency is taking or could take to—

(A) remove barriers to market entry for emerging energy technologies,

(B) increase energy efficiency, or

(C) encourage the use of new processes to meet energy and environmental goals.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this section, and every five years thereafter, the Director of the Office of Science and Technology Policy shall report to the Congress on the results of the agency reviews conducted under subsection (a).

(e) CONTENTS OF THE REPORT.—The report shall—

(1) identify all regulatory barriers to the development and commercialization of emerging energy technologies and processes,

(2) actions taken, or proposed to be taken, to remove such barriers, and

(3) recommendations for changes in laws or regulations that may be needed to—

(A) expedite the siting and development of energy production and distribution facilities,

(B) encourage the adoption of energy efficiency and process improvements, and

(C) reduce the environmental impacts of energy facilities through transparent and flexible compliance methods.

SEC. 302. REVIEW OF FERC POLICIES ON TRANSMISSION AND WHOLESALE POWER MARKETS.

(a) STUDY.—The Federal Energy Regulatory Commission shall reevaluate its regulatory policies on the transmission of electric energy and wholesale power rates.

(b) SCOPE OF STUDY.—The study shall—

(1) reevaluate the methods and models for determining market power, taking into account the experience in the Western power grid,

(2) reevaluate the adequacy and appropriateness of the Commission's definition of ''market power'' as applied to wholesale power markets and the transmission grid,

(3) analyze the impact of wholesale price volatility on power markets and the effect on the national interest in a reliable and affordable electricity system,

(4) reevaluate the Commission's policies on transmission, specifically identifying policy changes that may be needed to ensure adequate construction of transmission capacity and operating procedures to ensure the most efficient use of the transmission grid, and

(5) determine the adequacy of the Commission's voluntary approach to forming regional transmission organizations.

(c) REPORT.—The Commission shall report its findings to the Congress not later than 120 days after the date of the enactment of this section.

SEC. 303. STUDY OF POLICIES TO ADDRESS VOLATILITY IN DOMESTIC OIL AND GAS INVESTMENT.

(a) STUDY.—The Secretary of Energy, in close coordination with the Secretary of the Interior, the Secretary of Commerce, the Secretary of Treasury, and the Interstate Oil and Gas Compact Commission, shall evaluate the impact existing federal and state tax and royalty policies have on the development of domestic oil and gas resources.

(b) SCOPE OF STUDY.—The study under subsection (a) shall analyze—(1) the impact on development and drilling of different price scenarios for oil and natural gas;

(2) the impact of the Alternative Minimum Tax and fixed royalty rates on maintaining development drilling during periods of depressed prices;

(3) the effect of Federal and state tax and royalty policies on investment in different geological and developmental circumstances, including but not limited to deepwater environments, subsalt formations, well-depth environments, coalbed methane and other unconventional gas formations, and Arctic conditions; and

(4) compare those policies with tax and royalty regimes in other countries with similar geological, developmental and infrastructure conditions.

(b) Upon completion of the study under subsection (a), a report describing the findings and recommendations for policy changes shall be provided to the Congress and the Governors of the member states of the Interstate Oil and Gas Compact Commission. The recommendations should ensure that the public interest in receiving the economic benefits of tax and royalty revenues is balanced against the need for revised policies to—

(1) maintain adequate natural gas development drilling during periods of low world oil prices;

(2) ameliorate the boom-bust cycles negatively affecting the oil and gas service industry; and

(3) ensure a consistent level of domestic activity to encourage the education and retention of a technical workforce.

(c) The study under subsection (a) shall be completed not later than 240 days after the date of enactment of this section. The report required in (b) shall be transmitted to Congress not later than 60 days following the completion of the study.

SEC. 304. POWER MARKETING ADMINISTRATION RIGHTS–OF–WAY STUDY.

The Secretary of Energy shall conduct a study of the rights-of-way owned by the Federal power marketing agencies and the Tennessee Valley Authority to determine their location and whether they can be used by pipelines or other transmission services where new capacity is needed. Not later than one year after the date of enactment of this section, the Secretary shall transmit a report to Congress summarizing the results of the study.

SEC. 305. REVIEW OF NATURAL GAS PIPELINE CERTIFICATION PROCEDURES.

(a) FERC REVIEW.—The Federal Energy Regulatory Commission shall, in consultation with other appropriate Federal agencies, conduct a comprehensive review of policies, procedures, and regulations for the certification of natural gas pipelines to determine how to reduce the cost and time of obtaining a certificate. The Commission shall report its findings and any recommendations for legislation to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives not later than 6 months after the date of enactment of this section.

(b) INTERAGENCY REVIEW.—The Chairman of the Council on Environmental Quality, in coordination with the Federal Energy Regulatory Commission, shall establish an interagency task force to develop an interagency memorandum of understanding to expedite the environmental review and permitting of natural gas pipeline projects.

(c) MEMBERSHIP OF INTERAGENCY TASK FORCE.—The task force shall consist of—

(1) the Chairman of the Council on Environmental Quality, who shall serve as the Chairman of the interagency task force,

(2) the Chairman of the Federal Energy Regulatory Commission,

(3) the Director of the Bureau of Land Management,

(4) the Director of the U.S. Fish and Wildlife Service,

(5) the Commanding General, U.S. Army Corps of Engineers,

(6) the Chief of the Forest Service,

(7) the Administrator of the Environmental Protection Agency,

(8) the Chairman of the Advisory Council on Historic Preservation, and

(9) and the heads of such other agencies as the Chairman of the Council on Environmental Quality and the Chairman of the Federal Energy Regulatory Commission deem appropriate.

(d) MEMORANDUM OF UNDERSTANDING.—The agencies represented by the members of the

interagency task force shall enter into the memorandum of understanding not later than one year after the date of the enactment of this section.

SEC. 306. STREAMLINING FUEL SPECIFICATIONS.

(a) REPORT.—Not later than nine months after the date of enactment of this title, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly report to the Congress on the technical and economic feasibility of developing national or regional vehicle fuel specifications for the contiguous United States that would—

(1) enhance flexibility in the distribution of fuels,

(2) reduce price volatility and costs to consumers and producers, and

(3) meet local, regional, and national air quality requirements and goals.

(b) RECOMMENDATIONS.—The report shall include recommendations for appropriate changes to existing laws and regulations.

(c) CONSULTATION.—The Administrator and the Secretary shall consult with the Governors of the several States, automobile manufacturers, vehicle fuel producers and distributors, and the public in the preparation of the report.

SEC. 307. STUDY OF FINANCING FOR NEW TECHNOLOGIES.

(a) INDEPENDENT ASSESSMENT.—The Secretary of Energy shall commission an independent assessment of innovative financing techniques to facilitate construction of new electricity supply technologies that might not otherwise be built in a competitive electricity market.

(b) CONDUCT OF THE ASSESSMENT.—The Secretary shall retain an independent contractor with proven expertise in financing large capital projects or in financial services consulting to conduct the assessment.

(c) CONTENT OF THE ASSESSMENT.—The assessment shall include a comprehensive examination of all available techniques to safeguard private investors against risks (including both market-based and govemment-imposed risks) that are beyond the control of the investors. Such techniques may include Federal loan guarantees, Federal price guarantees, special tax considerations, and direct Federal investment.

(d) REPORT.—The Secretary shall submit the results of the independent assessment to the Congress not later than 9 months after the date of enactment of this section.

SEC. 308. STUDY ON THE USE OF THE STRATEGIC PETROLEUM RESERVE.

(a) REPORT.—The Secretary of Energy shall report to the President and to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives, not later than 6 months after the date of enactment of this title, on whether section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) should be amended to give the Secretary greater flexibility to drawdown and distribute the Reserve to mitigate price volatility or regional supply shortages.

(b) CONTENTS OF THE REPORT.—The Secretary shall include in the report—

(1) an assessment of how extreme market conditions in the past (including, in particular, the conditions between July 1990 and February 1991) may have been mitigated by more timely use of the Reserve, and

(2) specific recommendations for any changes in the existing law the Secretary determines to be necessary or desirable and a statement of the reasons for any such changes.

DIVISION B—DIVERSE AND RELIABLE POWER GENERATION AND TRANSMISSION

TITLE IV—ELECTRIC ENERGY TRANSMISSION RELIABILITY

SEC. 401. ELECTRIC RELIABILITY ORGANIZATION AND OVERSIGHT.

(a) IN GENERAL.—Part H of the Federal Power Act (16 U.S.C. 824–824m) is amended by adding at the end the following:

"SEC. 216. ELECTRIC RELIABILITY ORGANIZATION AND OVERSIGHT.

''(a) DEFINITIONS—As used in this section:

''(1) AFFILIATED REGIONAL RELIABILITY ENTITY.—The term 'affiliated regional reliability entity means an entity delegated authority under the provisions of subsection (h).

''(2) BULK POWER SYSTEM.—The term 'bulk power system' means all facilities and control systems necessary for operating an interconnected transmission grid (or any portion thereof, including high-voltage transmission lines; substations; control centers; communications; data, and operations planning facilities; and the output of generating units necessary to maintain transmission system reliability.

''(3) ELECTRIC RELIABILITY ORGANIZATION, OR ORGANIZATION.—The term 'Electric Reliability Organization' or 'Organization' means the organization approved by the Commission under subsection (d)(4).

''(4) ENTITY RULE.—The term 'entity rule' means a rule adopted by an affiliated regional reliability entity for a specific region and designed to implement or enforce one or more Organization Standards. An entity rule shall be approved by the organization and once approved, shall be treated as an Organization Standard.

''(5) INDUSTRY SECTOR.—The term 'industry sector' means a group of users of the bulk power system with substantially similar commercial interests, as determined by the Board of the Electric Reliability Organization.

''(6) INTERCONNECTION.—The term 'interconnection' means a geographic area in which the operation of bulk power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the interconnection to maintain safe and reliable operation of the facilities within their control.

''(7) ORGANIZATION STANDARD.—The term 'Organization Standard' means a policy or standard duly adopted by the Electric Reliability Organization to provide for the reliable operation of a bulk power system.

''(8) PUBLIC INTEREST GROUP.—The term 'public interest group' means any nonprofit private or public organization that has an interest in the activities of the Electric Reliability Organization, including, but not limited to, ratepayer advocates, environmental groups, and State and local government organizations that regulate market participants and promulgate government policy.

''(9) VARIANCE.—The term 'variance' means an exception or variance from the requirements of an Organization Standard (including a proposal for an Organization Standard where there is no Organization Standard) that is adopted by an affiliated regional reliability entity and applicable to all or a part of the region for which the affiliated regional reliability entity is responsible. A variance shall be approved by the organization and once approved, shall be treated as an Organization Standard.

''(10) SYSTEM OPERATOR.—The term 'system operator' means any entity that operates or is responsible for the operation of a bulk power system, including but not limited to a control area operator, an independent system operator, a regional transmission organization, a transmission company, a transmission system operator, or a regional security coordinator.

''(11) USER OF THE BULK POWER SYSTEM.—The term 'user of the bulk power system' means any entity that sells, purchases, or transmits electric power over a bulk power system, or that owns, operates, or maintains facilities or control systems that are part of a bulk power system, or that is a system operator.

''(b) COMMISSION AUTHORITY.—

''(1) Within the United States, the Commission shall have jurisdiction over the Electric Reliability Organization, all affiliated regional reliability entities, all system operators, and all users of the bulk-power system, for purposes of approving and enforcing compliance with the requirements of this section.

''(2) The Commission may, by rule, define any other term used in this section, provided such definition is consistent with the definitions in, and the purpose and intent of, this Act.

''(3) Not later than 90 days after the date of enactment of this section, the Commission shall issue a proposed rule for implementing the requirements of this section. The Commission shall provide notice and opportunity for comment on the proposed rule. The Commission shall issue a final rule under this subsection within 180 days after the date of enactment of this section.

''(4) Nothing in this section shall be construed as limiting or impairing any authority of the Commission under any other provision of this Act, including its exclusive authority to determine rates, terms, and conditions of transmission services subject to its jurisdiction.

''(c) EXISTING RELIABILITY STANDARDS.—Following enactment of this section, and prior to the approval of an organization under subsection (d), any entity, including the North American Electric Reliability Council and its member regional reliability councils, may file any reliability standard, guidance, or practice that such entity would propose to be made mandatory and enforceable. The Commission, after allowing an opportunity to submit comments, may approve any such proposed mandatory standard, guidance, or practice, or any amendment thereto, if it finds that the standard, guidance, or practice, or amendment is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission may, without further proceeding or finding, grant its approval to any standard, guidance, or practice for which no substantive objections are filed in the comment period. Filed standards, guidances, or practices, including any amendments thereto, shall be mandatory and applicable according to their terms following approval by the Commission and shall remain in effect until—

''(1) withdrawn, disapproved, or superseded by an Organization Standard, issued or approved by the Electric Reliability Organization and made effective by the Commission under subsection (e); or

''(2) disapproved by the Commission if, upon complaint or upon its own motion and after notice and an opportunity for comment, the Commission finds the standard, guidance, or practice unjust, unreasonable, unduly discriminatory, or preferential or not in the public interest. Standards, guidances, or practices in effect pursuant to the provisions of this subsection shall be enforceable by the Commission.

''(d) ORGANIZATION APPROVAL.—

''(1) Following the issuance of a final Commission rule under subsection (b)(3), an entity may submit an application to the Commission for approval as the Electric Reliability Organization. The applicant shall

specify in its application its governance and procedures, as well as its funding mechanism and initial funding requirements.

''(2) The Commission shall provide public notice of the application and afford interested parties an opportunity to comment.

''(3) The Commission shall approve the application if the Commission determines that the applicant—

''(A) has the ability to develop, implement, and enforce standards that provide for an adequate level of reliability of the bulk power system;

''(B) permits voluntary membership to any user of the bulk power system or public interest group;

''(C) assures fair representation of its members in the selection of its directors and fair management of its affairs, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of Organization Standards and the exercise of oversight of bulk power system reliability;

''(D) assures that no two industry sectors have the ability to control, and no one industry sector has the ability to veto, the Electric Reliability Organization's discharge of its responsibilities (including actions by committees recommending standards to the board or other board actions to implement and enforce standards);

''(E) provides for governance by a board wholly comprised of independent directors;

''(F) provides a funding mechanism and requirements that are just, reasonable, and not unduly discriminatory or preferential and are in the public interest, and which satisfy the requirements of subsection (*l*);

''(G) establishes procedures for development of Organization Standards that provide reasonable notice and opportunity for public comment, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of Organization Standards, and which standards development process has the following attributes—

''(i) openness;

''(ii) balance of interests; and

''(iii) due process, except that the procedures may include alternative procedures for emergencies;

''(H) establishes fair and impartial procedures for implementation and enforcement of Organization Standards, either directly or through delegation to an affiliated regional reliability entity, including the imposition of penalties, limitations on activities, functions, or operations, or other appropriate sanctions;

''(I) establishes procedures for notice and opportunity for public observation of all meetings, except that the procedures for public observation may include alternative procedures for emergencies or for the discussion of information the directors determine should take place in closed session, such as litigation, personnel actions, or commercially sensitive information;

''(J) provides for the consideration of recommendations of States and State commissions; and

''(K) addresses other matters that the Commission may deem necessary or appropriate to ensure that the procedures, governance, and funding of the Electric Reliability Organization are just, reasonable, not unduly discriminatory or preferential, and are in the public interest.

''(4) The Commission shall approve only one Electric Reliability Organization. If the Commission receives two or more timely applications that satisfy the requirements of this subsection, the Commission shall approve only the application it concludes will best implement the provisions of this section.

''(e) ESTABLISHMENT OF AND MODIFICATIONS TO ORGANIZATION STANDARDS.—

''(1) The Electric Reliability Organization shall file with the Commission any new or modified organization standards, including any variances or entity rules, and the Commission shall follow the procedures under paragraph (2) for review of that filing.

''(2) Submissions under paragraph (1) shall include—

''(A) a concise statement of the purpose of the proposal, and

''(B) a record of any proceedings conducted with respect to such proposal.

The Commission shall provide notice of the filing of such proposal and afford interested entities 30 days to submit comments. The Commission, after taking into consideration any submitted comments, shall approve or disapprove such proposal not later than 60 days after the deadline for the submission of comments, except that the Commission may extend the 60–day period for an additional 90 days for good cause, and except further that if the Commission does not act to approve or disapprove a proposal within the foregoing periods, the proposal shall go into effect subject to its terms, without prejudice to the authority of the Commission thereafter to modify the proposal in accordance with the standards and requirements of this section. Proposals approved by the Commission shall take effect according to their terms but not earlier than 30 days after the effective date of the Commission's order, except as provided in paragraph (3) of this subsection.

''(3)(A) In the exercise of its review responsibilities under this subsection, the Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a new or modified organization standard, but shall not defer to the organization with respect to the effect of the standard on competition. The Commission shall approve a proposed new or modified organization standard if it determines the proposal to be just, reasonable, not unduly discriminatory or preferential, and in the public interest.

''(B) An existing or proposed organization standard which is disapproved in whole or in part by the Commission shall be remanded to the Electric Reliability Organization for further consideration.

''(C) The Commission, on its own motion or upon complaint, may direct the Electric Reliability Organization to develop an organization standard, including modification to an existing organization standard, addressing a specific matter by a date certain if the Commission considers such new or modified organization standard necessary or appropriate to further the purposes of this section. The Electric Reliability Organization shall file any such new or modified organization standard in accordance with this subsection.

''(D) An affiliated regional reliability entity may propose a variance or entity rule to the Electric Reliability Organization. The affiliated regional reliability entity may request that the Electric Reliability Organization expedite consideration of the proposal, and may file a notice of such request with the Commission, if expedited consideration is necessary to provide for bulk-power system reliability. If the Electric Reliability Organization fails to adopt the variance or entity rule, either in whole or in part, the affiliated regional reliability entity may request that the Commission review such action. If the Commission determines, after its review of such a request, that the action of the Electric Reliability Organization did not conform to the applicable standards and procedures approved by the Commission, or if the Commission determines that the variance or entity rule is just, reasonable, not unduly discriminatory or preferential, and in the public interest, and that the Electric Reliability Organization has unreasonably rejected the proposed variance or entity rule, then the Commission may remand the proposed variance or entity rule for further consideration by the Electric Reliability Organization or may direct the Electric Reliability Organization or the affiliated regional reliability entity to develop a variance or entity rule consistent with that requested by the affiliated regional reliability entity. Any such variance or entity rule proposed by an affiliated regional reliability entity shall be submitted to the Electric Reliability Organization for review and filing with the Commission in accordance with the procedures specified in this subsection.

''(E) Notwithstanding any other provision of this subsection, a proposed organization standard or amendment shall take effect according to its terms if the Electric Reliability Organization detemiines that an emergency exists requiring that such proposed organization standard or amendment take effect without notice or comment. The Electric Reliability Organization shall notify the Commission immediately following such determination and shall file such emergency organization standard or amendment with the Commission not later than 5 days following such determination and shall include in such filing an explanation of the need for such emergency standard. Subsequently, the Commission shall provide notice of the organization standard or amendment for comment, and shall follow the procedures set out in paragraphs (2) and (3) for review of the new or modified organization standard. Any such organization standard that has gone into effect shall remain in effect unless and until suspended or disapproved by the Commission. If the Commission determines at anytime that the emergency organization standard or amendment is not necessary, the Commission may suspend such emergency organization standard or amendment.

''(4) All users of the bulk power system shall comply with any organization standard that takes effect under this section.

''(f) COORDINATION WITH CANADA AND MEXICO.—The Electric Reliability Organization shall take all appropriate steps to gain recognition in Canada and Mexico. The United States shall use its best efforts to enter into international agreements with the appropriate governments of Canada and Mexico to provide for effective compliance with organization standards and to provide for the effectiveness of the Electric Reliability Organization in carrying out its mission and responsibilities. All actions taken by the Electric Reliability Organization, any affiliated regional entity, and the Commission shall be consistent with the provisions of such international agreements.

''(g) CHANGES IN PROCEDURES, GOVERNANCE, OR FUNDING.—

''(1) The Electric Reliability Organization shall file with the Commission any proposed change in its procedures, governance, or funding, or any changes in the affiliated regional reliability entity's procedures, governance, or funding relating to delegated functions, and shall include with the filing an explanation of the basis and purpose for the change.

''(2) A proposed procedural change may take effect 90 days after filing with the Commission if the change constitutes a statement of policy, practice, or interpretation with respect to the meaning or enforcement of an existing procedure. Otherwise, a proposed procedural change shall take effect only upon a finding by the Commission, after notice and opportunity for comments, that

the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (d)(4).

''(3) A change in governance or funding shall not take cffect unless the Commission finds that the change is just, reasonable, not unduly discriminatory or preferential, in the public interest, and satisfies the requirements of subsection (d)(4).

''(4) The Commission, upon complaint or upon its own motion, may require the Electric Reliability Organization to amend the procedures, governance, or funding if the Commission determines that the amendment is necessary to meet the requirements of this section. The Electric Reliability Organization shall file the amendment in accordance with paragraph (1) of this subsection.

''(h) DELEGATIONS OF AUTHORITY.—

''(1) The Electric Reliability Organization shall, upon request by an entity, enter into an agreement with such entity for the delegation of authority to implement and enforce compliance with organization standards in a specified geographic area if the organization finds that the entity requesting the delegation satisfies the requirements of subparagraphs (A), (B), (C), (D), (F), (J), and (K) of subsection (d)(4), and if the delegation promotes the effective and efficient implementation and administration of bulk power system reliability. The Electric Reliability Organization may enter into an agreement to delegate to the entity any other authority, except that the Electric Reliability Organization shall reserve the right to set and approve standards for bulk power system reliability.

''(2) The Electric Reliability Organization shall file with the Commission any agreement entered into under this subsection and any information the Commission requires with respect to the affiliated regional reliability entity to which authority is to be delegated. The Commission shall approve the agreement, following public notice and an opportunity for comment, if it finds that the agreement meets the requirements of paragraph (1), and is just, reasonable, not unduly discriminatory or preferential, and is in the public interest. A proposed delegation agreement with an affiliated regional reliability entity organized on an interconnection-wide basis shall be rebuttably presumed by the Commission to promote the effective and efficient implementation and administration of bulk power system reliability. No delegation by the Electric Reliability Organization shall be valid unless approved by the Commission.

''(3)(A) A delegation agreement entered into under this subsection shall specify the procedures for an affiliated regional reliability entity to propose entity rules or variances for review by the Electric Reliability Organization. With respect to any such proposal that would apply on an interconnection-wide basis, the Electric Reliability Organization shall presume such proposal valid if made by an interconnection-wide affiliated regional reliability entity unless the Electric Reliability Organization makes a written finding that the proposal—

''(i) was not developed in a fair and open process that provided an opportunity for all interested parties to participate;

''(ii) has a significant adverse impact on reliability or commerce in other interconnections;

''(iii) fails to provide a level of reliability of the bulk-power system within the interconnection such that it would constitute a serious and substantial threat to public health, safety, welfare, or national security; or

''(iv) creates a serious and substantial burden on competitive markets within the interconnection that is not necessary for reliability.

''(B) With respect to any such proposal that would apply only to part of an interconnection, the Electric Reliability Organization shall find such proposal valid if the affiliated regional reliability entity or entities making the proposal demonstrate that it—

''(i) was developed in a fair and open process that provided an opportunity for all interested parties to participate;

''(ii) would not have an adverse impact on commerce that is not necessary for reliability;

''(iii) provides a level of bulk power system reliability adequate to protect public health, safety, welfare, and national security, and would not have a significant adverse impact on reliability; and

''(iv) in the case of a variance, is based on legitimate differences between regions or between subregions within the affiliated regional reliability entity's geographic area.

The Electric Reliability Organization shall approve or disapprove such proposal within 120 days, or the proposal shall be deemed approved. Following approval of any such proposal under this paragraph, the Electric Reliability Organization shall seek Commission approval pursuant to the procedures prescribed under subsection (e)(3). Affiliated regional reliability entities may not make requests for approval directly to the Commission except pursuant to subsection (e)(3)(D).

''(4) If an affiliated regional reliability entity requests, consistent with paragraph (1) of this subsection, that the Electric Reliability Organization delegate authority to it, but is unable within 180 days to reach agreement with the Electric Reliability Organization with respect to such requested delegation, such entity may seek relief from the Commission. If, following notice and opportunity for comment, the Commission determines that a delegation to the entity would meet the requirements of paragraph (1) above, and that the delegation would be just, reasonable, not unduly discriminatory or preferential, and in the public interest, and that the Electric Reliability Organization has unreasonably withheld such delegation, the Commission may, by order, direct the Electric Reliability Organization to make such delegation.

''(5)(A) The Commission may, upon its own motion or upon complaint, and with notice to the appropriate affiliated regional reliability entity or entities, direct the Electric Reliability Organization to propose a modification to an agreement entered into under this subsection if the Commission determines that—

''(i) the affiliated regional reliability entity no longer has the capacity to carry out effectively or efficiently its implementation or enforcement responsibilities under that agreement, has failed to meet its obligations under that agreement, or has violated any provision of this section;

''(ii) the rules, practices, or procedures of the affiliated regional reliability entity no longer provide for fair and impartial discharge of its implementation or enforcement responsibilities under the agreement;

''(iii) the geographic boundary of a transmission entity approved by the Commission is not wholly within the boundary of an affiliated regional reliability entity and such difference is inconsistent with the effective and efficient implementation and administration of bulk power system reliability; or

''(iv) the agreement is inconsistent with another delegation agreement as a result of actions taken under paragraph (4) of this subsection.

''(B) Following an order of the Commission issued under subparagraph (A), the Commission may suspend the affected agreement if the Electric Reliability Organization or the affiliated regional reliability entity does not propose an appropriate and timely modification. If the agreement is suspended, the Electric Reliability Organization shall assume the previously delegated responsibilities. The Commission shall allow the Electric Reliability Organization and the affiliated regional reliability entity an opportunity to appeal the suspension.

''(i) ORGANIZATION MEMBERSHIP.—Every system operator shall be required to be a member of the Electric Reliability Organization and shall be required also to be a member of any affiliated regional reliability entity operating under an agreement effective pursuant to subsection (h) applicable to the region in which the system operates or is responsible for the operation of bulk power system facilities.

''(j) INJUNCTIONS AND DISCIPLINARY ACTIONS.—

''(1) Consistent with the range of actions approved by the Commission under subsection (d)(4)(H), the Electric Reliability Organization may impose a penalty, limitation of activities, functions, operations, or other disciplinary action the Electric Reliability Organization finds appropriate against a user of the bulk power system if the Electric Reliability Organization, after notice and an opportunity for interested parties to be heard, issues a finding in writing that the user of the bulk-power system has violated an organization standard. The Electric Reliability Organization shall immediately notify the Commission of any disciplinary action imposed with respect to an act or failure to act of a user of the bulk-power system that affected or threatened to affect bulk power system facilities located in the United States, and the sanctioned party shall have the right to seek modification or rescission of such disciplinary action by the Commission. If the organization finds it necessary to prevent a serious threat to reliability, the organization may seek injunctive relief in a Federal court in the district in which the affected facilities are located.

''(2) A disciplinary action taken under paragraph (1) may take effect not earlier than the 30th day after the Electric Reliability Organization files with the Commission its written finding and record of proceedings before the Electric Reliability Organization and the Commission posts its written finding, unless the Commission, on its own motion or upon application by the user of the bulk power system which is the subject of the action, suspends the action. The action shall remain in effect or remain suspended unless and until the Commission, after notice and opportunity for hearing, affirms, sets aside, modifies, or reinstates the action, but the Commission shall conduct such hearing under procedures established to ensure expedited consideration of the action taken.

''(3) The Commission, on its own motion or on complaint, may order compliance with an organization standard and may impose a penalty, limitation of activities, functions, or operations, or take such other disciplinary action as the Commission finds appropriate, against a user of the bulk power system with respect to actions affecting or threatening to affect bulk power system facilities located in the United States if the Commission finds, after notice and opportunity for a hearing, that the user of the bulk power system has violated or threatens to violate an organization standard.

''(4) The Commission may take such action as is necessary against the Electric Reliability Organization or an affiliated regional reliability entity to assure compliance with an organization standard, or any Commission order affecting the Electric Reliability

Organization or an affiliated regional reliability entity.

''(k) RELIABILITY REPORTS.—The Electric Reliability Organization shall conduct periodic assessments of the reliability and adequacy of the interconnected bulk power system in North America and shall report annually to the Secretary of Energy and the Commission its findings and recommendations for monitoring or improving system reliability and adequacy.

''(*l*) ASSESSMENT AND RECOVERY OF CERTAIN COSTS.—The reasonable costs of the Electric Reliability Organization, and the reasonable costs of each affiliated regional reliability entity that are related to implementation and enforcement of organization standards or other requirements contained in a delegation agreement approved under subsection (h), shall be assessed by the Electric Reliability Organization and each affiliated regional reliability entity, respectively, taking into account the relationship of costs to each region and based on an allocation that reflects an equitable sharing of the costs among all end users. The Commission shall provide by rule for the review of such costs and allocations, pursuant to the standards in this subsection and subsection (d)(4)(F).

''(m) SAVINGS PROVISIONS.—

''(1) The Electric Reliability Organization shall have authority to develop, implement and enforce compliance with standards for the reliable operation of only the bulk power system.

''(2) This section does not provide the Electric Reliability Organization or the Commission with the authority to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

''(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any Organization Standard.

''(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, the Commission shall issue a final order determining whether a State action is inconsistent with an Organization Standard, after notice and opportunity for comment, taking into consideration any recommendations of the Electric Reliability Organization.

''(5) The Commission, after consultation with the Electric Reliability Organization, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

''(n) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States, upon execution of an international agreement or agreements described in subsection (f). A regional advisory body may provide advice to the electric reliability organization, an affiliated regional reliability entity, or the Commission regarding the governance of an existing or proposed affiliated regional reliability entity within the same region, whether an organization standard, entity rule, or variance proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, and whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, in the public interest, and consistent with the requirements of subsection (1). The Commission may give deference to the advice of any such regional advisory body if that body is organized on an interconnection-wide basis.

''(o) COORDINATION WITH REGIONAL TRANSMISSION ORGANIZATIONS.—

''(1) Each regional transmission organization authorized by the Commission shall be responsible for maintaining the short-term reliability of the bulk power system that it operates, consistent with organization standards.

''(2) Except as provided in paragraph (5), in connection with a proceeding under subsection (e) to consider a proposed organization standard, each regional transmission organization authorized by the Commission shall report to the Commission, and notify the electric reliability organization and any applicable affiliated regional reliability entity, regarding whether the proposed organization standard hinders or conflicts with that regional transmission organization's ability to fulfill the requirements of any rule, regulation, order, tariff, rate schedule, or agreement accepted, approved or ordered by the Commission. Where such hindrance or conflict is identified, the Commission shall address such hindrance or conflict, and the need for any changes to such rule, order, tariff, rate schedule, or agreement accepted, approved or ordered by the Commission in its order under subsection (e) regarding the proposed standard. Where such hindrance or conflict is identified between a proposed organization standard and a provision of any rule, order, tariff, rate schedule or agreement accepted, approved or ordered by the Commission applicable to a regional transmission organization, nothing in this section shall require a change in the regional transmission organization's obligation to comply with such provision unless the Commission orders such a change and the change becomes effective. If the Commission finds that the tariff, rate schedule, or agreement needs to be changed, the regional transmission organization must expeditiously make a section 205 filing to reflect the change. If the Commission finds that the proposed organization standard needs to be changed, it shall remand the proposed organization standard to the electric reliability organization under subsection (e)(3)(B).

''(3) Except as provided in paragraph (5), to the extent hindrances and conflicts arise after approval of a reliability standard under subsection (c) or organization standard under subsection (e), each regional transmission organization authorized by the Commission shall report to the Commission, and notify the electric reliability organization and any applicable affiliated regional reliability entity, regarding any reliability standard approved under subsection (c) or organization standard that hinders or conflicts with that regional transmission organization's ability to fulfill the requirements of any rule, regulation, order, tariff, rate schedule, or agreement accepted, approved or ordered by the Commission. The Commission shall seek to assure that such hindrances or conflicts are resolved promptly. Where a hindrance or conflict is identified between a reliability standard or an organization standard and a provision of any rule, order, tariff, rate schedule or agreement accepted, approved or ordered by the Commission applicable to a regional reliability organization, nothing in this section shall require a change in the regional transmission organization's obligation to comply with such provision unless the Commission orders such a change and the change becomes effective. If the Commission finds that the tariff, rate schedule or agreement needs to be changed, the regional transmission organization must expeditiously make a section 205 filing to reflect the change. If the Commission finds that an organization standard needs to be changed, it shall order the electric reliability organization to develop and submit a modified organization standard under subsection (e)(3)(C).

''(4) An affiliated regional reliability entity and a regional transmission organization operating in the same geographic area shall cooperate to avoid conflicts between implementation and enforcement of organization standards by the affiliated regional reliability entity and implementation and enforcement by the regional transmission organization of tariffs, rate schedules, and agreements accepted, approved or ordered by the Commission. In areas without an affiliated regional reliability entity, the electric reliability organization shall act as the affiliated regional reliability entity for purposes of this paragraph.

''(5) Until 6 months after approval of applicable subsection (h)(3) procedures, any reliability standard, guidance, or practice contained in Commission-accepted tariffs, rate schedules, or agreements in effect of any Commission-authorized independent system operator or regional transmission organization shall continue to apply unless the Commission accepts an amendment thereto by the applicable operator or organization, or upon complaint finds them to be unjust, unreasonable, unduly discriminatory or preferential, or not in the public interest. At the conclusion of such transition period, any such reliability standard, guidance, practice, or amendment thereto that the Commission determines is inconsistent with organization standards shall no longer apply.''.

(b) ENFORCEMENT.—Sections 316 and 316A of the Federal Power Act are each amended by striking ''or 214'' each place it appears and inserting ''214, or 216''.

SEC. 402. APPLICATION OF ANTITRUST LAWS.

Notwithstanding any other provision of law, each of the following activities are rebuttably presumed to be in compliance with the antitrust laws of the United States:

(1) Activities undertaken by the Electric Reliability Organization under section 216 of the Federal Power Act or affiliated regional reliability entity operating under an agreement in effect under section 216(h) of such Act.

(2) Activities of a member of the Electric Reliability Organization or affiliated regional reliability entity in pursuit of organization objectives under section 216 of the Federal Power Act undertaken in good faith under the rules of the organization.

Primary jurisdiction, and immunities and other affirmative defenses, shall be available to the extent otherwise applicable.

TITLE V—IMPROVED ELECTRICITY CAPACITY AND ACCESS

SEC. 501. UNIVERSAL AND AFFORDABLE SERVICE.

It is the sense of the Congress that—

(1) every retail electric consumer should have access to electric energy at reasonable and affordable rates; and

(2) the States should ensure that retail electric competition does not result in the loss of service to rural, residential, or low-income consumers.

SEC. 502. PUBLIC BENEFITS FUND.

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''eligible public purpose program'' means a State or tribal program that—

(A) assists low-income households in meeting their home energy needs;

(B) provides for the planning, construction, or improvement of facilities to generate, transmit, or distribute electricity to Indian tribes or rural and remote communities;

(C) provides for the development and implementation of measures to reduce the demand for electricity;

(D) provides for the development and implementation of a qualifying greenhouse gas mitigation project; or

(E) provides for—

(i) new or additional capacity, or improves the efficiency of existing capacity, from a wind, biomass, geothermal, solar thermal, photovoltaic, combined heat and power energy source, or

(ii) additional generating capacity achieved from increased efficiency at existing hydroelectric dams or additions of new capacity at existing hydroelectric dams;

(2) the term ''fiscal agent'' means the entity designated under subsection (c);

(3) the term ''Fund'' means the Public Benefits Fund established under subsection (b);

(4) the term ''qualifying greenhouse gas mitigation project'' means a project to reduce the emissions of greenhouse gases that is at least fifty percent cofunded by a power generator;

(5) the term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(6) the term ''Secretary'' means the Secretary of Energy; and

(7) the term ''State'' means each of the States and the District of Columbia.

(b) PUBLIC BENEFITS FUND.—There is established in the Treasury of the United States a separate fund, to be known as the Public Benefits Fund. The Fund shall consist of amounts collected by the fiscal agent under subsection (e). The fiscal agent may disburse amounts in the Fund, without further appropriation, in accordance with this section.

(c) DUTIES OF THE FISCAL AGENT.—The Secretary shall appoint a fiscal agent shall collect and disburse the amounts in the Fund in accordance with this section.

(d) DUTIES OF THE SECRETARY.—The Secretary shall prescribe—

(1) rules for the equitable allocation of the Fund among States and Indian tribes based upon—

(A) the number of low-income households in such State or tribal jurisdiction; and

(B) the average annual cost of electricity used by households in such State or tribal jurisdiction;

(2) the criteria by which the fiscal agent determines whether a State or tribal government's program is an eligible public purpose program; and

(3) rules governing the award of funds for qualifying greenhouse gas mitigation projects that the Secretary determines are necessary to ensure such projects are cost-effective.

(e) PUBLIC BENEFITS CHARGE.—

(1) AMOUNT OF CHARGE.—As a condition of existing or future interconnection with facilities of any transmitting utility, each owner of an electric generating facility whose nameplate capacity exceeds five megawatts shall pay the transmitting utility a public benefits charge equal to one mill per kilowatt-hour on electric energy generated by such electric generating facility.

(2) AFFILIATES.—Each owner of an electric generating facility subject to the charge under paragraph (1) shall pay the charge even if the generation facility and the transmitting facility are under common ownership or are otherwise affiliated.

(3) IMPORTED ELECTRICITY.—Each importer of electric energy from Canada or Mexico, as a condition of existing or future interconnection with facilities of any transmitting utility in the United States, shall pay this same charge for imported electric energy.

(4) PAYMENT OF THE CHARGE.—The transmitting utility shall pay the amounts collected to the fiscal agent at the close of each month, and the fiscal agent shall deposit the amounts into the Fund as offsetting collections.

(f) DISBURSAL FROM THE FUND.—

(1) BLOCK GRANTS.—The fiscal agent shall disburse amounts in the Fund to participating States and tribal governments as a block grant to carry out eligible public purpose programs in accordance with this subsection and rules prescribed under subsection (d).

(2) ANNUAL PAYMENTS.—The fiscal agent shall disburse amounts for a calendar year from the Fund to a State or tribal government in twelve equal monthly payments beginning two months after the beginning of the calendar year.

(3) ELIGIBLE RECIPIENTS.—The fiscal agent shall make distributions to the State or tribal government or to an entity designated by the State or tribal government to receive payments.

(4) LIMITATION ON USE OF FUNDS.—A State or tribal government may use amounts received only for the eligible public purpose programs the State or tribal government designated in its submission to the fiscal agent and the fiscal agent determined eligible.

(g) REPORT.—One year before the date of expiration of this section, the Secretary shall report to Congress whether a public benefits fund should continue to exist.

(h) SUNSET.—This section expires at midnight on December 31, 2015.

SEC. 503. RURAL CONSTRUCTION GRANTS.

Section 313 of the Rural Electrification Act of 1936 (7 U.S.C. 940c) is amended by adding after subsection (b) the following:

''(c) RURAL AND REMOTE COMMUNITIES ELECTRIFICATION GRANTS.—The Secretary of Agriculture, in consultation with the Secretary of Energy and the Secretary of the Interior, may provide grants to eligible borrowers under this Act for the purpose of increasing energy efficiency, siting or upgrading transmission and distribution lines, or providing or modernizing electric facilities for—

''(1) a unit of local government of a State or territory; or

''(2) an Indian tribe.

''(d) GRANT CRITERIA.—The Secretary shall make grants based on a determination of cost-effectiveness and most effective use of the funds to achieve the stated purposes of this section.

''(e) PREFERENCE.—In making grants under this section, the Secretary shall give a preference to renewable energy facilities.

''(f) DEFINITION.—For purposes of this section, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(g) AUTHORIZATION.—There is authorized to be appropriated for purposes of subsection (c) $20,000,000 for each of the seven fiscal years following the date of enactment of this section.''.

SEC. 504. COMPREHENSIVE INDIAN ENERGY PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501–3506) is amended by adding after section 2606 the following:

''SEC. 2607. COMPREHENSIVE INDIAN ENERGY PROGRAM.

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

''(1) 'Director' means the Director of the Office of Indian Energy Policy and Programs established by section 217 of the Department of Energy Organization Act, and

''(2) 'Indian land' means—

''(A) any land within the limits of an Indian reservation, pueblo, or ranchera;

''(B) any land not within the limits of an Indian reservation, pueblo, or ranchera whose title on the date of enactment of this section was held—

''(i) in trust by the United States for the benefit of an Indian tribe,

''(ii) by an Indian tribe subject to restriction by the United States against alienation, or

''(iii) by a dependent Indian community; and

''(C) land conveyed to an Alaska Native Corporation under the Alaska Native Claims Settlement Act.

''(b) INDIAN ENERGY EDUCATION, PLANNING AND MANAGEMENT ASSISTANCE.—(1) The Director shall establish progains within the Office of Indian Energy Policy and Programs to assist Indian tribes to meet their energy education, research and development, planning, and management needs.

''(2) The Director may make grants, on a competitive basis, to an Indian tribe for—

''(A) renewable, energy efficiency, and conservation programs;

''(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities; and

''(C) planning, constructing, developing, operating, maintaining, and improving tribal electrical generation, transmission, and distribution facilities.

''(3) The Director may develop, in consultation with Indian tribes, a formula for making grants under this section. The formula may take into account the following—

''(A) total number of acres of Indian land owned by an Indian tribe;

''(B) total number of households on the tribe's Indian land;

''(C) total number of households on the Indian tribe's Indian land that have no electricity service or are underserved; and

''(D) financial or other assets available to the tribe from any source.

''(4) In making a grant under paragraph (2)(E), the Director shall give priority to an application received from an Indian tribe that is not served or is served inadequately by an electric utility, as that term is defined in section 3(4) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(4)), or by a person, State agency, or any other non-federal entity that owns or operates a local distribution facility used for the sale of electric energy to an electric consumer.

''(5) There are authorized to be appropriated to the Department of Energy such sums as may be necessary to carry out the purposes of this section.

''(c) APPLICATION OF BUY INDIAN ACT.—(1) An agency or department of the United States Government may give, in the purchase and sale of electricity, oil, gas, coal, or other energy product or by-product produced, converted, or transferred on Indian lands, preference, under section 23 of the Act of June 25, 1910 (25 U.S.C. 47) (commonly known as the ''Buy Indian Act''), to an energy and resource production enterprise, partnership, corporation, or other type of business organization majority or wholly owned and controlled by an Indian, a tribal government, or a business, enterprise, or operation of the American Indian Tribal Governments.

''(2) In implementing this subsection, an agency or department shall pay no more for energy production than the prevailing market price and shall obtain no less than existing market terms and conditions.

''(d) EFFECT ON OTHER LAWS.—This section does not—

''(1) limit the discretion vested in an Administrator of a Federal power marketing agency to market and allocate Federal power, or

''(2) alter Federal laws under which a Federal power marketing agency markets, allocates, or purchases power.''.

(b) OFFICE OF INDIAN POLICY AND PROGRAMS.—Title II of the Department of Energy Organization Act is amended by adding at the end the following:

''OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

''SEC. 217. (a) There is established within the Department an Office of Indian Energy Policy and Progams. This Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at the rate equal to that of level IV of the Executive Schedule under section 5315 of Title 5, United States Code. The Director shall perform the duties assigned the Director under the Comprehensive Indian Energy Act and this section.

''(b) The Director shall provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

''(1) promote tribal energy efficiency and utilization;

''(2) modernize and develop, for the benefit of Indian tribes, tribal energy and economic infrastructure related to natural resource development and electrification;

''(3) preserve and promote tribal sovereignty and self determination related to energy matters and energy deregulation;

''(4) lower or stabilize energy costs; and

''(5) electrify tribal members' homes and tribal lands.

''(c) The Director shall carry out the duties assigned the Secretary under title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2603(c) of the Energy Policy Act of 1992 (25 U.S.C. 3503(c)) is amended to read as follows:

''(c) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.''

(2) The Table of Contents of the Department of Energy Act is amended by inserting after the item relating to section 216 the following new item:

''217. Office of Indian Energy Policy and Programs.''

(3) Section 5315 of title 5, United States Code, is amended by inserting ''Director, Office of Indian Energy Policy and Programs, Department of Energy.'' after ''Director, Office of Science, Department of Energy.''

SEC. 505. ENVIRONMENTAL DISCLOSURE TO CONSUMERS.

(a) RETAIL SALES.—The Federal Trade Commission shall issue rules requiring each retail electric supplier to include with each monthly billing to retail electric consumers a statement of the known energy sources used to generate the electricity the supplier distributes, on an annual basis, stated in numbers of kilowatt-hours, both in percentages and in the form of a pie chart, of biomass power, coal-fired power, hydropower, natural gas-fired power, nuclear power, oil-fired power, wind power, geothermal power, solar thermal power, photovoltaic power, combined heat and power, and other sources of power, respectively.

(b) WHOLESALE SALES.—The Federal Trade Commission shall issue rules requiring any electric supplier that sells or makes an offer to sell electric energy at wholesale to provide the purchaser or offeree such known information about the energy source used to generate the electricity, on an annual basis, as the Commission may determine.

(c) CERTIFICATION PROGRAM.—The Secretary of Energy, in consultation with the Federal Trade Commission, shall develop a certification program for each retail electric supplier that sells electric energy, at least 50 percent of which, averaged over a year, is generated from renewable energy sources. For purposes of this subsection, the term ''renewable energy source'' means biomass, wind power, geothermal power, solar thermal power, or photovoltaic power.

SEC. 506. CONSUMER PROTECTIONS.

(a) INFORMATION DISCLOSURE.—The Federal Trade Commission shall issue rules requiring any retail electric supplier that sells or makes an offer to sell electric energy, or solicits retail electric consumers to purchase electric energy, to provide the retail electric consumers, in addition to the information required under section 505, a statement containing the following information:

(1) The nature of the service being offered, including information about interruptibility of service.

(2) The price of electric energy, including a description of any variable charges.

(3) A description of all other charges that are associated with the service being offered, including access charges, exit charges, back-up service charges, stranded cost recovery charges, and customer service charges.

(4) Information concerning the product or price that the Federal Trade Commission determines is technologically and economically feasible to provide and is of assistance to retail electric consumers in making purchasing decisions.

(b) CONSUMER PRIVACY.—

(1) PROHIBITION.—The Federal Trade Commission shall issue rules prohibiting anyperson who obtains consumer information in connection with the sale or delivery of electric energy to a retail electric consumer from using, disclosing, or permitting access to such information unless the consumer to whom such information relates provides prior written approval.

(2) PERMITTED USE.—The rules issued under this subsection shall not prohibit any person from using, disclosing, or permitting access to consumer information referred to in paragraph (1) for any of the following purposes:

(A) To facilitate a retail electric consumer's change in selection of a retail electric supplier under procedures approved by the State or State commission.

(B) To initiate, render, bill, or collect for the sale or delivery of electric energy to retail electric consumers or for related services.

(C) To protect the rights or property of the person obtaining such information.

(D) To protect retail electric consumers from fraud, abuse, and unlawful subscription in the sale or delivery of electric energy to such consumers.

(E) For law enforcement purposes.

(F) For purposes of compliance with any Federal, State, or local law or regulation authorizing disclosure of information to a Federal, State, or local agency.

(3) AGGREGATE CONSUMER INFORMATION.—The rules issued under this subsection shall permit any person to use, disclose, and permit access to aggregate consumer information and shall require local distribution companies to make such information available to retail electric suppliers upon request and payment of a reasonable fee.

(4) DEFINITIONS.—As used in this section:

(1) The term ''aggregate consumer information'' means collective data that relates to a group or category of retail electric consumers, from which individual consumer identities and characteristics have been removed.

(2) The term ''consumer information'' means information that relates to the quantity, technical configuration, type, destination, or amount of use of electric energy delivered to any retail electric consumer.

(3) The term ''State commission'' has the meaning given such term in section 3(15) of the Federal Power Act (16 U.S.C. 796(15)).

(c) UNFAIR TRADE PRACTICES.—

(1) SLAMMING.—The Federal Trade Commission shall issue rules prohibiting the change of selection of a retail electric supplier except with the informed consent of the retail electric consumer.

(2) CRAMMING.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to a retail electric consumer unless expressly authorized by law or the retail electric consumer.

(d) FEDERAL TRADE COMMISSION ENFORCEMENT.—Violation of a rule issued under this section shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a). All functions and powers of the Federal Trade Commission under such Act are available to the Federal Trade Commission to enforce compliance with this section notwithstanding any jurisdictional limits in such Act.

(e) STATE AUTHORITY.—(1) This section does not preclude a State or State commission from prescribing and enforcing additional laws, rules, or procedures regarding the practices which are the subject of this section, so long as such laws, rules, or procedures are not inconsistent with the provisions of this section or with any rule prescribed by the Federal Trade Commission pursuant to it.

(2) The remedies provided by this section are in addition to any other remedies available by law.

(f) DEFINITIONS.—As used in this section—

(1) the term ''retail electric consumer'' means any person who purchases electric energy for ultimate consumption;

(2) the term ''retail electric supplier'' means any person who sells electric energy to a retail electric consumer for ultimate consumption; and

(3) the term ''State commission'' has the meaning given such term in section 3(15) of the Federal Power Act (16 U.S.C. 796(15)).

SEC. 507. WHOLESALE ELECTRICITY MARKET DATA.

Section 213 of the Federal Power Act (16 U.S.C. 824l) is amended by adding at the end the following:

''(c) WHOLESALE ELECTRICITY MARKET DATA.—

''(1) Not later than 180 days after the date of the enactment of this subsection, the Commission shall, by rule, establish an information system that gives persons who buy electric energy for resale, State regulatory authorities, and the public access to current information about—

''(A) the availability of electric energy generating capacity and known generating constraints, and

''(B) the availability of transmission capacity and known transmission constraints.

''(2) The rule shall require—

''(A) each electric utility and each Federal power marketing administration that owns, operates, or controls facilities used for the generation or transmission of electric energy sold or transmitted in interstate commerce to report, by unit, on a real-time basis—

''(i) the total number of megawatts (as a 60 second average) produced by each generating facility it owns, operates, or controls, and

''(ii) the total number of megawatts of capacity at each facility it owns, operates, or controls that is not being used to generate electric power; and

''(B) each transmitting utility to report, on a real-time basis—

''(i) the total number of megawatts transmitted on each transmission facility it owns, operates, or controls, and

''(ii) the total number of megawatts scheduled and the current capacity or rating of each transmission facility it owns, operates, or controls.

''(3) The Commission may enter agreements with regional electric reliability councils to collect, retain, and make available to persons who buy electric energy for resale, state regulatory authorities, and the public the information required to be submitted by the rule.''.

SEC. 508. WHOLESALE ELECTRIC ENERGY RATES IN THE WESTERN ENERGY MARKET.

(a) IMPOSITION OF WHOLESALE ELECTRIC ENERGY RATES.—Not later than 60 days after the date of enactment of this title, the Federal Energy Regulatory Commission shall impose just and reasonable load-differentiated demand rates or cost-of-service based rates on sales by electric utilities of electric energy at wholesale in the western energy market.

(b) LIMITATIONS.—

(1) IN GENERAL.—A load-differentiated demand rate or cost-of-service based rate shall not apply to a sale of electric energy at wholesale for delivery in a State that—

(A) prohibits electric utilities from passing through to retail consumers wholesale rates approved by the Commission; or

(B) imposes a price limit on the sale of electric energy at retail that—

(i) precludes an electric utility from recovering all of the costs incurred by the electric utility in purchasing electric energy; or

(ii) has precluded an electric utility (or any entity that is authorized to purchase electricity on behalf of an electric utility or a State) from making a payment when due to any entity within the western energy market from which the electric utility purchased electric energy, and the default has not been cured.

(2) NO ORDERS TO SELL WITHOUT GUARANTEE OF PAYMENT.—Notwithstanding section 302 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3362), section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)), or section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071), neither the President, the Secretary of Energy, nor the Commission may issue an order that requires a seller of electric energy or natural gas to sell, on or after the date of enactment of this title, electric energy or natural gas to a purchaser in a State described in paragraph (1) unless there is a guarantee that, in the determination of the Commission, is sufficient to ensure that the seller will be paid—

(A) the full purchase price when due, as agreed upon by the buyer and seller; or

(B) if the buyer and seller are unable to agree upon a price—

(i) a fair and equitable price for natural gas as determined by the President under section 302 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3362), or

(ii) a just and reasonable price for electric energy as determined by the Secretary of Energy or the Commission, as appropriate, under section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)).

(3) REQUIREMENT TO MEET IN-STATE DEMAND.—Notwithstanding any other provision of law, a State electric utility commission in the western energy market may prohibit an electric utility in the State from making any sale of electric energy to a purchaser in a State described in paragraph (1) at any time at which a State electric utility commission determines that the electric utility is not meeting the demand for electric energy in the service area of the electric utility.

(c) REPORT.—Not later than 120 days after the date of enactment of this title, the Secretary of Energy shall—

(1) conduct an investigation to determine whether any electric utility in a State described in subsection (d)(1) has been rendered uncreditworthy or has defaulted on any payment for electric energy as a result of a transfer of funds by the electric utility to a parent company or to an affiliate of the electric utility (except a payment made in accordance with a State deregulation statute); and

(2) submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the investigation.

(d) DURATION.—A load-differentiated demand rate or cost-of-service based rate imposed under this section shall remain in effect until such time as the market for electric energy in the western energy market reflects just and reasonable rates, as determined by the Commission.

(e) AUTHORITY OF STATE REGULATORY AUTHORITIES.—This section does not diminish or have any other effect on the authority of a State regulatory authority (as defined in section 3 of the Federal Power Act (16 U.S.C. 796)) to regulate rates and charges for the sale of electric energy to consumers, including the authority to determine the manner in which wholesale rates shall be passed on to consumers (including the setting of tiered pricing, real-time pricing, and baseline rates).

(g) DEFINITIONS.—For purposes of this section—

(1) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(2) COST-OF-SERVICE BASED RATE.—The term ''cost-of-service based rate'' means a rate, charge, or classification for the sale of electric energy that is equal to—

(A) all the variable and fixed costs for producing the electric energy; and

(B) a reasonable return on invested capital.

(3) ELECTRIC UTILITY.—The term ''electric utility'' means any person, State agency (including any municipality), Federal agency (including the Tennessee Valley Authority or any Federal power marketing agency) that sells electric energy in interstate commerce.

(4) LOAD-DIFFERENTIATED DEMAND RATE.—The term ''load-differentiated demand rate'' means a rate, charge, or classification for the sale of electric energy that reflects differences in the demand for electric energy during various times of day, months, seasons, or other time periods.

(5) WESTERN ENERGY MARKET.—The term ''western energy market'' means the area covered by the Western Systems Coordinating Council of the North American Electric Reliability Council.

(i) REPEAL.—Effective March 1, 2003, this section is repealed, and any load-differentiated demand rate or cost-of-service based rate imposed under this section that is then in effect shall no longer be effective.

SEC. 509. NATURAL GAS RATE CEILING IN CALIFORNIA.

Section 284.8(i) of title 18, Code of Federal Regulations (relating to the waiver of the maximum rate ceiling on capacity release transactions on interstate natural gas pipelines) shall not apply to the transportation of natural gas into the State of California from outside the State, effective on the date of enactment of this section.

SEC. 510. SALE PRICE IN BUNDLED NATURAL GAS TRANSACTIONS.

(a) DISCLOSURE.—Not later than 60 days after the date of enactment of this section, the Federal Energy Regulatory Commission shall issue a rule under section 4 of the Natural Gas Act (15 U.S.C. 717c) requiring any person that sells natural gas subject to the jurisdiction of the Commission in a bundled transaction to file with the Commission, not later than the date specified by the Commission, a statement that discloses—

(1) the portion of the sale price that is attributable to the price paid by the seller for the natural gas; and

(2) the portion of the sale price that is attributable to the price paid for the transportation of the natural gas.

(b) DEFINITION OF BUNDLED TRANSACTION.—For purposes of this section, the term ''bundled transaction'' means a transaction for the sale of natural gas in which the sale price includes both the cost of the natural gas and the cost of transporting the natural gas.

TITLE VI—RENEWABLES AND DISTRIBUTED GENERATION

SEC. 601. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENT.—Not later than one year after the date of enactment of this title, and each year thereafter, the Secretary of Energy shall publish an assessment of all renewable energy resources available within the United States.

(b) CONTENTS OF REPORT.—The report published under subsection (a) shall contain—

(1) a detailed inventory describing the available amount and characteristics of solar, wind, biomass, geothermal, hydroelectric and other renewable energy sources, and

(2) such other information as the Secretary of Energy believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource.

SEC. 602. FEDERAL PURCHASE REQUIREMENT.

(a) REQUIREMENT.—The President shall ensure that, of the total amount of electric power the federal government purchases during any fiscal year—

(1) not less than 3 percent in fiscal years 2002 through 2004,

(2) not less than 5 percent in fiscal years 2005 through 2009, and

(3) not less than 7.5 percent in fiscal year 2010 and each fiscal year thereafter—shall be electric power generated by a renewable energy source.

(b) DEFINITION.—For purposes of this section, the term ''renewable energy source'' means—

(1) wind;

(2) biomass;

(3) a geothermal source;

(4) a solar thermal source;

(5) a photovoltaic source;

(6) fuel cells; or

(7) additional hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric dam.

SEC. 603. INTERCONNECTION STANDARDS.

Section 210 of the Federal Power Act (42 U.S.C. 824i) is amended by adding at the end the following:

''(f) SPECIAL RULE FOR DISTRIBUTED GENERATION FACILITIES.—

''(1) DEFINITION.—As used in this subsection, the term 'distributed generation facility' means an electric power generation facility that—

''(A) is designed to serve retail customers at or near the point of consumption; and

''(B) interconnects with local distribution facilities.

''(2) INTERCONNECTION.—A local distribution company shall interconnect a distributed generation facility with the local distribution facilities of such company if the distributed generation facility owner or operator complies with the final rule adopted under paragraph (3) and pays the costs directly related to such interconnection. Costs, terms, and conditions related to such interconnection shall be just, reasonable, and not unduly discriminatory.

''(3) RULES.—Within one year after the date of enactment of this subsection, the Commission shall adopt a final rule to establish safety, reliability, and power quality standards related to distributed generation facilities. For purposes of developing such standards, the Commission may classify distributed power generation facilities based on size and prescribe different requirements for different classes of facilities. The Commission shall establish an advisory committee composed of qualified experts to make recommendations to the Commission on the development of such standards.''.

SEC. 604. NET METERING.

Title VI of the Public Utility Regulatory Policies Act of 1978 is amended by adding at the end the following:

''SEC. 605. NET METERING FOR RENEWABLE ENERGY AND FUEL CELLS.

''(a) DEFINITIONS.—For purposes of this section:

''(1) The term 'eligible on-site generating facility' means—

''(A) a facility on the site of a residential electric consumer with a maximum generating capacity of 100 kilowatts or less that is fueled by solar or wind energy; or

''(B) a facility on the site of a commercial electric consumer with a maximum generating capacity of 250 kilowatts or less that is fueled solely by a renewable energy resource.

''(2) The term 'renewable energy resource' means solar energy, wind energy, biomass, geothermal energy, or fuel cells.

''(3) The term 'net metering service' means service to an electric consumer under which electricity generated by that consumer from an eligible on-site generating facility and delivered to the distribution system through the same meter through which purchased electricity is received may be used to offset electricity provided by the retail electric supplier to the electric consumer during the applicable billing period so that an electric consumer is billed only for the net electricity consumed during the billing period.

''(b) REQUIREMENT TO PROVIDE NET METERING SERVICE.—Each retail electric supplier shall make available upon request net metering service to any retail electric consumer that the supplier currently serves or solicits for service.

''(c) RATES AND CHARGES.—

''(1) IDENTICAL CHARGES.—A retail electric supplier—

''(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other retail electric customers of the electric company in the same rate class; and

''(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

''(2) MEASUREMENT.—A retail electric supplier that supplies electricity to the owner or operator of an on-site generating facility shall measure the quantity of electricity produced by the on-site facility and the quantity of electricity consumed by the owner or operator of an on-site generating facility during a billing period in accordance with normal metering practices.

''(3) ELECTRICITY SUPPLIED EXCEEDING ELECTRICITY GENERATED.—If the quantity of electricity supplied by a retail electric supplier during a billing period exceeds the quantity of electricity generated by an on-site generating facility and fed back to the electric distribution system during the billing period, the supplier may bill the owner or operator for the net quantity of electricity supplied by the retail electric supplier, in accordance with normal metering practices.

''(4) ELECTRICITY GENERATED EXCEEDING ELECTRICITY SUPPLIED.—If the quantity of electricity generated by an on-site generating facility during a billing period exceeds the quantity of electricity supplied by the retail electric supplier during the billing period—

''(A) the retail electric supplier may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and

''(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

''(d) SAFETY AND PERFORMANCE STANDARDS.—

''(1) An eligible on-site generating facility and net metering system used by a retail electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

''(2) The Commission, after consultation with State regulatory authorities and nonregulated local distribution systems and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.''

SEC. 605. ACCESS TO TRANSMISSION BY INTERMITTENT GENERATORS.

Part II of the Federal Power Act (16 U.S.C. 824–824m) is amended by adding at the end the following:

''SEC. 217. ACCESS TO TRANSMISSION BY INTERMITTENT GENERATORS.

''(a) IN GENERAL.—The Commission shall ensure that all transmitting utilities provide transmission service to intermittent generators in a manner that does not penalize such generators, directly or indirectly, for characteristics that are—

''(1) inherent to intermittent energy resources; and

''(2) are beyond the control of such generators.

''(b) POLICIES.—The Commission shall ensure that the requirement in subsection (a) is met by adopting such policies as it deems appropriate which shall include, but not be limited to, the following:

''(1) Subject to the sole exception set forth in paragraph (2), the Commission shall ensure that the rates transmitting utilities charge intermittent generator customers for transmission services do not directly or indirectly penalize intermittent generator customers for scheduling deviations.

''(2) The Commission may exempt a transmitting utility from the requirement set forth in subsection (b) if the transmitting utility demonstrates that scheduling deviations by its intermittent generator customers are likely to have a substantial adverse impact on the reliability of the transmitting utility's system. For purposes of administering this exemption, there shall be a rebuttable presumption of no adverse impact where intermittent generators collectively constitute 20 percent or less of total generation interconnected with transmitting utility's system and using transmission services provided by transmitting utility.

''(3) The Commission shall ensure that to the extent any transmission charges recovering the transmitting utility's embedded costs are assessed to intermittent generators, they are assessed to such generators on the basis of kilowatt-hours generated rather than the intermittent generator's capacity.

''(4) The Commission shall require transmitting utilities to offer at least to intermittent generators, if not all transmission customers, access to nonfirm transmission service pursuant to long-term contracts of up to ten years duration under reasonable terms and conditions.

''(c) DEFINITIONS.—In this section:

''(1) INTERMITTENT GENERATOR.—The term 'intermittent generator' means a person that generates electricity using wind or solar energy.

''(2) NONFIRM TRANSMISSION SERVICE.—The term 'nonfirm transmission service' means transmission service provided on an 'as available' basis.

''(3) SCHEDULING DEVIATION.—The term 'scheduling deviation' means delivery of more or less energy than has previously been forecast in a schedule submitted by an intermittent generator to a control area operator or transmitting utility.''.

TITLE VII—HYDROELECTRIC RELICENSING

SEC. 701. ALTERNATIVE CONDITIONS.

(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:

''(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States under subsection (e), and the Secretary of the department under whose supervision such reservation falls shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant may propose an alternative condition.

''(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the alternative condition proposed by the license applicant, and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines that the alternative condition—

''(A) provides equal or greater protection for the reservation than the condition deemed necessary by the Secretary;

''(B) is based on sound science; and

''(C) will either—

''(i) cost less to implement than the condition deemed necessary by the Secretary, or

''(ii) result in less loss of generating capacity than the condition deemed necessary by the Secretary.''.

(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

(1) inserting ''(a)'' before the first sentence; and

(2) adding at the end the following:

''(b)(1) Whenever the Commission shall require a licensee to construct, maintain, or operate a fishway prescribed by the Secretary of the Interior or the Secretary of Commerce under this section, the licensee may propose an alternative.

''(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the alternative proposed by the licensee, if

the Secretary of the appropriate department determines that the alternative—

''(i) will result in equal or greater fish passage than the fishway initially prescribed by the Secretary;

''(ii) is based on sound science; and

''(iii) will either—

''(I) cost less to implement than the fishway initially prescribed by the Secretary, or

''(II) result in less loss of generating capacity than the fishway initially prescribed by the Secretary.''.

SEC. 702. DISPOSITION OF HYDROELECTRIC CHARGES.

(a) ANNUAL CHARGES.—Section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1) is amended—

(1) by striking ''subject to annual appropriations Acts'' in the first proviso; and

(2) by inserting after ''(in addition to other funds appropriated for such purposes)'' in the first proviso the following: ''without further appropriation''.

(b) OTHER CHARGES.—Section 17(a) of the Federal Power Act (16 U.S.C. 810(a)) is amended by striking ''into the Treasury of the United States and credited to 'Miscellaneous receipts''' and inserting the following: ''to the Secretary of the department under whose supervision the affected reservation falls, without further appropriation, to be used in accordance with subsection (c)''.

(c) USE OF FUNDS.—Section 17 of the Federal Power Act (16 U.S.C. 810) is further amended by adding at the end the following:

''(c)(1) The Secretary receiving a distribution of 12½ per centum of the proceeds of charges under subsection (a) may use such proceeds solely for the protection of the water resources on—

''(A) the reservation on which the project for which the proceeds were paid is located; or

''(B) the reservation on which the headwaters of the waterway, on which the project for which the proceeds were paid, is located.

''(2) For purposes of this subsection, activities for the protection of water resources for which proceeds made available under this subsection may be used may only include the following:

''(A) promoting the recovery of threatened and endangered species;

''(B) road and trail assessments and plans, maintenance, obliteration, or closure;

''(C) wildlife and fish habitat management;

''(D) multiparty monitoring of water protection activities;

''(E) watershed analysis, including resource conditions and trend assessments;

''(F) erosion control and restoring hydrologic function to meadows, wetlands, and floodplains; and

''(G) job training associated with paragraph (3).

''(3) In order to provide employment and job training opportunities to residents of rural communities located within or near a reservation identified in paragraph (1), the Secretary may make grants or enter into cooperative agreements or contracts with-

''(A) a private, non-profit, or cooperative entity within the same county as the reservation;

''(B) businesses that employ 25 or less employees;

''(C) an entity that will hire or train residents of communities located within or near the reservation to perform the contract; or

''(D) the Youth Conservation Corps or related partnerships with State, local, or nonprofit youth groups.''

SEC. 703. RELICENSING STUDY.

(a) IN GENERAL.—The Federal Energy Regulatory Commission shall, in consultation with the Secretary of Commerce, the Secretary of the Interior, and the Secretary of Agriculture, conduct a study of all new licensees issued for existing projects under section 15 since January 1, 1994.

(b) SCOPE.—The study shall analyze:

(1) the length of time the Commission has taken to issue each new license for an existing project;

(2) the additional cost to the licensee attributable to new license conditions;

(3) the change in generating capacity attributable to new license conditions;

(4) the environmental benefits achieved by new license conditions; and

(5) litigation arising from the issuance or failure to issue new licenses for existing projects under section 15 or the imposition or failure to impose new license conditions.

(c) DEFINITION.—As used in this section, the term ''new license condition'' means any condition imposed under-

(1) section 4(e) of the Federal Power Act (16 U.S.C. 797(e)),

(2) section 10(e) of the Federal Power Act (16 U.S.C. 803(e)),

(3) section 100) of the Federal Power Act (16 U.S.C. 8030)),

(4) section 18 of the Federal Power Act (16 U.S.C. 811), or

(5) section 401(d) of the Clean Water Act (33 U.S.C. 1341(d)).

(d) CONSULTATION.—The Commission shall give interested persons and licensees an opportunity to submit information and views in writing.

(e) REPORT.—The Commission shall report its findings to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the House of Representatives not later than six months after the date of enactment of this section.

TITLE VIII—COAL

SEC. 801. DEFINITIONS.

In this title:

(1) COST AND PERFORMANCE GOALS.—The term ''cost and performance goals'' means the cost and performance goals established under section 811.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

Subtitle A—National Coal-Based Technology Development and Applications Program

SEC. 811. COST AND PERFORMANCE GOALS.

(a) IN GENERAL.—The Secretary shall perform an assessment that identifies costs and associated performance of technologies that would permit the continued cost-competitive use of coal for electricity generation, as chemical feedstocks, and as transportation fuel in the periods:

(1) 2007 through 2014;

(2) 2015 through 2019; and

(3) 2020 and each year thereafter.

(b) CONSULTATION.—In establishing the cost and performance goals, the Secretary shall consult with representatives of—

(1) the United States coal industry;

(2) State coal development agencies;

(3) the electric utility industry;

(4) railroads and other transportation industries;

(5) manufacturers of equipment using advanced coal technologies;

(6) organizations representing workers; and

(7) organizations formed to—

(A) further the goals of environmental protection;

(B) promote the use of coal; or

(C) promote the development and use of advanced coal technologies.

(c) TIMING.—The Secretary shall—

(1) not later than 120 days after the date of enactment of this title, issue a set of draft cost and performance goals for public comment; and

(2) not later than 180 days after the date of enactment of this title, after taking into consideration any public comments received, submit to Congress the final cost and performance goals.

SEC. 812. STUDY.

(a) IN GENERAL.—Not later than I year after the date of enactment of this title, the Secretary, in cooperation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall conduct a study to—

(1) identify technologies capable of achieving the cost and performance goals;

(2) assess the costs that would be incurred by, and the period of time that would be required for, the development and demonstration of the cost and performance goals; and

(3) develop recommendations for technology development programs, which the Department of Energy could carry out in cooperation with industry, to develop and demonstrate the cost and performance goals.

(b) COOPERATION.—In carrying out this section, the Secretary shall give due weight to the expert advice of representatives of the entities described in section 811(b).

SEC. 813. TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a program of research on and development, demonstration, and commercial application of coal-based technologies under the statutory authorities available to him for carrying out research and development.

(b) CONDITIONS.—The research, development, demonstration, and commercial application programs identified in section 812(a) shall be designed to achieve the cost and performance goals.

(c) REPORT.—Not later than 18 months after the date of enactment of this title, the Secretary shall submit to the President and Congress a report containing—

(1) a description of the programs that, as of the date of the report, are in effect or are to be carried out by the Department of Energy to support technologies that are designed to achieve the cost and performance goals; and

(2) recommendations for additional authorities required to achieve the cost and performance goals.

SEC. 814. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 2002 through 2012, to remain available until expended.

(b) CONDITIONS OF AUTHORIZATION.—The authorization of appropriations under subsection (a)—

(1) shall be in addition to authorizations of appropriations in effect on the date of enactment of this title; and

(2) shall not be a cap on Department of Energy fossil energy research and development and clean coal technology appropriations.

Subtitle B—Power Plant Improvement Initiative

SEC. 821. POWER PLANT IMPROVEMENT INITIATIVE PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a power plant improvement initiative program that will demonstrate commercial applications of advanced coal-based technologies applicable to new or existing power plants, including co-production plants, which must advance the efficiency, environmental performance, and cost competitiveness well beyond that which is in operation or has been demonstrated on the date of enactment of this title.

(b) PLAN.—Not later than 120 days after the date of enactment of this title, the Secretary shall submit to Congress a plan to carry out subsection (a) that includes a description of—

(1) the program elements and management structure to be used;

(2) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan; and

(3) the demonstration activities proposed to be conducted at new or existing coal-based electric generation units having at least 50 megawatts nameplate rating, including improvements to allow the units to achieve 1 or more of the following:

(A) An overall design efficiency improvement of not less than 3 percent as compared with the efficiency of the unit as operated on the date of enactment of this title and before any retrofit, repowering, replacement, or installation.

(B) A significant improvement in the environmental performance related to the control of sulfur dioxide, nitrogen oxide, and mercury in a manner that is different and well below the cost of technologies that are in operation or have been demonstrated on the date of enactment of this title.

(C) A means of recycling, reusing, or sequestering a significant portion of coal combustion wastes produced by coal-based generating units excluding practices that are commercially available at the date of enactment of this title.

SEC. 822. FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Not later than 180 days after the date on which the Secretary submits to Congress the plan under section 821 (b), the Secretary shall solicit proposals for projects at new or existing facilities designed to achieve the levels of performance set forth in section 821(b)(3).

(b) PROJECT CRITERIA.—A solicitation under subsection (a) may include solicitation of a proposal for a project to demonstrate—

(1) the control of emissions of 1 or more pollutants; or

(2) the production of coal combustion byproducts that are capable of obtaining economic values significantly greater than byproducts produced on the date of enactment of this title.

(c) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that—

(1) demonstrate overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements;

(3) achieve, in a cost-effective manner, 1 or more of the criteria described in the solicitation; and

(4) demonstrate technologies that are applicable to 25 percent of the electricity generating facilities that use coal as the primary feedstock on the date of enactment of this title.

(d) FEDERAL SHARE.—The Federal share cost of a project funded under this subtitle shall not exceed 50 percent.

SEC. 823. FUNDING.

To carry out this subtitle, the Secretary may use any unobligated funds available to the Secretary and any funds obligated to any project selected under the clean coal technology program that become unobligated.

TITLE IX—PRICE-ANDERSON ACT REAUTHORIZATION

SEC. 901. SHORT TITLE.

This title may be cited as the ''Price- Anderson Amendments Act of 2001''.

SEC. 902. INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NRC LICENSEES.—Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2012''.

(b) INDEMNIFICATION OF DOE CONTRACTORS.—Section 170d.(l)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking '', until August 1, 2002,''.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2012''.

SEC. 903. MAXIMUM ASSESSMENT.

Section 170 b.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)(1)) is amended by striking ''$10,000,000'' and inserting ''$20,000,000''.

SEC. 904. DOE LIABILITY LIMIT.

(a) AGGREGATE LIABILITY LIMIT.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking subsection (2) and inserting the following:

''(2) In agreements of indemnification entered into under paragraph (1), the Secretary—

''(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and

''(B) shall indemnify the persons indemnified against such claims above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with such contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.''.

(b) CONTRACT AMENDMENTS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking subsection (3) and inserting the following:

''(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person, shall be deemed to be amended, on the date of the enactment of the Price-Anderson Amendments Act of 1999, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection on such date.''.

SEC. 905. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

(b) LIABILITY LIMIT.—Section 170e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

SEC. 906. REPORTS.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''August 1, 2008''.

SEC. 907. INFLATION ADJUSTMENT.

Section 170 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by renumbering paragraph (2) as paragraph (3); and

(2) by adding after paragraph (1) the following new paragraph:

''(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following the date of the enactment of the Price-Anderson Amendments Act of 2001, in accordance with the aggregate percentage change in the Consumer Price Index since—

''(A) such date of enactment, in the case of the first adjustment under this subsection; or

''(B) the previous adjustment under this subsection.''.

SEC. 908. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A b.(2) of the Atomic Energy of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NONPROFIT INSTITUTIONS.—Section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a) is further amended by striking subsection d. and inserting the following:

''d. Notwithstanding subsection a., no contractor, subcontractor, or supplier considered to be nonprofit under the Internal Revenue Code of 1954 shall be subject to a civil penalty under this section in excess of the amount of any performance fee paid by the Secretary to such contractor, subcontractor, or supplier under the contract under which the violation or violations; occur.''.

SEC. 909. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this title shall become effective on the date of the enactment of this title.

(b) INDEMNIFICATION PROVISIONS.—The amendments made by sections 703, 704, and 705 shall not apply to any nuclear incident occurring before the date of the enactment of this title.

(c) CIVIL PENALTY PROVISIONS.—The amendments made by section 708 to section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) shall not apply to any violation occurring under a contract entered into before the date of the enactment of this title.

DIVISION C—DOMESTIC OIL AND GAS PRODUCTION AND TRANSPORTATION

TITLE X—OIL AND GAS PRODUCTION

SEC. 1001. OUTER CONTINENTAL SHELF OIL AND GAS LEASE SALE 181.

(a) REQUIREMENT.—Subject to applicable laws and regulations, not later than December 31, 2001, the Secretary of the Interior shall proceed with the proposed Eastern Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 181.

(b) MODIFICATION.—In carrying out the sale under subsection (a), the Secretary of the Interior shall modify the lease area by excluding the 120 blocks in a narrow strip beginning 15 miles from the coast of Alabama. The Secretary shall include the 913 blocks in the area that is greater than 100 miles from the coast of Florida in Lease Sale 181.

SEC. 1002. FEDERAL ONSHORE LEASING PROGRAMS FOR OIL AND GAS.

Consistent with applicable law and regulations, there are authorized to be appropriated to the Secretary of the Interior and the Secretary of Agriculture such sums as may be necessary, including salary expenses to hire additional personnel, to ensure expeditious compliance with National Environmental Policy Act requirements applicable to oil and gas production on public lands and national forest system lands.

SEC. 1003. INCREASING PRODUCTION ON STATE AND PRIVATE LANDS.

(a) STUDY.—The Secretary of Energy, in close coordination with the Interstate Oil and Gas Compact Commission, shall conduct a study to evaluate the opportunities for increasing oil and natural gas production from State and privately controlled lands in the United States. The study shall take into account trends in land use and development that may affect oil and gas development, the various leasing practices and rules for development among the States, and differences in contract terms from State to State and among private landowners. The evaluation should also include an assessment of whether optimal recovery practices, including in-fill drilling, work-overs, and enhanced recovery

operations, are being employed consistently to ensure the full development and conservation of the resources. The evaluation should determine what impediments may exist to ensuring optimal recovery practices and make recommendations as to how those impediments could be overcome. The study should also determine whether production rights or leases are controlled by parties no longer interested in fully recovering the resource, with inactivity for a period of time being considered as indicating a lack of interest.

(b) REPORT TO CONGRESS AND GOVERNORS.—Not later than 240 days after the date of enactment of this section, the Secretary shall provide a report to the Committee on Energy and Natural Resources in the Senate, and the Committee on Resources in the House of Representatives, summarizing the findings of the study carried out under subsection (a) and providing recommendations for policies or other actions that could help increase production on State and private lands. The Secretary shall also provide a copy of the report to the Governors of the Member States of the Interstate Oil and Compact Commission.

TITLE XI—PIPELINE SAFETY RESEARCH AND DEVELOPMENT

SEC. 1101. PIPELINE INTEGRITY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Transportation, in coordination with the Secretary of Energy, shall develop and implement an accelerated cooperative program of research and development to ensure the integrity of natural gas and hazardous liquid pipelines. This research and development program shall include materials inspection techniques, risk assessment methodology, and information systems surety.

(b) PURPOSE.—The purpose of the cooperative research program shall be to promote research and development to—

(1) ensure long-term safety, reliability and service life for existing pipelines;

(2) expand capabilities of internal inspection devices to identify and accurately measure defects and anomalies;

(3) develop inspection techniques for pipelines that cannot accommodate the internal inspection devices available on the date of enactment;

(4) develop innovative techniques to measure the structural integrity of pipelines to prevent pipeline failures;

(5) develop improved materials and coatings for use in pipelines;

(6) improve the capability, reliability, and practicality of external leak detection devices;

(7) identify underground environments that might lead to shortened service life;

(8) enhance safety in pipeline siting and land use;

(9) minimize the environmental impact of pipelines;

(10) demonstrate technologies that improve pipeline safety, reliability, and integrity;

(11) provide risk assessment tools for optimizing risk mitigation strategies; and

(12) provide highly secure information systems for controlling the operation of pipelines.

(c) AREAS.—In carrying out this title, the Secretary of Transportation, in coordination with the Secretary of Energy, shall consider research and development on natural gas, crude oil, and petroleum product pipelines for—

(1) early crack, defect, and damage detection, including real-time damage monitoring;

(2) automated internal pipeline inspection sensor systems;

(3) land use guidance and set back management along pipeline rights-of-way for communities;

(4) internal corrosion control;

(5) corrosion-resistant coatings;

(6) improved cathodic protection;

(7) inspection techniques where internal inspection is not feasible, including measurement of structural integrity;

(8) external leak detection, including portable real-time video imaging technology, and the advancement of computerized control center leak detection systems utilizing real-time remote field data input;

(9) longer life, high strength, non-corrosive pipeline materials;

(10) assessing the remaining strength of existing pipes;

(11) risk and reliability analysis models, to be used to identify safety improvements that could be realized in the near term resulting from analysis of data obtained from a pipeline performance tracking initiative.

(12) identification, monitoring, and prevention of outside force damage, including satellite surveillance; and

(13) any other areas necessary to ensuring the public safety and protecting the environment.

(d) POINTS OF CONTACT.—

(1) DESIGNATION.—To coordinate and implement the research and development programs and activities authorized under this title—

(A) the Secretary of Transportation shall designate, as the point of contact for the Department of Transportation, an officer of the Department of Transportation who has been appointed by the President and confirmed by the Senate; and

(B) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy who has been appointed by the President and confirmed by the Senate.

(2) DUTIES.—(A) The point of contact for the Department of Transportation shall have the primary responsibility for coordinating and overseeing the implementation of the research, development, and demonstration program plan, as defined in subsections (e) and (f).

(B) The points of contact shall jointly assist in arranging cooperative agreements for research, development, and demonstration involving their respective Departments, national laboratories, universities, and industry research organizations.

(e) RESEARCH AND DEVELOPMENT PROGRAM PLAN.—Within 240 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Secretary of Energy and the Pipeline Integrity Technical Advisory Committee, shall prepare and submit to the Congress a 5-year program plan to guide activities under this Act. In preparing the program plan, the Secretary of Transportation shall consult with appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries to select and prioritize appropriate project proposals. The Secretary may also seek the advice of utilities, manufacturers, institutions of higher learning, Federal agencies, the pipeline research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety advocates, and professional and technical societies.

(f) IMPLEMENTATION.—The Secretary of Transportation shall have primary responsibility for ensuring the five-year plan provided for in subsection (e) is implemented as intended by this Act. In carrying out the research, development, and demonstration activities under this Act, the Secretary of Transportation and the Secretary of Energy may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, other transactions, and any other form of agreement available to the Secretary consistent with the recommendations of the Advisory Committee.

(g) REPORTS TO CONGRESS.—The Secretary of Transportation shall report to the Congress annually as to the status and results to date of the implementation of the research and development program plan. The report shall include the activities of the Department of Transportation, the Department of Energy, the national laboratories, universities, and any other research organizations, including industry research organizations.

SEC. 1102. PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences to establish and manage the Pipeline Integrity Technical Advisory Committee for the purpose of advising the Secretary of Transportation and the Secretary of Energy on the development and implementation of the five-year research, development, and demonstration program plan as defined in section 1101(e). The Advisory Committee shall have an ongoing role in evaluating the progress and results of the research, development, and demonstration carried out under this title.

(b) MEMBERSHIP.—The National Academy of Sciences shall appoint the members of the Pipeline Integrity Technical Advisory Committee after consultation with the Secretary of Transportation and the Secretary of Energy. Members appointed to the Advisory Committee should have the necessary qualifications to provide technical contributions to the purposes of the Advisory Committee.

SEC. 1103. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Secretary of Transportation for carrying out this title $3,000,000, which is to be derived from user fees (49 U.S.C. Sec. 60125), for each of the fiscal years 2002 through 2006.

(b) Of the amounts available in the Oil Spill Liability Trust Fund (26 U.S.C. Sec. 9509), $3,000,000 shall be transferred to the Secretary of Transportation to carry out programs for detection, prevention, and mitigation of oil spills authorized in this title for each of the fiscal years 2002 through 2006.

(c) There are authorized to be appropriated to the Secretary of Energy for carrying out this title such sums as may be necessary for each of the fiscal years 2002 through 2006.

DIVISION D—DIVERSIFYING ENERGY DEMAND AND IMPROVING EFFICIENCY

TITLE XII—VEHICLES

SEC. 1201. VEHICLE FUEL EFFICIENCY.

(a) REQUIREMENT.—The Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and implement mechanisms to increase fuel efficiency of light-duty vehicles to limit total demand for petroleum products by light-duty vehicles in the year 2008 and thereafter to no more than 105 percent of the consumption by such vehicles in the year 2000.

(b) NEGOTIATIONS.—Upon completion of the study of the National Academy of Sciences on the effectiveness and impact of corporate average fuel economy standards, and taking into account its findings, the Secretary of Transportation, in coordination with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall negotiate with the manufacturers of automobiles sold in the United States enforceable mechanisms to increase vehicle efficiency or provide vehicle alternatives to

meet the petroleum demand target in subsection (a) while ensuring consumers reliable and affordable transportation services.

(c) RULES.—Upon completion of the negotiations under subsection (b) and, in any event, not later than 18 months after the date of enactment of this section, the Secretary of Transportation shall establish, by rule—

(1) the enforceable mechanisms agreed to under subsection (b); or

(2) if enforceable mechanism cannot be agreed on under subsection (b), specific fuel economy regulations to meet the petroleum demand targets under subsection (a).

(c) ANALYSES AND REPORTS TO CONGRESS.—The Department of Energy shall assist the Secretary of Transportation by carrying out analyses of recommended policies or combinations of policies to determine if the petroleum demand target in subsection (a) is likely to be met. Once enforceable mechanisms are adopted under subsection (b), the Secretary of Energy shall track progress towards meeting the petroleum demand target and shall report to Congress three years after the date of enactment of this section, and every two years thereafter until the year 2008, on the Secretary of Energy's determination as to whether the mechanisms are effectively meeting the petroleum demand target. If the Secretary of Energy determines that the mechanisms are not effectively meeting the target, then the Secretary shall recommend in the report to Congress on further policies that may be required to meet the target.

(d) DEFINITIONS—.In this section:

(1) LIGHT-DUTY VEHICLES.—.The term ''light duty vehicles'' includes passenger automobiles, in addition to all light trucks and sport utility vehicles marketed as passenger vehicles, regardless of weight.

(2) MECHANISMS.—The term ''mechanisms'' includes stronger standards for corporate average fuel economy, alternatives to the current fuel economy standards such as combining cars and light trucks for the purpose of fuel economy regulation, specific fuel efficiency standards by vehicle class, tax incentives for highly efficient or alternative fuel vehicles, updating and expanding the scope of the current gas guzzler tax program, and new programs to promote the purchase of high efficiency and alternative fuel vehicles or early retirement of inefficient vehicles.

SEC. 1202. INCREASED USE OF ALTERNATIVE FUELS BY FEDERAL FLEETS.

(a) REQUIREMENT TO USE ALTERNATIVE FUELS.—Section 400AA(a)(3)(E) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended to read as follows:

''Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels. If the Secretary determines that all dual fueled vehicles acquired pursuant to this section cannot operate on alternative fuels at all times, he may waive the requirement in part, but only to the extent that:

''(i) not later than September 30, 2003, not less than 50 percent of the total annual volume of fuel used in such dual fueled vehicles shall be from alternative fuels; and

''(ii) not later than September 30, 2005, not less than 75 percent of the total annual volume of fuel used in such dual fueled vehicles shall be from alternative fuels.''.

(b) Section 400AA(g)(4)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6374(g)(4)(B)) is amended by adding, after the words, ''solely on alternative fuel'', '', including a three-wheeled enclosed electric vehicle having a vehicle identification number''.

SEC. 1203. EXCEPTION TO HOV PASSENGER REQUIREMENTS FOR ALTERNATIVE FUEL VEHICLES.

Section 102(a)(1) of title 23, United States Code, is amended by inserting after ''required' the following: ''(unless, in the discretion of the State transportation department, the vehicle is being operated on, or is being fueled by, an alternative fuel (as defined in section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)))''.

TITLE XIII—FACILITIES

SEC. 1301. FEDERAL ENERGY BANK.

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency'' means—

(A) an Executive agency (as defined in section 105 of title 5, United States Code, except that the term also includes the United States Postal Service);

(B) Congress and any other entity in the legislative branch; and

(C) a court and any other entity in the judicial branch.

(2) BANK.—The term ''Bank'' means the Federal Energy Bank established by subsection (b).

(3) ENERGY EFFICIENCY PROJECT.—The term ''energy efficiency project'' means a project that assists an agency in meeting or exceeding the energy efficiency goals stated in—

(A) part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.);

(B) subtitle F of title I of the Energy Policy Act of 1992; and

(C) applicable Executive orders, including Executive Order Nos. 12759 and 12902.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(5) TOTAL UTILITY PAYMENTS.—The term ''total utility payments'' means payments made to supply electricity, natural gas, and any other form of energy to provide the heating, ventilation, and air conditioning, lighting, and other energy needs of an agency facility.

(b) ESTABLISHMENT OF BANK.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the ''Federal Energy Bank'', consisting of—

(A) such amounts as are appropriated to the Bank under subsection (f);

(B) such amounts as are transferred to the Bank under paragraph (2);

(C) such amounts as are repaid to the Bank under subsection (c)(2)(D); and

(D) any interest earned on investment of amounts in the Bank under paragraph (3).

(2) TRANSFERS TO BANK.—

(A) IN GENERAL.—At the beginning of each of fiscal years 2002, 2003, and 2004, each agency shall transfer to the Secretary of the Treasury, for deposit in the Bank, an amount equal to 5 percent of the total utility payments paid by the agency in the preceding fiscal year.

(B) UTILITIES PAID FOR AS PART OF RENTAL PAYMENTS.—The Secretary shall by regulation establish a formula by which the appropriate portion of a rental payment that covers the cost of utilities shall be considered to be a utility payment for the purposes of subparagraph (A).

(3) INVESTMENT OF FUNDS.—The Secretary of the Treasury shall invest such portion of funds in the Bank as is not, in the Secretary's judgment, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(c) LOANS FROM THE BANK.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer from the Bank to the Secretary such amounts as are appropriated to carry out the loan program under paragraph (2).

(2) LOAN PROGRAM.—

(A) IN GENERAL.—In accordance with subsection (d), the Secretary shall establish a program to loan amounts from the Bank to any agency that submits an application satisfactory to the Secretary in order to finance an energy efficiency project.

(B) PERFORMANCE CONTRACTING FUNDING.—To the extent practicable, an agency shall not submit a project for which performance contracting funding is available.

(C) PURPOSES OF LOAN.—

(i) IN GENERAL.—A loan under this section may be made to pay the costs of—

(I) an energy efficiency project; or

(II) development and administration of a performance contract.

(ii) LIMITATION.—An agency may use not more than 15 percent of the amount of a loan under clause (i)(I) to pay the costs of administration and proposal development (including data collection and energy surveys).

(D) REPAYMENTS.—

(i) IN GENERAL.—An agency shall repay to the Bank the principal amount of the energy efficiency project loan plus interest at a rate determined by the President, in consultation with the Secretary and the Secretary of the Treasury.

(ii) WAIVER.—The Secretary may waive the requirement of clause (i) if the Secretary determines that payment of interest by an agency is not required to sustain the needs of the Bank in making energy efficiency project loans.

(E) AGENCY ENERGY BUDGETS.—Until a loan is repaid, an agency budget submitted to Congress for a fiscal year shall not be reduced by the value of energy savings accrued as a result of the energy conservation measure implemented with funds from the Bank.

(F) AVAILABILITY OF FUNDS.—An agency shall not rescind or reprogram funds made available by this Act. Funds loaned to an agency shall be retained by the agency until expended, without regard to fiscal year limitation.

(d) SELECTION CRITERIA.—

(1) IN GENERAL.—The Secretary shall establish criteria for the selection of energy efficiency projects to be awarded loans in accordance with paragraph (2).

(2) SELECTION CRITERIA.—The Secretary may make loans only for energy efficiency projects that—

(A) are technically feasible;

(B) are determined to be cost-effective using life cycle cost methods established by the Secretary by regulation;

(C) include a measurement and management component to—

(i) commission energy savings for new Federal facilities; and

(ii) monitor and improve energy efficiency management at existing Federal facilities; and

(D) have a project payback period of 7 years or less.

(e) REPORTS AND AUDITS.—

(1) REPORTS TO THE SECRETARY.—Not later than I year after the installation of an energy efficiency project that has a total cost of more than $1,000,000, and each year thereafter, an agency shall submit to the Secretary a report that—

(A) states whether the project meets or fails to meet the energy savings projections for the project; and

(B) for each project that fails to meet the savings projections, states the reasons for the failure and describes proposed remedies.

(2) AUDITS.—The Secretary may audit any energy efficiency project financed with funding from the Bank to assess the project's performance.

(3) REPORTS TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to Congress a report on the operations of the Bank, including a statement of the total receipts into the Bank, and the total expenditures from the Bank to each agency.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such

sums as are necessary to carry out this section.

SEC. 1302. INCENTIVES FOR ENERGY EFFICIENT SCHOOLS.

(a) ESTABLISHMENT.—There is established in the Department of Education the High Performance Schools Program (hereafter in this section referred to as the ''Program'').

(b) GRANTS.—The Secretary of Education may make grants to State educational agencies—

(1) to assist schools in achieving energy efficiency performance not less than 30 percent below the least efficient levels, as measured over the full fuel cycle, permitted under the 1998 International Energy Conservation Code as it is in effect for new construction and existing buildings;

(2) to administer the Program; and

(3) to promote participation in the Program.

(c) GRANTS TO ASSIST SCHOOL DISTRICTS.—Grants under subsection (b)(1) shall be used for schools that—

(1) have demonstrated a need for such grants in order to respond appropriately to increasing elementary and secondary school enrollments or to make major investments in renovation of school facilities;

(2) have demonstrated that the districts do not have adequate funds to respond appropriately to such enrollments or achieve such investments without assistance;

(3) have made a commitment to use the grant funds to develop high performance school buildings in accordance with a plan that the State educational agency, in consultation with the State energy office, has determined is feasible and appropriate to achieve the purposes for which the grant is made.

(d) GRANTS FOR ADMINSTRATION.—Grants under subsection (b)(2) shall be used to—

(A) evaluate compliance by schools with requirements of this section;

(B) distribute information and materials to clearly define and promote the development of high performance school buildings for both new and existing facilities;

(C) organize and conduct programs for school board members, school personnel, architects, engineers, and others to advance the concepts of high performance school buildings;

(D) obtain technical services and assistance in planning and designing high performance school buildings; or

(E) collect and monitor data and information pertaining to the high performance school building projects.

(e) GRANTS TO PROMOTE PARTICIPATION.—Grants under subsection (b)(3) shall be used for promotional and marketing activities, including facilitating private and public financing, promoting the use of energy service companies, working with school administrations, students, and communities, and coordinating public benefit programs.

(f) SUPPLEMENTING GRANT FUNDS.—The State educational agency shall encourage qualifying schools to supplement funds awarded pursuant to this section with funds from other sources in the implementation of their plans.

(g) PURPOSES.—Except as provided in subsection (h), funds appropriated to carry out this section shall be allocated as follows:

(1) 70 percent shall be used to make grants under subsection (b)(1).

(2) 15 percent shall be used to make grants under subsection (b)(2).

(3) 15 percent shall be used to make grants under subsection (b)(3).

(h) OTHER FUNDS.—The Secretary of Education may retain an amount, not to exceed $300,000 per year, to assist State educational agencies designated in coordinating and implementing the Program. Such funds may be used to develop reference materials to further define the principles and criteria to achieve high performance school buildings.

(i) AUTHORIZATION OF APPROPRIATIONS.—For grants under subsection (b) there are authorized to be appropriated—

(1) $200,000,000 for fiscal year 2002,

(2) $210,000,000 for fiscal year 2003,

(3) $220,000,000 for fiscal year 2004,

(4) $230,000,000 for fiscal year 2005, and

(5) such sums as may be necessary for each of the subsequent 6 fiscal years.

(j) DEFINITIONS.—For purposes of this section:

(1) HIGH PERFORMANCE SCHOOL BUILDING.—The term ''high performance school building'' refers to a school building that, in its design, construction, operation, and maintenance, maximizes use of renewable energy, direct use of environmentally clean fossil fuels for supplementary space conditioning and water heating and energy conservation practices, represents the most cost-effective alternatives on a life-cycle basis considering energy price forecasts from the U. S. Energy Information Administration, uses affordable, environmentally preferable, durable materials, enhances indoor environmental quality, protects and conserves water, and optimizes site potential.

(2) RENEWABLE ENERGY.—The term ''renewable energy'' means energy produced by solar, wind, geothermal, hydropower, and biomass power.

(3) SCHOOL.—The term ''school'' means—

(A) an ''elementary school'' as that term is defined in section 14101(14) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(14)),

(B) a ''secondary school'' as that term is defined in section 14101(25) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(25)), or

(C) an elementary of secondary Indian school funded by the Bureau of Indian Affairs.

(4) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the same meaning given such term in section 14101(28) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(28)).

SEC. 1303. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

(a) VOLUNTARY AGREEMENTS.—The Secretary of Energy shall enter into voluntary agreements with one or more persons in industrial sectors that consume significant amounts of primary energy per unit of physical output to reduce the energy intensity of their production activities.

(b) GOAL.—Voluntary agreements under this section shall have a goal of reducing energy intensity by not less than 1 percent each year from 2002 through 2012.

(c) RECOGNITION.—The Secretary of Energy, in cooperation with other appropriate federal agencies, shall develop mechanisms to recognize and publicize the commitments made by participants in voluntary agreements under this section.

(d) DEFINITION.—In this section, the term ''energy intensity'' means the primary energy consumed per unit of physical output in an industrial process.

DIVISION E—ENHANCING RESEARCH, DEVELOPMENT, AND TRAINING

TITLE XIV—RESEARCH AND DEVELOPMENT PROGRAMS

SEC. 1401. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as ''Energy Science and Technology Enhancement Act''.

(b) FINDINGS.—

(1) A coherent strategy for ensuring a diverse national energy supply requires an energy research and development program that supports basic energy research and provides mechanisms to develop, demonstrate, and deploy new energy technologies in partnership with industry.

(2) Federal budget authority for energy research and development, measured in constant 1992 dollars, has declined roughly three-fourths from about $6 billion in 1980 to $1.5 billion in 2000.

(3) According to the Energy Information Administration, an aggressive national energy research, development, and technology deployment program can—

(A) result in United States energy intensity declines of 1.9 percent per year from 1999 to 2020;

(B) reduce United States energy consumption in 2020 by 8 quadrillion Btu from otherwise expected levels; and

(C) reduce carbon dioxide emissions from expected levels of 166 million metric tons in carbon equivalent in 2020.

(4) An aggressive national energy research, development, and technology deployment program can also help maintain domestic United States production of energy. As one example, such a program could increase the success rates of finding and drilling for oil and natural gas, and thereby increase United States hydrocarbon reserves in 2020 by 14 percent over otherwise expected levels, and contributing to natural gas prices in 2020 that would be 20 percent lower than otherwise expected.

(5) An aggressive national energy research, development, and technology deployment program is needed if United States suppliers and manufacturers are to compete in future markets for advanced energy technologies. Vehicles based on advanced energy technologies in automotive applications could account, for example, for nearly 17 percent of all light-duty vehicle sales by 2020 displacing 203,000 oil barrels a day equivalent.

(6) To achieve these results across a broad range of sources of energy supply and energy end-uses, a comprehensive and balanced energy research, development, and technology deployment program must be supported by the Department of Energy.

SEC. 1402. ENHANCED ENERGY EFFICIENCY RESEARCH AND DEVELOPMENT.

(a) GOALS.—It is the sense of Congress that a balanced energy research, development, and deployment program to enhance energy efficiency should have the following goals:

(1) For energy efficiency in housing, the program develop technologies, housing components, designs and production methods that will, by 2010—

(A) reduce the time needed to move technologies to market by 50 percent,

(B) reduce the monthly cost of new housing by 20 percent,

(C) cut the environmental impact and energy use of new housing by 50 percent, and

(D) reduce energy use in 15 million existing homes by 30 percent, and

(E) improve durability and reduce maintenance costs by 50 percent.

(2) For industrial energy efficiency, the program should, in cooperation with the affected industries—

(A) develop a microturbine (40 to 300 kilowatt) that is more than 40 percent efficient by 2006,

(B) develop a microturbine that is more than 50 percent efficient by 2010,

(C) develop advanced materials for combustion systems that reduce emissions of nitrogen oxides by 30 to 50 percent while increasing efficiency 5 to 10 percent by 2007, and

(D) improve the energy intensity of the major energy-consuming industries by at least 25 percent by 2010.

(3) For transportation energy efficiency, the program should, in cooperation with affected industries—

(A) develop an 80-mile-per-gallon production prototype passenger automobile by 2004,

(B) develop a heavy truck (Classes 7 and 8) with ultra low emissions and the ability to use an alternative fuel that has an average fuel economy of—

(i) 10 miles per gallon by 2007, and

(ii) 13 miles per gallon by 2010,

(C) develop a production prototype of a passenger automobile with zero equivalent emissions that has an average fuel economy of 100 miles per gallon by 2010, and

(D) improve, by 2010, the average fuel economy of trucks—

(i) in Classes 1 and 2 by 300 percent, and

(ii) in Classes 3 through 6 by 200 percent.

(b) DEFINITION.—For purposes of subsection (a)(2), the term ''major energy consuming industries'' means—

(1) the forest product industry,

(2) the steel industry,

(3) the aluminum industry,

(4) the metal casting industry,

(5) the chemical industry,

(6) the petroleum refining industry, and

(7) the glass-making industry.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for operating expenses and capital equipment for research, development, demonstration, and initial deployment assistance activities related to energy efficiency research and development including state and local grants and the federal energy management program—

(1) $879,000,000 for fiscal year 2002;

(2) $948,000,000 for fiscal year 2003;

(3) $1,024,000,000 for fiscal year 2004;

(4) $1,106,000,000 for fiscal year 2005; and

(5) $1,195,000,000 for fiscal year 2006.

(d) SPECIAL PROJECTS IN ENERGY-EFFICIENT TRANSMISSION.—From amounts authorized under this section, the Secretary of Energy shall make not more than 3 awards for projects demonstrating the use of advanced technology—

(1) to construct a bulk electricity transmission line of not less than 35 miles based on wire fabricated from superconducting materials; and

(2) to provide a 20 percent increase in the average efficiency in electricity transmission systems in rural and remote areas.

SEC. 1403. ENHANCED RENEWABLE ENERGY RESEARCH AND DEVELOPMENT.

(a) GOALS.—It is the sense of Congress that a balanced energy research, development, and deployment program to enhance renewable energy should have the following goals.

(1) For wind power, the program should reduce the cost of wind electricity by 50 percent by 2006, so that wind power can be widely competitive with fossil-fuel-based electricity in a restructured electric industry, with concentration within the program on a variety of advanced wind turbine concepts and manufacturing technologies.

(2) For photovoltaics, the programs should pursue research and development that would lead to photovoltaic systems prices of $3,000 per kilowatt in 2003 and $1500 per kilowatt by 2006. Program activities should include assisting industry in developing manufacturing technologies, giving greater attention to balance of system issues, and expanding fundamental research on relevant advanced materials.

(3) For solar thermal electric systems the program should strengthen ongoing research and development combining high-efficiency and high-temperature receivers with advanced thermal storage and power cycles, with the goal of making solar-only power (including baseload solar power) widely competitive with fossil fuel power by 2015.

(4) For biomass-based power systems, the program should enable commercialization, within five years, integrated power-generating technologies that employ gas turbines and fuel cells integrated with biomass gasifiers. The program should embrace an interagency bioenergy framework to triple United States bioenergy use by 2010.

(5) For geothermal energy, the programs should continue work on hydrothermal systems, and reactivate research and development on advanced concepts, giving top priority to high-grade hot dry-rock geothermal energy. This technology offers the long-term potential, with advanced drilling and reservoir exploitation technology, of providing heat and baseload electricity in most areas of the United States.

(6) For biofuels, the program should accelerate research and development on advanced enzymatic hydrolysis technology for making ethanol from cellulosic feedstock, with the goal that between 2010 and 2015 ethanol produced from energy crops would be fully competitive in terms of price with gasoline as a neat fuel, in either internal combustion engine or fuel cell vehicles. The programs should coordinate this development with the biopower program so as to co-optimize the production of ethanol from the carbohydrate fractions of the biomass and electricity from the lighting using advanced biopower technology using a suite of integrated systems from gas turbines to fuel cells.

(7) For hydrogen-based energy systems, the program should support research and development on hydrogen-using and hydrogen-producing technologies. The programs should also coordinate hydrogen-using technology development with proton-exchange-membrane fuel-cell vehicle development activities under the enhanced energy efficiency program in section 1002.

(8) For hydropower, the program should provide a new generation of turbine technologies that are less damaging to fish and aquatic ecosystems. By deploying such technologies at existing dams and in new low-head, run-of-river applications, as much as an additional 50,000 MW could be possible by 2020.

(9) For electric energy and storage, the program should develop a high capacity superconducting transmission lines, generators, and develop distributed generating systems to accommodate multiple types of energy sources under a common interconnect standard.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for operating expenses and capital equipment for research, development, demonstration, and initial deployment assistance activities related to solar and renewable resources technologies, under the Office of Energy Efficiency and Renewable Energy, as follows:

(1) $419,500,000 for fiscal year 2002;

(2) $468,000,000 for fiscal year 2003;

(3) $523,000,000 for fiscal year 2004;

(4) $583,000,000 for fiscal year 2005; and

(5) $652,000,000 for fiscal year 2006.

(d) SPECIAL PROJECTS IN RENEWABLE ENERGY.—From amounts authorized under this section, the Secretary of Energy shall make not more than 3 awards for projects demonstrating the use of advanced wind energy technology to assist in delivering electricity in rural and remote locations. The Secretary may provide financial assistance to rural electric cooperatives and other rural entities seeking to submit proposals for such projects.

SEC. 1404. ENHANCED FOSSIL ENERGY RESEARCH AND DEVELOPMENT.

(a) GOALS.—It is the sense of Congress that a balanced energy research, development, and deployment program to enhance renewable energy should have the following goals:

(1) For core fossil energy research and development, the program should achieve the goals outlined by the Department of Energy's Vision 21 program for fossil energy research. This research should aim towards increased efficiency of the combined cycle using high temperature fuel cells, advanced gasification technologies for coal and biomass to produce power and clean fuels. The program should include a carbon dioxide based sequestration program to help reduce global warming.

(2) For offshore oil and natural gas resources, the program should investigate and develop technologies to—

(A) extract methane hydrates in coastal waters of the United States, and

(B) develop natural gas and oil reserves in the ultra-deepwater of the Central and Western Gulf of Mexico. Research and development on ultra-deepwater resource recovery shall focus on improving the safety and efficiency of such recovery and of sub-sea production technology used for such recovery, while lowering costs.

(3) For transportation fuels, the program should support a comprehensive transportation fuels strategy to increase the price elasticity of oil supply and demand by focusing research on reducing the cost of producing transportation fuels from natural gas and indirect liquefaction of coal and biomass.

(b) STUDY.—The Secretary of Energy, in consultation with the Secretary of the Interior, the Administrator of the Environmental Protection Agency and affected industries (including electric utilities, electrical equipment manufacturers, and organizations representing electrical workers) should conduct a study to identify technologies and a research program that would permit the cost-competitive use of coal for electricity generation through 2020 while furthering national environmental goals.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts authorized under section 814 of this Act, there are authorized to be appropriated to the Secretary of Energy for operating expenses and capital equipment for research, development, demonstration, and initial deployment assistance activities related to fossil energy resources technologies, under the Office of Fossil Energy, including the clean coal technology demonstration program:

(1) $462,500,000 for fiscal year 2002;

(2) $485,000,000 for fiscal year 2003;

(3) $508,000,000 for fiscal year 2004;

(4) $532,000,000 for fiscal year 2005; and

(5) $558,000,000 for fiscal year 2006.

SEC. 1405. ENHANCED NUCLEAR ENERGY RESEARCH AND DEVELOPMENT.

(a) GOALS.—It is the sense of Congress that a balanced energy research, development, and deployment program to enhance renewable energy should have the following goals:

(1) The program should support research related to existing United States nuclear power reactors to extend their lifetimes and increase their reliability while optimizing their current operations for greater efficiencies.

(2) The program should address examine advanced proliferation-resistant reactor designs, proliferation-resistant and high burn-up nuclear fuels, minimization of generation of radioactive materials, improved nuclear waste management technologies, and improved instrumentation science.

(3) The program should attract new students and faculty to the nuclear sciences and nuclear engineering through a university-based fundamental research program for existing faculty and new junior faculty, a program to re-license existing training reactors at universities in conjunction with industry, and a program to complete the conversion of existing training reactors with proliferation resistant fuels that are low enriched and to

adapt those reactors to new investigative uses.

(4) The program should maintain a national capability and infrastructure to produce medical isotopes and ensure a well trained cadre of nuclear medicine specialists in partnership with industry.

(5) The program should ensure that our nation has adequate capability for power future satellite and space missions.

(6) The programs should investigate the fundamental and applied sciences associated with high- and low-energy accelerators as a method to transmute nuclear waste, particularly wastes that may be difficult to dispose of by other methods.

(7) The program should maintain, where appropriate through a prioritization process, a balanced research infrastructure so that future research programs can utilize these facilities.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for operating expenses and capital equipment for research, development, demonstration, and initial deployment assistance activities related to nuclear energy research and development:

(1) $433,000,000 for fiscal year 2002;
(2) $461,000,000 for fiscal year 2003;
(3) $491,000,000 for fiscal year 2004;
(4) $523,000,000 for fiscal year 2005; and
(5) $557,000,000 for fiscal year 2006.

SEC. 1406. ENHANCED PROGRAMS IN FUNDAMENTAL ENERGY SCIENCE.

(a) FINDINGS.—The Congress finds the following:

(1) The Office of Science within the Department of Energy is the nation's single largest funding source for the basic physical sciences. These intellectual disciplines, which include physics, chemistry, and materials science, are crucial to the nation's future ability to develop energy technologies. The United States should be the world leader in these areas.

(2) Despite the importance of the physical sciences, the Office of Science budget has remained stagnant over the past decade.

(3) The stagnation in funding for the physical sciences through the Office of Science has been reflected in a decline in United States contributions to leading scientific journals, as the share of European and Asian submissions to these journals since 1990 has increased from 50 to 75 percent while the United States share has decreased to 25 percent.

(b) GOALS.—It is the sense of Congress that the Department of Energy, through the Office of Science, should—

(1) develop a robust portfolio of fundamental energy research, including chemical sciences, physics, materials sciences, biological and environmental sciences, geosciences, engineering sciences, plasma sciences, mathematics, and advanced scientific computing;

(2) maintain, upgrade and expand the scientific user facilities maintained by the Office of Science and insure that they are an integral part of the Department's mission for exploring the frontiers of fundamental energy sciences;

(3) maintain a leading-edge research capability in the energy-related aspects of nanoscience and nanotechnology, advanced scientific computing and genome research; and

(4) ensure that its fundamental energy sciences programs, where appropriate, help inform the applied research and development programs of the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for operating expenses and capital equipment for fundamental energy research and development in the Office of Science—

(1) $3,716,000,000 for fiscal year 2002;
(2) $4,087,000,000 for fiscal year 2003;
(3) $4,496,000,000 for fiscal year 2004;
(4) $4,946,000,000 for fiscal year 2005; and
(5) $5,440,000,000 for fiscal year 2006.

TITLE XV—MANAGEMENT OF DOE SCIENCE AND TECHNOLOGY PROGRAMS

SEC. 1501. MERIT REVIEW.

Awards of funds authorized under title XIV shall be made only after independent review of the scientific and technical merit of the proposals therefor has been undertaken by the Department of Energy.

SEC. 1502. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—For research and development projects funded from appropriations authorized under sections 1402 through 1405, the Secretary of Energy shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this paragraph if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND DEPLOYMENT.—For demonstration and deployment activities funded from appropriations authorized under sections 1402 through 1405, the Secretary of Energy shall require a commitment from non-Federal sources of at least 50 percent of the costs of the project directly and specifically related to any demonstration, deployment, or commercial application. The Secretary may reduce or eliminate the non-Federal requirement under this paragraph if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet one or more goals of this title.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary shall include cash, personnel, services, equipment, and other resources.

SEC. 1503. IMPROVED COORDINATION AND MANAGEMENT OF SCIENCE AND TECHNOLOGY.

(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—

(1) ESTABLISHMENT.—The Secretary of Energy shall establish an advisory board to oversee Department of Energy research and development programs in each of the following areas—

(A) energy efficiency;
(B) renewable energy;
(C) fossil energy; and
(D) nuclear energy.

The Secretary may designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this subsection, or may enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(2) UTILIZATION OF EXISTING COMMITTEES.—The Secretary of Energy shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act by the Office of Science to oversee research and development programs under that Office.

(3) MEMBERSHIP.—Each advisory board under this subsection shall consist of experts drawn from industry, academia, federal laboratories, or other research institutions.

(4) MEETINGS AND PURPOSES.—Each advisory board under this subsection shall meet at least semi-annually to review and advise on the progress made by the respective research, development, and deployment program. The advisory board shall also review the adequacy and relevance of the goals established for each program by Congress and the President, and may otherwise advise on promising future directions in research and development that should be considered by each program.

(b) EFFECTIVE COORDINATION OF DEPARTMENT PROGRAMS.—Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows:

''(b)(1) There shall be in the Department an Under Secretary for Science and Technology, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(2) The Under Secretary for Science and Technology shall be appointed from among persons who—

''(A) have extensive background in scientific or engineering fields; and

''(B) are well qualified to manage the civilian research and development programs of the Department of Energy.

''(3) The Under Secretary for Science and Technology shall—

''(A) serve as the Science and Technology Advisor to the Secretary;

''(B) monitor the Department's research and development programs in order to advise the Secretary with respect to any undesirable duplication or gaps in such programs;

''(C) advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department;

''(D) advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

''(E) advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department; and

''(F) exercise authority and responsibility over the performance of functions under section 203(a)(2), as well as other civilian research and development authorities assigned to the Secretary by statute.

(c) TRANSFER OF RESPONSIBILITIES FROM OFFICE OF SCIENCE.—Section 209 of the Department of Energy Organization Act (41 U.S.C. 7139) is amended by—

(1) striking ''(a)''; and
(2) striking subsection (b).

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is further amended by adding the following at the end:

''(c) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe, consistent with this section. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(d) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.''.

(2) Section 5314 of title 5, United States Code is amended by striking ''Under Secretaries of Energy (2)'' and inserting ''Under Secretaries of Energy (3)''.

TITLE XVI—PERSONNEL AND TRAINING

SEC. 1601. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.

(a) WORKFORCE TRENDS.—

(1) MONITORING.—The Secretary of Energy, acting through the Administrator of the Energy Information Administration, in consultation with the Secretary of Labor, shall monitor trends in the workforce of skilled technical personnel supporting energy technology industries, including renewable energy industries, companies developing and commercializing devices to increase energy efficiency, the oil and gas industry, nuclear power industry, the coal industry, and other industrial sectors as the Secretary of Energy may deem appropriate.

(2) ANNUAL REPORTS.—The Administrator of the Energy Information Administration shall include statistics on energy industry workforce trends in the annual reports of the Energy Information Administration.

(3) SPECIAL REPORTS.—The Secretary shall report to the appropriate committees of Congress whenever the Secretary determines that significant shortfalls of technical personnel in one or more energy industry segments are forecast or have occurred.

(b) TRAINEESHIP GRANTS FOR TECHNICALLY SKILLED PERSONNEL.—

(1) GRANT PROGRAMS.—The Secretary shall establish grant programs in the appropriate offices of the Department of Energy to enhance training of technically skilled personnel for which a shortfall is determined under subsection (a).

(2) ELIGIBLE INSTITUTIONS.—As determined by the Secretary of Energy to be appropriate to the particular workforce shortfall, the Secretary shall make grants under paragraph (1) to—

(A) an institution of higher education (within the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(B) a postsecondary educational institution providing vocational and technical education (within the meaning given those terms in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302)); or

(C) appropriate agencies of State, local, or tribal governments.

SEC. 1602. TRAINING GUIDELINES FOR ELECTRIC ENERGY INDUSTRY PERSONNEL.

(a) MODEL GUIDELINES.—The Secretary of Energy shall, in cooperation with electric utilities and local distribution companies and recognized representatives of employees of those entities, develop model employee training guidelines to support electric supply system reliability and safety.

(b) CONTENT OF GUIDELINES.—The guidelines under this section shall include—

(1) requirements for worker training, competency, and certification, developed using criteria set forth by the Utility Industry Group recognized by the National Skill Standards Board; and

(2) consolidation of existing guidelines on the construction, operation, maintenance, and inspection of electric supply generation, transmission and distribution facilities such as those established by the National Electric Safety Code and other industry consensus standards.

EXHIBIT I

[From the Wall Street Journal, Mar. 21, 2001]

STATES REDISCOVER ENERGY POLICIES—LOOMING POWER CRISES SPUR A RETURN TO STRATEGIES FOSTERING CONSERVATION

(By Robert Gavin)

Energy policy is hot.

Again.

Spurred by sharply rising prices and California's electricity fiasco, states from coast to coast are dusting off decade-old energy plans and revisiting the policies that sprang from past crises. At least five governors have created task forces to recommend responses to the current crisis while energy legislation of all sorts is pending in nearly every state capital in the nation.

In the Northeast, where officials fear a hot summer could bring electricity shortages and soaring prices, the New England Governors' Conference has, after four years of dormancy, revived its power-planning arm to coordinate every policy among the six states. And at ground zero, California, lawmakers have filed more than 30 energy-related bills.

BACK TO THE FUTURE

The policies under consideration should be familiar to anyone who remembers the energy shocks of the 1970s and the high prices of the 1980s—old standbys like tax breaks for new power sources, such as windmills or solar cells; rebates for energy-efficient appliances and renovations; and just plain-old planning ahead. But this time, consumer and environmental activists say, state officials ought to do something different; actually follow the policies they adopt.

Today's situation might well be far less dire had states stuck with programs adopted in the wake of the earlier energy crises, particularly in energy efficiency. These programs—financed by small surcharges on utility bills, administered by utilities and overseen by state regulators—were key components of energy policies in nearly every state. But in the years leading up to the current crisis, spending on state energy-efficiency programs fell by nearly half nationwide—to $912.5 million in 1998 from $1.65 billion in 1993—at a cost of nearly 15,000 megawatts in power savings, according to the American Council for an Energy-Efficient Economy, a Washington, D.C., advocacy group.

California, by many estimates, would have 1,000 more megawatts of power available right now had it merely maintained energy-efficiency spending at 1993 levels, instead of allowing it to plunge by half. That's enough generating capacity to power about one million homes. In Washington State, where a drought is hampering hydroelectric generation and compounding the West's power shortage, steady investment in energy efficiency would have produced 300 megawatts in extra generating capacity (enough for about 300,000 households), according to the NW Energy Coalition, a Seattle-based group that advocates for conservation and alternative energy sources, like wind and solar power.

Energy-efficiency spending fell 73% in Washington between 1993 and 1998. Ironically, the decline coincided with the state's 1994 adoption of an energy strategy that stated its main focus was efficiency. ''There's no question that had we maintained that commitment to conservation, we'd be several hundred megawatts better off,'' says David Danner, energy policy adviser to Washington Gov. Gary Locke.

The West, of course, isn't alone. Two-thirds of states allowed energy-efficiency spending to fall by 20% or more between 1993 and 1998, including Georgia, which saw a 97% reduction; Michigan, 93%; and Pennsylvania, 92%. More broadly, these declines reflect a trend that relegated state energy policies and programs to diminished roles. In 1989, the average state energy office had 44 employees and a budget of $22.5 million, according to the National Association of State Energy Officials, an Alexandria, Va.-based professional organization. A decade later, the average office had only 29 employees and a $14.5 million budget—a cut of about 35%. ''There wasn't a whole lot of interest in energy,'' says Frank Bishop, executive director of the energy-officials group.

MARKET FORCES

This lack of interest emerged from cheap and apparently plentiful power supplies available in the mid-1990s, and a national movement toward energy deregulation. In the West, for example, wholesale electricity prices in 1995 plunged well below $20 per megawatt hour—compared with prices that today sometimes exceed $300 per megawatt hour—and energy efficiency didn't seem to pay.

Steve King, a spokesman for the Washington Utilities and Transportation Commission, says regulators there allowed utilities to dramatically reduce spending on energy efficiency during this period because such policies couldn't deliver power as cheaply as the market.

At the same time, political leaders across the nation were embracing the central tenet of deregulation: that the market, rather than centralized state energy policy, could determine the right mix of power production and energy conservation to ensure stable supplies and prices. Under pressure from utilities, which, in preparation for competition wanted to shed any costs that might contribute to higher rates, policy makers allowed energy-efficient programs to be scaled back. Under Massachusetts' 1997 deregulation law, for example, utility-administered efficiency programs are scheduled to be phased out by 2002. Lawmakers, however, now are expected to extend the program and a utility-bill surcharge of about 0.3% for at least another five years.

''What everybody wants to avoid is being the next California,'' John Shea, director of energy and environment at the New England Governors' Conference, says of the newfound interest in such policies.

ON AGAIN, OFF AGAIN

To be sure, some argue that the market works, and the recent resurgence in energy-efficiency spending is just a natural part of that. In New York, state regulators and government-owned utilities recently restored energy-efficiency spending to near its 1993 levels after allowing it to fall by some 60%. Paul DeCotis, director of energy analysis at the New York State Energy and Research Development Authority, says that maintaining big energy-efficiency funds when prices are low doesn't make sense. Unless utility bills are high enough to justify consumers' making the investment, rebates alone are unlikely to get people to buy energy-efficient products.

''One could argue that the responsible public policy will be to turn efficiency programs on and [then] off when they can no longer be economically justified,'' says Mr. DeCotis.

Still, many observers believe now that states are rediscovering energy efficiency, they will be sticking with it for the long haul. The reason: California, of course. ''The severity of this problem is going to be a vivid memory for long years,'' says Ralph Cavanagh, energy-programs director for the Natural Resources Defense Council, a New York-based environmental advocacy group, ''and the desire to never see this happen again is not going to fade anytime soon.''

POWERED DOWN

Most states allowed reduced spending on energy-efficiency programs in recent years, when power was cheap. Here are the 10 states with the biggest declines:

State	1993 Spending (In thousands)	Percent Change	
West Virginia	$1,157	$0	−100
Nevada	5,515	4	−100
Virginia	9,477	192	−98
Georgia	42,015	1,248	−97
Michigan	55,707	3,901	−93
Indiana	28,502	2,051	−93
Pennsylvania	15,498	1,236	−92
Alabama	4,863	496	−90
Idaho	20,819	2,393	−89

State	1993 Spending (In thousands)	Percent Change	
Nebraska	530	71	−87
U.S.	1,651,032	912,525	−45

Source: American Council for an Energy-Efficient Economy

Mr. REID. Mr. President, I am generally pleased to be a cosponsor of this Democratic energy package. It is made up of two pieces: one on energy policy named the Comprehensive and Balanced Energy Policy Act of 2001 and the other on energy tax incentives called the Energy Security Tax and Policy Act of 2001.

Unlike the President's and the Republicans' energy package, these bills show that the Democrats are taking leadership in correcting complex short- and long-term deficiencies in our national energy policy. We choose to emphasize energy efficiency, renewables, security and reliability, and we recognize that our energy policy must be environmentally responsible.

Not everything in these bills is perfect. In fact, I have serious substantive and jurisdictional objections to an extension of the Price-Anderson Act, which provides a huge, hidden subsidy to the nuclear industry. And, I think we could do more to address climate change. But, this is a good place to start a serious and swift debate.

My state of Nevada will benefit greatly from these bills. My bill, S. 249, the Renewable Energy Development Incentives Act, has been largely incorporated in this package. It makes the wind, solar, geothermal and biomass electricity production tax credit permanent. There are also other important provisions that will encourage the development of infrastructure to meet the specific needs of renewable and distributed electricity generation.

Nevada is rich in renewable resources. Currently, a major wind farm is being built at the Nevada Test Site that will deliver 260 MW to meet the needs of 260,000 Nevadans. Nevada is sometimes known as the ''Saudi Arabia of Geothermal,'' with a long-term potential of 2,500 to 3,700 MW, enough capacity to meet half the state's present energy needs. And, rough estimates suggest that the solar energy in a 100^2 mile area in Nevada could meet the annual electricity demand for the entire US.

The Democratic energy policy bill includes important provisions and incentives to improve reliability and the development of new transmission access. Nevada is inextricably linked to the Western grid and the California market, so we are really feeling the shockwaves of the crisis there. Nearly 50 percent of the power generated in Nevada is sent to California, leaving us in an unenviable importing situation. Plus, generation and transmission access in Nevada has not kept up with our phenomenal growth and could lead to supply shortfalls in the north this year and in the south next year.

Our bills are focused on avoiding supply problems like California's. We want to stimulate the development of cleaner energy sources that do not foul our air, land or water and encourage sources that are economically sustainable. We should and can avert the need to crack down further on future energy-related pollution as Congress was forced to do in the Clean Air Act Amendments of 1990 to protect the public's health and the environment.

That's why we are working in the Environment and Public Works Committee on a multi-pollutant bill to reduce electric utility emissions. Despite the President's flip-flop on a comprehensive bill covering carbon dioxide, we hope to develop a bipartisan bill that significantly reduces anticipated power plant emissions of sulfur dioxide, nitrogen oxides, mercury and carbon dioxide. We can do this in a sensible way that will provide long term certainty to power producers if they invest in the right kinds of generation capacity now. Then, we can all be assured of a stable electricity supply for the future and a cleaner environment.

We are taking a major step in addressing climate change in this policy bill. Science continues to show us that manmade sources of airborne carbon are causing the global warming that becomes clearer every day. Now, experts say that average temperatures could rise from 3–10 degrees over the next 100 years, causing extreme storms and droughts, ice cap melting, sea level rising, potentially dangerous public health crises, and billions, if not, trillions of dollars in economic damage.

The President needs to lead the nation and we need leadership today to address the challenge of climate change. We think he should establish a commission to propose an integrated way to achieve at least the reductions in greenhouse gas emissions that his father, President Bush, approved and accepted and that the Senate ratified as part of the United Nations Framework Convention on Climate Change. The nation needs a constructive proposal to meet that target as soon as possible, and the President has the administrative and technical resources to do this. Greenhouse gas concentrations are dangerously high and our international trading partners are wondering if the U.S. is going to abrogate its responsibility to be a good global citizen. The time for delay is over.

We have taken some important steps in this legislation to start addressing climate change—encouraging renewables and this new Presidential commission. But, we also have included a requirement that the efficiency of light-duty vehicles must increase significantly. The transportation sector is responsible for more than a third of U.S. greenhouse gas emissions. The national fleet has become increasingly less fuel efficient as manufacturers sell larger and larger sport utility vehicles that do not meet passenger car standards. As a result, carbon dioxide emissions and air pollution problems are increasing and our energy security is badly threatened.

In the energy tax bill, we also are taking a new and extraordinary precaution to ensure that the energy tax incentives that we provide will protect the environment. Those incentives will only be available when energy producers or investors are in full compliance with state and federal pollution prevention, control and permit requirements. This is good precedent and good tax policy.

For the most part, these bills are charting a new, more holistic direction. We have to consider all the facets of our energy decisions, especially their impact on the global climate. That's why I'm disappointed that this package includes a very short-sighted section extending the Price-Anderson Act, and thus continuing to limit the liability of the nuclear industry for catastrophic accidents. That section provides an unfair advantage to an industry that has yet to resolve serious long term public health, safety and waste issues.

Under the Price-Anderson Act, the owners of commercial nuclear power reactors and Department of Energy contractors have their liability capped far below the potential cost of a nuclear incident. This system amounts to what one economic analysis determined was a $130 billion subsidy for the nuclear power industry. This seems to be an unnecessary benefit for an industry that claims to be a perfectly safe alternative to other energy sources. But, I'm glad to note that Senators BINGAMAN and MURKOWSKI have agreed that the Environment Committee will be consulted on and will have sequential referral of any bills at all that affect the Price-Anderson Act.

In one sense, the President was right last week when he said that, ''. . ..the nation has got a real problem when it comes to energy.'' We do have a nearly unquenchable thirst for cheap power which verges on an unhealthy addiction. This thirst has fueled our economic growth, but it has also drastically affected our environmental quality and created a dependency that leaves us vulnerable to market manipulation, disruptions and fluctuations. Our package is designed to avoid making stupid choices in the rush to satisfy that thirst in the short term. We want and need a dependable and replenishable supply of energy that doesn't leave us always gasping for more.

I hope the President and his energy task force will work with us to move thoughtful legislation that provides a stable and environmentally sustainable energy policy.

By Mr. ROBERTS (for himself, Mr. GRAMM, and Mr. HAGEL):

S. 599. A bill to amend the Omnibus Trade and Competitiveness Act of 1988 to establish permanent trade negotiating and trade agreement implementing authority; to the Committee on Finance.

Mr. ROBERTS. Mr. President, I rise today to introduce legislation to establish permanent trade promotion authority, also known as Fast Track Trade Negotiating Authority. I am proud, to have Senators GRAMM, and HAGEL on board in this effort to give the Executive and Legislative branches the capacity to claim new markets for American products and services.

As the chairman of the Senate Committee on Banking, Housing, and Urban Affairs, as well as a member of the Finance Committee's subcommittee on International Trade, Senator GRAMM is a leading proponent of opening markets worldwide. I believe he was the first to introduce fast track legislation in the 107th Congress and his January 22nd bill, S. 136, is the basis for the bill I introduce today.

As the chairman of the Foreign Relations Committee's Subcommittee on International Economic Policy, Export and Trade Promotion, Senator HAGEL is also a leader on trade issues and has consistently supported global economic engagement.

Our bill, the Permanent Trade Promotion Authority and Market Access Act of 2001, amends the Omnibus Trade and Competitiveness Act of 1988 to extend fast track trade negotiating authority indefinitely. As colleagues recall, fast track includes both trade agreement negotiating authority and congressional fast track procedures, specifically expedited consideration of an agreement followed by the approval or rejection without amendments. Fast track trade negotiating authority was last authorized by the Omnibus Trade and Competitiveness Act of 1988.

Since expiration of the 1988 bill in early 1994, the White House has not had authority to negotiate trade agreements under fast track procedures. The President has been effectively prohibited from executing an aggressive trade policy, negotiating agreements when and where opportunities arise.

In his '2001 Trade Policy Agenda', U.S. Trade Representative Robert B. Zoellick noted that ''in the absence of this authority, other countries have been moving forward with trade agreements while America has stalled.''

What does Ambassador Zoellick mean by 'moving forward'? Let us review some statistics, compiled by the Business Roundtable, concerning recent international negotiating activity. Of the estimated 130 free trade agreements, FTAs, in force around the world today only two include the United States; only 11 percent of world exports are covered by U.S. FTAs, compared with 33 percent for European Union FTAs and customs agreements; while Western European nations have negotiated 909 bilateral investment treaties, BITs, the United States is party to only 43; 16 Western European countries have BITs with Brazil—the largest country in Latin America, 16 with China, the largest country in Asia, 10 with India, population nearly 1 billion, and 13 with Indonesia—population more than 200 million. The United States has not signed a single BIT with any of these nations. In our own hemisphere, the news is not much better. Mexico has FTAs with at least 28 countries; 25 of these agreements were concluded since 1994.

The statistics indicate that the U.S. is effectively choosing not to participate. While our competitors are carving out markets left and rights for their products and services, we seem satisfied to avoid the challenge of passing fast track trade negotiating authority and giving a President the capability to establish opportunities for American products.

Specifically, our farmers need fast track. The U.S. is the world's leading agricultural exporter. Exports represent about 25 percent of gross farm income and an estimated 30 percent of U.S. crop acreage is exported.

Considering fast track expired in 1994, it is not surprising annual U.S. agricultural exports are down from a record of $59.9 billion in 1996. Exports were $49.2 billion in 1999 and $50.9 billion in 2000. $53 billion in U.S. agricultural exports are predicted for 2001. Indeed, the Asian financial crisis caused a sizable fall in overall U.S. exports to Asia. Nonetheless, with fast track we could have established enough of a presence for our commodities in alternative markets to offset the impact of the crisis.

The bottom line on our legislation is that it permanently establishes fast track trade negotiating authority for this President and his successors. Roberts-Gramm-Hagel is indeed ambitious, but it is needed to prevent the U.S. from being left out of expanding world trade and all of the economic, political, and strategic opportunities therein.

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

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

S. 599

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 'Permanent Trade Promotion Authority and Market Access Act of 2001'.

SEC. 2. AMENDMENTS TO TRADE NEGOTIATING AUTHORITY.

(a) EXTENSION.—

(1) Section 1102 (a)(1)(A) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902 (a)(1)(A)) is amended by striking 'before June 1, 1993'.

(2) Section 1102 (b)(1) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902 (a)(1)) is amended by striking 'before June 1, 1993'.

(3) Section 1102 (c)(1) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902 (c)(1)) is amended by striking 'before June 1, 1993, the' and inserting 'The'.

(b) CONFORMING AMENDMENT.—

(1) Section 1102 (a)(1) and (b)(1) of such Act are amended by striking 'purposes, policies, and objectives of this title' each place it appears and inserting 'policies and objectives of the United States'.

(2) Section 1102(a)(2)(A) of such Act are amended by striking 'August 23, 1998' each place it appears and inserting 'March 21, 2001'.

(3) Subsection (b)(2) and (c)(3)(A) of section 1102 of such Act are amended by striking 'applicable objectives described in section 1101 of this title' each place it appears and inserting 'policies and objectives of the United States'.

(4) Subsection (b)(2)(B) of section 1102 of such Act is amended by striking 'applicable purposes, policies, and objectives of this title' and inserting 'policies and objectives of the United States'.

(5) Subsection (a)(2)(B)(i) of section 1103 of such Act is amended by striking 'applicable purposes, policies, and objectives of this title' and inserting 'policies and objectives of the United States'.

(6) 1130(b)(1)(A) of such Act is amended by striking 'Before June 1, 1991.'

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEAHY, and Mr. JEFFORDS):

S. 600. A bill to amend the Federal Campaign Act of 1971 to enhance criminal penaltie for election law violations, to clarify current provisions of law regarding donations from foreign nationals, and for other purposes; to the Committee on Rules and Administration.

Mr. THOMPSON. Mr. President, today Senator LIEBERMAN and I are introducing a bill designed to clarify the existing criminal provisions of the Federal Election Campaign Act and strengthen their enforcement.

Sen. LIEBERMAN, myself, and the members of the Government Affairs Committee spent a year investigating some of the worst campaign finance abuses in our nation's history. Despite a number of obstacles, witnesses fleeing the country, people pleading the fifth amendment, entities failing to comply with subpoenas, our Committee uncovered numerous activities that were not only improper but illegal. But although we were able to demonstrate to the American people exactly what went on in the 1996 election, I was disappointed in the failure of the Justice Department to use that information to aggressively investigate and prosecute those that violated the law. After four years of investigation the many, wide-ranging abuses, only one person connected with the presidential election, Yogesh Gandhi, will spend any time in jail. The question we have to ask ourselves is ''why?''

Unfortunately, the primary reason is that the Justice Department simply did not do its job. Leads were not pursued, subpoenas were not sought, suspects were ignored, agents were instructed not to ask questions about certain people, the law was misapplied, and no independent counsel was ever appointed to ensure a credible investigation. A hearing we held at the Governmental Affairs Committee provided just one example of how the Department ran its campaign finance probe. So impatient was the FBI with the Department's resistance to investigating Presidential friend and DNC fundraiser Charlie Trie that the Bureau's senior agent in Little Rock wrote an angry

letter to FBI Director Freeh complaining about Department incompetence and stalling. The plea bargains that were entered into also raise concern.

However, we have also learned that, the federal election law itself also makes prosecution of violators more difficult than it should be. The bill that we are introducing today would ensure in the future that conscientious prosecutors can more effectively pursue those who violate existing law.

This bill accomplishes the following five goals: First, the bill makes knowing and willful violations of the Federal Elections Campaign Act, FECA, involving at least $25,000 in a year a felony. Currently, no violations of FECA are felonies. The law does not differentiate between the donor that accidentally writes a check in excess of the $1,000 limit and the fundraiser that launders $100,000 to a party or campaign. This bill will provide a deterrent and appropriate punishment for those who knowingly and willfully flaunt the campaign finance laws.

Second, the bill will extend the statute of limitations from three to five years. Outside of the Internal Revenue Code, virtually every violation of federal law has a statute of limitations of at least five years. This provision brings FECA into conformity with the rest of the law.

Third, the bill would require the Sentencing Commission to promulgate a guideline specifically for FECA violations. In addition, the bill provides specific factors for enhancement of sentences. Currently, without a specific guideline, judges are forced to turn to other guidelines, typically those intended to govern or set sentences for fraud. Unfortunately, because the donor makes the contribution with full knowledge of the scheme, the enhancement factors for fraud are basically useless. By providing judges with a specific election law sentencing guideline, they can impose appropriate sentences.

Fourth, the bill prohibits foreign soft money contributions. Prior to the 1996 campaign, I think we all thought foreign soft money contributions were illegal. Thereafter, the Justice Department interpreted ''contribution'' as used in FECA to have two different meanings depending on how the contribution is used, raising the possibility that foreign soft money did not fall within the scope of FECA's prohibition on foreign ''contributions.'' Indeed, in two cases a Federal District Court Judge in D.C. ruled that foreign soft money was, in fact, legal. Subsequently, he was overruled by the Court of Appeals. However, in order to clarify the law, this bill was definitively prohibit foreign soft money contributions. Mr. President, last year the FEC wrote to Congress and asked for a clarification regarding the legality of foreign soft money. I believe we should provide that guidance.

Finally, this bill would prohibit conduit soft money contributions. Under current law, it is illegal to give $500 of hard money in the name of another, but it is perfectly legal to give $500,000 of soft money in another person's name. This bill would close that loophole and provide what I think we all can support—more, full disclosure.

Mr. President, I personally believe that we need to reform our campaign finance system. However, reform will mean nothing unless we do a much better job enforcing the law when it is violated. I believe this bill in the hands of prosecutors who are interested in enforcing the law will help ensure that in the future violators of the campaign finance laws will not walk away with a slap on the wrist.

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

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

S. 600

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

SECTION 1. INCREASE IN PENALTIES.

(a) IN GENERAL.—Subparagraph (A) of section 309(d)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)(1)(A)) is amended to read as follows:

''(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure—

''(i) aggregating $25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or

''(ii) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, or imprisoned for not more than one year, or both.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on or after the date of enactment of this Act.

SEC. 2. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Section 406(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 455(a)) is amended by striking ''3'' and inserting ''5''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on or after the date of enactment of this Act.

SEC. 3. SENTENCING GUIDELINES.

(a) IN GENERAL.—The United States Sentencing Commission shall—

(1) promulgate a guideline, or amend an existing guideline under section 994 of title 28, United States Code, in accordance with paragraph (2), for penalties for violations of the Federal Election Campaign Act of 1971 and related election laws; and

(2) submit to Congress an explanation of any guidelines promulgated under paragraph (1) and any legislative or administrative recommendations regarding enforcement of the Federal Election Campaign Act of 1971 and related election laws.

(b) CONSIDERATIONS.—The Commission shall provide guidelines under subsection (a) taking into account the following considerations:

(1) Ensure that the sentencing guidelines and policy statements reflect the serious nature of such violations and the need for aggressive and appropriate law enforcement action to prevent such violations.

(2) Provide a sentencing enhancement for any person convicted of such violation if such violation involves—

(A) a contribution, donation, or expenditure from a foreign source;

(B) a large number of illegal transactions;

(C) a large aggregate amount of illegal contributions, donations, or expenditures;

(D) the receipt or disbursement of governmental funds; and

(E) an intent to achieve a benefit from the Government.

(3) Provide a sentencing enhancement for any violation by a person who is a candidate or a high-ranking campaign official for such candidate.

(4) Assure reasonable consistency with other relevant directives and guidelines of the Commission.

(5) Account for aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements.

(6) Assure the guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EFFECTIVE DATE; EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES.—

(1) EFFECTIVE DATE.—The United States Sentencing Commission shall promulgate guidelines under this section not later than the later of—

(A) 90 days after the date of enactment of this Act; or

(B) 90 days after the date on which at least a majority of the members of the Commission are appointed and holding office.

(2) EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES.—The Commission shall promulgate guidelines under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under such Act has not expired.

SEC. 4. PROHIBITION ON CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS.

(a) IN GENERAL.—Section 319(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(a)) is amended to read as follows:

''(a) PROHIBITIONS ON CONTRIBUTIONS AND DONATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), it shall be unlawful for—

''(A) a foreign national, or an entity that is a domestic subsidiary of a foreign national, to make, directly or through any other person, any contribution of money or other thing of value, or promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select a candidate for any political office or make any donation, or promise expressly or impliedly to make any such donation; or

''(B) any person to solicit, accept, or receive any such contribution or donation from a foreign national.

''(2) EXCEPTION.—Paragraph (1) shall not apply to an entity that is a domestic subsidiary of a foreign national if the entity can demonstrate through a reasonable accounting method that the entity has sufficient funds in the entity's account, other than funds given or loaned by the foreign national parent of the entity, from which the contribution or donation is made.''.

(b) DEFINITION OF DONATION.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end the following:

''(20) DONATION.—

''(A) IN GENERAL.—The term 'donation' means a gift, subscription, loan, advance, or deposit of money or anything else of value made by any person to a national committee

of a political party or a Senatorial or Congressional Campaign Committee of a national political party for any purpose, but does not include a contribution (as defined in paragraph (8)).

''(B) FOREIGN NATIONAL.—In the case of a person which is a foreign national (as defined in section 319(b)), the term 'donation' includes a gift, subscription, loan, advance, or deposit of money or anything else of value made by such person to a State or local committee of a political party or a candidate for State or local office.''.

(c) CONFORMING AMENDMENT.—Section 319 of Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking the heading and inserting ''RESTRICTIONS ON FOREIGN NATIONALS''.

SEC. 5. PROHIBITION ON DONATIONS IN NAME OF ANOTHER.

Section 320 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441f) is amended by inserting ''or donation'' after ''contribution'' each place it appears.

Mr. LIEBERMAN. Mr. President, I am pleased to join my colleague in offering this bill. Senator THOMPSON and I spent the better part of a year working on the Governmental Affairs Committee's investigation into fundraising improprieties in the 1996 federal election campaigns. That investigation sparked a lot of discussion about whether many things that happened in 1996 were illegal or just wrong—things like big soft money donations, attack ads run by tax-exempt organizations, fundraising in federal buildings and the like.

But one thing I never heard argument about is whether it was illegal to knowingly infuse foreign money into a political campaign or to use unwitting straw donors to hide the true source of money that was going to candidates or parties. I, for one, had no doubt that the people who did those things in 1996 would be prosecuted and appropriately punished.

Unfortunately, Mr. President, many of them were prosecuted, but I have grave doubts about whether they were appropriately punished. I know that there are many who blame the Justice Department for this, but when I first looked into it a couple of years ago, I was frankly surprised by what I learned—and that is that prosecutors just don't have the tools they need to effectively investigate, prosecute and punish people who egregiously violate our campaign finance laws. I think Charles LaBella, the former head of the Justice Department's Campaign Finance Task Force, put it best in a memo he wrote assessing the Department's campaign finance investigation. According to press reports, LaBella wrote that ''The fact is that the so-called enforcement system is nothing more than a bad joke.'' Unfortunately, it's a bad joke that has real consequences for the integrity of our campaigns and our democracy.

Let me give you one example. Many people are understandably upset that Charlie Trie and John Huang didn't go to jail for what they did in '96. But the Federal Election Campaign Act, or FECA, doesn't authorize felony prosecutions. No matter how egregiously someone violates FECA, all they can be charged with is a misdemeanor. And people rarely go to jail for misdemeanors.

To get around FECA's limits, prosecutors often charge campaign finance abusers with other federal crimes that are felonies, which is what they did with Trie and Huang. But that still often doesn't solve the problem. That's because when it comes time for sentencing, judges have to turn to the Federal Sentencing Guidelines, which still often bring light sentences because there is no guideline on campaign finance violations.

The guidelines assign what's called a ''base offense level'' for each crime, and then they give a number of factors that, if present, tell the judge either to increase or decrease the offense level. The higher the offense level, the higher the sentence.

Because the Guidelines don't have a provision on campaign finance violations, judges have to look for the next closest offense, and they often end up using the fraud guideline. But that guideline doesn't take into account the factors that make campaign finance violations so harmful, and the factors that are there often aren't particularly relevant to campaign finance violations. For example, there is nothing in the guideline that makes judges distinguish between a campaign finance violation involving $2,000 and one involving $2,000,000. So, when judges calculate the offense level of a defendant who funneled millions of foreign dollars into a US campaign, they don't end up with a high offense level, meaning that the defendant doesn't get a lengthy sentence. The prosecutors know this and the defendants know this, and that must be one of the reasons why prosecutors accepted plea bargains from John Huang and Charlie Trie—because they knew they wouldn't do much better even if they won convictions at trial.

Our bill would solve these problems, by putting a felony provision into FECA and by directing the Sentencing Commission to promulgate a campaign finance guideline. If those two things happen, we will have greater confidence that those who violate the law will be appropriately punished.

I understand that some who have looked at our bill worry that it criminalizes participating in the political process. That is neither the intent nor the effect of our bill. Our bill would allow felony prosecutions only if, first, the defendant knowingly and willfully violated the law, and second, if the offense involved at least $25,000. So, it would not punish the donor who inadvertently goes over his contribution limits, nor would it go after the Party Committee clerk who makes a record-keeping mistake. Instead, our bill aims at the opportunistic hustlers who come up with broad conspiracies to violate the election laws—usually for personal gain—by funneling foreign money into our campaigns or using large numbers of straw donors to hide their identity or make contributions they aren't allowed to make—the people everyone says should be going to jail.

There are three other provisions in our bill. The first would extend FECA's statute of limitations from three to five years to make it the same as virtually all other federal crimes. The second would make it clear that foreign soft money is as illegal as foreign hard money contributions. The third would make it clear that straw donations of soft money are as illegal as straw donations of hard money. All of them are important.

Mr. President, this bill is about something that we all should be able to agree upon, which is that actions that are already criminal and that we all agree are wrong should be punished. None of our bill's provisions should be controversial, and I hope that we can see them enacted into law, so that we can go into the next election cycle with confidence that prosecutors have the tools necessary to deter and to punish those who would violate our election laws.

Mr. LEAHY. Mr. President, I am pleased to join Senators THOMPSON and LIEBERMAN in cosponsoring this legislation to improve the Federal Election Campaign Act, known as FECA. This legislation would increase criminal penalties for knowing and willful campaign finance violations, direct the Sentencing Commission to promulgate guidelines for violations, and clarify parts of FECA. This legislation is important to ensure that we have an enforcement structure that would deter knowing violations of the laws now on the books.

Questions about the financing of the 1996 Federal elections have been the subject of multiple, expensive, overlapping, and repeated congressional hearings. In 1997, the Senate Committee on Governmental Affairs held 32 days of hearings, calling 70 witnesses, at a cost of $3.5 million to investigate campaign finance violations relating to the 1996 Federal elections. The House Committee on Government Reform and Oversight has been investigating campaign finance violations since June 1997, including over 45 days of hearings. The Senate Judiciary Committee held its own series of hearings in the 106th Congress on the 1996 campaign finance investigations. Needless to say, all of these committees have spent countless hours investigating, collecting and reviewing documents, and holding hearings on alleged campaign finance abuses in the 1996 campaign. This legislation is one of the most constructive products to come out of those investigations.

Indeed, in a report to then-Attorney General Reno, the former Chief of the Campaign Finance Task Force at the Department of Justice, Charles LaBella, recommended reforms in the campaign finance laws, including the increased penalties and clarifications

to certain parts of the FECA embodied in this legislation.

This bill would authorize felony prosecutions of knowing and willful FECA violations involving improper contributions aggregating $25,000 or more during a calendar year. It would also increase the statute of limitations to 5 years, which is the standard statute of limitation for Federal offenses. In addition, the bill would direct the Sentencing Commission to promulgate guidelines. Finally, the bill would clarify that foreign nationals who are not permanent residents may not donate to a candidate or political party as well as make clear that the FECA's prohibition on conduit contributions applies to any type of donation.

I am glad to join in cosponsoring this legislation again, as I did in the last Congress, and urge its prompt passage.

To the extent that we are frustrated by campaign finance abuses, I believe passage of this legislation is a better use of this body's time than the open-ended fishing expedition into open and closed cases.

By Mr. SHELBY:

S. 601. A bill to authorize the payment of interest on certain accounts at depository institutions, to increase flexibility in setting reserve requirements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

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

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

S. 601

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 ''Small Business Checking Regulatory Relief Act of 2001''.

SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.

Section 2 of Public Law 93–100 (12 U.S.C. 1832) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

''(b) TRANSFERS.—Notwithstanding any other provision of law, any depository institution may, before September 1, 2002, permit the owner of any deposit or account on which interest or dividends are paid to make up to 24 transfers per month, for any purpose, to another account of the owner in the same institution. Nothing in this subsection shall be construed to prevent an account offered pursuant to this subsection from being considered a transaction account (as defined in section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) for purposes of that Act.''.

SEC. 3. SAVINGS AND DEMAND DEPOSIT ACCOUNTS AT DEPOSITORY INSTITUTIONS.

(a) NOW ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.—Section 2 of Public Law 93–100 (12 U.S.C. 1832) is amended to read as follows:

''SEC. 2. WITHDRAWALS BY NEGOTIABLE OR TRANSFERABLE INSTRUMENTS FOR TRANSFERS TO THIRD PARTIES.

''Notwithstanding any other provision of law, any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) may permit the owner of any deposit or account to make withdrawals from such deposit or account by negotiable or transferable instruments for the purpose of making payments to third parties. With respect to an escrow account maintained in connection with a loan, a lender or servicer shall pay interest on such account only if such payments are required by contract between the lender or servicer and the borrower, or a specific statutory provision of the law of the State in which the security property is located requires the lender or servicer to make such payments.''.

(b) REPEAL OF PROHIBITIONS ON PAYMENT OF INTEREST ON DEMAND DEPOSITS.—

(1) FEDERAL RESERVE ACT.—Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended to read as follows:

''(i) [Reserved].''.

(2) HOME OWNERS' LOAN ACT.—Section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended in the first sentence, by striking ''savings association may not—'' and all that follows through ''(ii) permit any'' and inserting ''savings association may not permit any''.

(3) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows:

''(g) [Reserved].''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 1, 2002.

SEC. 4. INCREASED FEDERAL RESERVE BOARD FLEXIBILITY IN SETTING RESERVE REQUIREMENTS.

Section 19(b)(2) of the Federal Reserve Act (12 U.S.C. 461(b)(2)) is amended—

(1) in clause (i), by striking ''the ratio of 3 per centum'' and inserting ''a ratio not greater than 3 percent''; and

(2) in clause (ii), by striking ''and not less than 8 per centum''.

By Mr. DOMENICI.

S. 602. A bill to reform Federal election law; to the Committee on Rules and Administration.

Mr. DOMENICI. Mr. President, I rise today to introduce my own version of campaign finance reform, the Common-Sense Federal Election Reform Act of 2001.

I am again introducing straightforward reform legislation to deal with six principal areas: (1) the super-wealthy candidate; (2) party soft money; (3) inadequate hard money limits; (4) increased disclosure for certain communications; (5) paycheck protection; and (6) unlawful fundraising activities.

This bill addresses the issues that I have raised over and over again on the floor of the Senate whenever we have debated campaign finance reform. As I've said before, the biggest problem with our elections is that they no longer belong to the voters.

My bill makes six fundamental changes to existing campaign finance laws. First, it helps solve the wealthy candidate problem. Over the past decade we have witnessed the growing tide of multi-millionaire candidates financing their campaigns and effectively shutting out other qualified candidates through the sheer power of their own wealth. Something must be done to stem this tide so that the electorate hears the voices of all the candidates and not just those with extraordinary personal wealth.

The teacher, police officer, military man or woman, and the like must have an equal chance to participate as candidates in our dynamic political process. Perhaps more importantly, if the current system is allowed to stand, the public will hear only the views of the super-wealthy. Elections will become, even more than today, nothing more than a choice between two Wall Street financiers or two corporate magnates. My bill helps ensure that a candidate prevails on the strength of his ideas not the size of his personal bank account.

The bill tackles the problem without offending the First Amendment. Indeed, there are no limits on the wealthy candidate's right to spend his or her own money on his or her campaign. Rather, the bill simply levels the playing field by increasing the outdated individual contribution limits for the opponent of the self-financing candidate.

Let me explain in very general terms how it works. In New Mexico, if the wealthy candidate spends personal funds on his or her campaign in excess of approximately $400,000, the opponent could raise contributions from individuals at three times the current limit or $3,000 per election. If the wealthy candidate exceeded $800,000 in personal expenditures, the opponent could raise individual contributions at six times the current limit or $6,000. Finally, where the millionaire candidate spends in excess of $2,000,000 of personal funds, the party coordinated expenditure limits are eliminated for the opponent candidate.

This does not violate a wealthy candidate's constitutional right to use personal funds on his or her own campaign. It merely enables the non-wealthy candidate to participate in the process so that the public hears the opinions of all the qualified candidates regardless of their personal fortune.

Another important aspect of this provision states that a candidate who incurs personal loans in connection with his or her campaign cannot repay himself or herself in excess of $250,000 with contributions received after the election. It creates a perception of impropriety for a candidate, who once elected, uses the prestige of office to raise contributions to repay personal debt incurred during the campaign.

In addition to the wealthy candidate problem, the bill addresses the soft money issue. It caps soft money contributions at $50,000 per individual during each election cycle. I have long felt that Congress should limit soft money to reduce the perception that extraordinary wealthy people can buy influence through substantial, unregulated contributions to the political parties.

Third, my bill modestly increases the regulated or ''hard'' money individual contribution limits that are now 25 years old. For example, under this legislation, individuals can contribute

$5,000 to a candidate rather than the current $1,000 limit. These increases are long overdue. Campaigns are very expensive and it takes too much of a candidate's time to raise the necessary money at the outdated $1,000 limits. This bill will permit candidates to spend more time presenting their views to the public and less time attending fund raisers. Certainly, no one can argue that in today's world $5,000 is enough to buy influence.

Fourth, my bill increases disclosure requirements for certain communications. The legislation calls for the disclosure of certain information by anyone who spends more than $25,000 or more on radio or television advertising that mentions a federal candidate by name or likeness. I have long felt that disclosure is the best way to pursue campaign finance reform. Disclosure is the best policy because it does not infringe the constitutional rights of individuals and groups to engage in political speech.

Fifth, the bill deals with the use of union dues for political activities. Mr. President, I can think of no other campaign activity that is more un-American than the mandatory, compulsory taking of union dues for political purposes. The essence of democracy is that political speech must be voluntary. For many union workers, that is not the case. Indeed, unions are made up of forty percent Republicans, and yet nearly all the union money that is spent on political activity goes to the Democratic party. My bill requires the unions to get the prior, written permission of all members before using their dues for political purposes.

Finally, my bill addresses illegal fundraising activities. It clarifies that soft money is a ''contribution'' under federal election laws. Thus, it makes absolutely clear that government officials cannot use federal property to raise any campaign funds, including soft money. The bill also provides increased criminal penalties for violations of the foreign national provisions and for contributions made in the name of another.

My record is clear. Today, for at least the fourth time, I am introducing a comprehensive campaign finance bill so that my constituents in New Mexico know where I stand on campaign finance reform.

By Mr. KENNEDY (for himself, Mr. SCHUMER, Mr. SARBANES, Ms. SNOWE, Mr. DODD, Mr. KERRY, Mr. FIENGOLD, Mr. LIEBERMAN, Mr. BIDEN, Ms. CANTWELL, Mrs. MURRAY, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. CORZINE, Mr. DAYTON, Ms. MIKULSKI, and Mrs. BOXER):

S.J. Res. 10. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, today, Senators SCHUMER, SARBANES, SNOWE, DODD, KERRY, FEINGOLD, LIEBERMAN, BIDEN, CANTWELL, MURRAY, FEINSTEIN, CLINTON, CORZINE, DAYTON, MIKULSKI, BOXER and I are reintroducing the Equal Rights Amendment to the Constitution. In doing so, we reaffirm our strong commitment to the ERA and full equality for women in our society.

Enactment and ratification of the ERA is essential to ensure that the law reflects our country's commitment to equality by guaranteeing equal rights for women. Existing statutory prohibitions against sex discrimination have failed to guarantee basic educational and employment opportunities for women that are equal to those available to men. The need for a constitutional guarantee of equal rights continues to be compelling.

In the absence of the ERA, too little progress has been made on women's rights, especially in the area of economic opportunity. An unconscionable gap between the earnings of men and women persists in the workforce. Today, women continue to earn only 72 cents for each dollar earned by men. Taking home less than 3/4 of a paycheck for a full days work is still a common experience for far too many women.

Sex discrimination continues to permeate many areas of the economy. While women with college degrees have made significant advances in many professional and managerial occupations in recent years, more than half of working women remain clustered in a narrow range of traditionally female, traditionally low-paying occupations. And female-headed households continue to dominate the bottom rungs of the economic ladder. When a family with children is headed by a woman, the likelihood is high that the family is living in poverty. In 1999, 41.9 percent of all families headed by single mothers lived below the poverty line.

Plainly, much remains to be done to secure equal opportunity for women. Enactment of the Equal Rights Amendment alone will not undo generations of economic injustice, but it will encourage women in all parts of the country in their efforts to obtain fairness under the nation's laws.

We know from the ratification experience of the 1970's and early 1980's that the road to adoption of the ERA will not be easy. But the extraordinary importance of the effort requires us to persevere. We should approve the ERA in this Congress, and begin the ratification process anew. The ERA must take its rightful place in America's founding document.

I ask unanimous consent that the text of our joint resolution be printed in the RECORD.

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

S.J. RES. 10

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

''ARTICLE —

''SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

''SECTION 2. Congress shall have the power to enforce this article by appropriate legislation.

''SECTION 3. This article shall take effect two years after the date of ratification.''.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 62—EXPRESSING THE SENSE OF THE SENATE REGARDING THE HUMAN RIGHTS SITUATION IN CUBA

Mr. LIEBERMAN (for himself, Mr. LUGAR, Mr. GRAHAM, Mr. KYL, Mr. HELMS, Mr. ENSIGN, Mr. FEINGOLD, Mr. NELSON of Florida, Mr. TORRICELLI, Mr. SMITH of New Hampshire, Mr. SESSIONS, Mr. DEWINE, and Mr. SANTORUM) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 62

Whereas, according to the Department of State and international human rights organizations, the Cuban government continues to commit widespread and well-documented human rights violations against the Cuban people and to detain hundreds more as political prisoners;

Whereas the Castro regime systematically violates all of the fundamental civil and political rights of the Cuban people, denying freedoms of speech, press, assembly, movement, religion, and association, the right to change their government, and the right to due process and fair trials;

Whereas, in law and in practice, the Cuban government restricts the freedom of religion of the Cuban people and engages in efforts to control and monitor religious institutions through surveillance, infiltration, evictions, restrictions on access to computer and communication equipment, and harassment of religious professionals and lay persons;

Whereas the totalitarian regime of Fidel Castro actively suppresses all peaceful opposition and dissent by the Cuban people using undercover agents, informers, rapid response brigades, Committees for the Defense of the Revolution, surveillance, phone tapping, intimidation, defamation, arbitrary detention, house arrest, arbitrary searches, evictions, travel restrictions, politically motivated dismissals from employment, and forced exile;

Whereas, workers' rights are effectively denied by a system in which foreign investors are forced to contract labor from the Cuban government and to pay the regime in hard currency knowing that the regime will pay less than 5 percent of these wages in local currency to the workers themselves;

Whereas these abuses by the Cuban government violate internationally accepted norms of conduct;

Whereas the Senate is mindful of the admonishment of President Ernesto Zedillo of Mexico during the last Ibero-American Summit in Havana, Cuba, that ''[t]here can be no sovereign nations without free men and women. Men and women who can freely exercise their essential freedoms: freedom of

thought and opinion, freedom of participation, freedom of dissent, freedom of decision.'';

Whereas President Vaclav Havel, an essential figure in the Czech Republic's transition to democracy, has counseled that ''[w]e thus know that by voicing open criticism of undemocratic conditions in Cuba, we encourage all the brave Cubans who endure persecution and years of prison for their loyalty to the ideals of freedom and human dignity'';

Whereas former President Lech Walesa, leader of the Polish solidarity movement, has urged the world to ''mobilize its resources, just as was done in support of Polish Solidarnosc and the Polish workers, to express their support for Cuban workers and to monitor labor rights'' in Cuba;

Whereas efforts to document, expose, and address human rights abuses in Cuba are complicated by the fact that the Cuban government continues to deny international human rights and humanitarian monitors access to the country;

Whereas Pax Christi further reports (September 2000) that these efforts are complicated because ''a conspiracy of silence has fallen over Cuba'' in which diplomats and entrepreneurs refuse even to discuss labor rights and other human rights issues in Cuba, some ''for fear of endangering the relations with the Cuban government'', and businessmen investing in Cuba ''openly declare that the theme of human rights was not of their concern'';

Whereas the annual meeting of the United Nations Commission on Human Rights in Geneva provides an excellent forum to spotlight human rights and expressing international support for improved human rights performance in Cuba and elsewhere;

Whereas the goal of United States policy in Cuba is to promote a peaceful transition to democracy through an active policy of assisting the peaceful forces of change on the island;

Whereas the United States may provide assistance through appropriate nongovernmental organizations to help individuals and organizations to promote nonviolent democratic change and promote respect for human rights in Cuba; and

Whereas the President is authorized to engage in democracy-building efforts in Cuba, including the provision of (1) publications and other informational materials on transitions to democracy, human rights, and market economies to independent groups in Cuba; (2) humanitarian assistance to victims of political repression and their families; (3) support for democratic and human rights groups in Cuba; and (4) support for visits and permanent deployment of democratic and international human rights monitors in Cuba: Now, therefore, be it

Resolved, That (a) the Senate condemns the repressive and totalitarian actions of the Cuban government against the Cuban people.

(b) It is the sense of the Senate that—

(1) the President should establish an action-oriented policy of directly assisting the Cuban people and independent organizations to strengthen the forces of change and to improve human rights in Cuba;

(2) such policy should be modeled on the bipartisan United States support for the Polish Solidarity (Solidarnosc) movement under former President Ronald Reagan and involving United States trade unions; and

(3) the President should make all efforts necessary at the meeting of the United Nations Human Rights Commission in Geneva in 2001 to obtain the passage by the Commission of a resolution condemning the Cuban government for its human rights abuses, and to secure the appointment of a Special Rapporteur for Cuba.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. LIEBERMAN. Mr. President, the resolution I am privileged to introduce today condemns the human rights practices in Cuba, urges assistance to non-governmental organizations that are working to achieve greater freedom and respect for human rights in Cuba, and supports a strong United Nations resolution against Cuba at the UN Human Rights Commission session that begins this week in Geneva. The UN Commission's annual meeting is an ideal opportunity to focus the spotlight of world opinion on the appalling human rights conditions in Cuba and to underscore our support for those who continue to champion the cause of freedom for the Cuban people.

The repressive situation in Cuba is not new. Indeed, the United States has been closely watching events in Cuba for more than 40 years and trying to find ways to foster democratic changes; changes that have since swept through the rest of our hemisphere and around the world. My distinguished colleagues in Congress and various administrations over the years have not always agreed on how best to help the Cuban people achieve the fundamental rights we enjoy here in America. But we overwhelmingly agree on what is the root of the problem in Cuba: Fidel Castro.

As we well know, his totalitarian regime has systematically repressed the fundamental rights of the Cuban people and denied them the most basic of freedoms. This oppression has not eased with time but has in fact become worse, as is documented in disturbing detail in the State Department's recently issued Country Reports on Human Rights Practices for 2000.

In early 1998, Pope John Paul II visited Cuba, a remarkable historic event that raised a glimmer of hope that perhaps the Castro regime would relax some of its repressive practices, particularly with regard to religious organizations of all types, including the Catholic Church to which great numbers of Cubans are faithful. In that same year, the UN Human Rights Commission did not renew the mandate of its Special Rapporteur on Cuba, with the understanding that the Cuban government would improve human rights practices if it were not under formal sanction by the United Nations.

But, I am sorry to say that, according to the State Department's report, human rights practices in Cuba have actually become worse. Despite the Pope's visit, Castro's government continues to clamp down on religious groups, requiring them to register, but then not registering them, so that they must meet illegally. It refuses to issue required permits to religious groups to build places of worship, but harasses groups that resort to meeting in private homes. It limits access by churches to the media and printing facilities. It withholds visas to priests and nuns. It conducts surveillance, infiltration and harassment of religious professionals and lay persons. And when the UN Human Rights Commission passed a new resolution expressing concern over this situation in April 1999, the Cuban government responded by organizing a protest march of about 200,000 people in Havana. Such marches are not voluntary; attendance of workers and school children is taken and workers have been threatened with imprisonment for not showing up.

As hard as it is to imagine, the Cuban government's repression of human rights activists is even more severe than that experienced by religious groups. Not a single human rights organization is recognized by the government. Under Cuban law, any unauthorized assembly of more than three persons can be punished by imprisonment and, predictably, no public meeting has ever been approved for a human rights organization. Human rights advocates and independent journalists are routinely arrested, detained and subjected to interrogation, threats, degrading treatment and unsanitary conditions. Even more disturbing is that the Cuban Constitution, rather than being the foundation for the rule of law and freedoms, actually provides the justification for this repression. It contains sweeping provisions that allow the denial of what few civil liberties even exist in Cuba for anyone who actively ''opposes socialism'' or appears ''dangerous.'' As a result, the police arrest people at will or subject them to therapy or re-education. The Constitution is simply a sham, a license to oppress.

The penalties for opposition to these intolerable conditions are severe. Criticism is considered ''enemy propaganda'' and can result in up to 14 years imprisonment. According to the State Department report, this ''enemy propaganda'' includes the Universal Declaration of Human Rights, international reports on human rights violations, and foreign newspapers and magazines. In late 1999, Amnesty International reported that approximately 200 persons were arrested around the anniversary of the Universal Declaration of Human Rights to prevent them from commemorating that event. Human rights activists described the escalation of arbitrary arrests and detention as the worst in a decade. They estimate there are currently between 300 and 400 political prisoners in Cuba.

This massive oppression sounds archaic, a relic of another time, the stuff of a Cold War world that has been relegated to the history books. But it is not history in Cuba. It is the harsh reality of everyday life. Cuba remains a world of informers, block committees that report on their neighbors and coworkers, infiltrators in groups that the government thinks might be subversive. Cuba is a place where teachers write evaluations of their students' ''ideological character'' and that of their parents, evaluations that follow the children throughout their schooling and determine their future education and careers. Cuba is a nation

where the government monitors phone calls, controls and limits Internet access, and restricts the ability to purchase fax machines and photocopiers. Recently, two Czech citizens, one a member of Parliament and the other a student activist, were arrested in Cuba for the ''crime'' of meeting with dissidents and bringing them pencils and a computer.

The resolution my colleagues and I are introducing today condemns these repressive and indefensible policies of the Castro regime. It calls for the United States to implement a policy supporting the non-governmental organizations in Cuba that are working toward a more open society, respect for human rights and greater political, economic and religious freedom for the Cuban people. Our support should be modeled on the assistance that we gave to the former Communist nations of eastern Europe, such as Poland in the 1980's, where the U.S. funded non-governmental institutions like the Solidarity trade union movement that were working tirelessly for democracy and a free economy. This resolution also calls for active U.S. support for a strong United Nations resolution on Cuba at the current session of the UN High Commission for Human Rights to demonstrate broad international condemnation of Cuba's human rights record. America must stand as a light on this bleak horizon. I urge my colleagues to lend their voices in support of this resolution and for the promotion of basic human rights and dignity for the Cuban people.

I ask unanimous consent that the Introduction to the State Department's report on human rights in Cuba to be printed in the RECORD.

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

CUBA—COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2000

[Released by the Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, February 2001]

Cuba is a totalitarian state controlled by President Fidel Castro, who is Chief of State, Head of Government, First Secretary of the Communist Party, and commander-in-chief of the armed forces. President Castro exercises control over all aspects of life through the Communist Party and its affiliated mass organizations, the government bureaucracy, and the state security apparatus. The Communist Party is the only legal political entity, and President Castro personally chooses the membership of the Politburo, the select group that heads the party. There are no contested elections for the 601-member National Assembly of People's Power, ANPP, which meets twice a year for a few days to rubber stamp decisions and policies already decided by the Government. The Party controls all government positions, including judicial offices. The judiciary is completely subordinate to the Government and to the Communist Party.

The Ministry of Interior is the principal organ of state security and totalitarian control. Officers of the Revolutionary Armed Forces, FAR, which are led by President Castro's brother, Raul, have been assigned to the majority of key positions in the Ministry of Interior in recent years. In addition to the routine law enforcement functions of regulating migration and controlling the Border Guard and the regular police forces, the Interior Ministry's Department of State Security investigates and actively suppresses opposition and dissent. It maintains a pervasive system of vigilance through undercover agents, informers, the rapid response brigades, and the Committees for the Defense of the Revolution, CDR's. The Government traditionally uses the CDR's to mobilize citizens against dissenters, impose ideological conformity, and root out ''counterrevolutionary'' behavior. During the early 1990's, economic problems reduced the Government's ability to reward participation in the CDR's and hence the willingness of citizens to participate in them, thereby lessening the CDR's effectiveness. Other mass organizations also inject government and Communist Party control into citizens' daily activities at home, work, and school. Members of the security forces committed serious human rights abuses.

The Government continued to control all significant means of production and remained the predominant employer, despite permitting some carefully controlled foreign investment in joint ventures with it. Foreign companies are required to contract workers only through Cuban state agencies, which receive hard currency payments for the workers' labor but in turn pay the workers a fraction of this, usually 5 percent in local currency. In 1998 the Government retracted some of the changes that had led to the rise of legal nongovernmental business activity when it further tightened restrictions on the self-employed sector by reducing the number of categories allowed and by imposing relatively high taxes on self-employed persons. In September the Minister of Labor and Social Security publicly stated that more stringent laws should be promulgated to govern self-employment. He suggested that the Ministry of Interior, the National Tax Office, and the Ministry of Finance act in a coordinated fashion in order to reduce ''the illegal activities'' of the many self-employed. According to government officials, the number of self-employed persons as of September was 156,000, a decrease from the 166,000 reported in 1999.

According to official figures, the economy grew 5.6 percent during the year. Despite this, overall economic output remains below the levels prior to the drop of at least 35 percent in gross domestic product that occurred in the early 1990's due to the inefficiencies of the centrally controlled economic system; the loss of billions of dollars of annual Soviet bloc trade and Soviet subsidies; the ongoing deterioration of plants, equipment, and the transportation system; and the continued poor performance of the important sugar sector. The 1999–2000 sugar harvest, just over 4 million tons, was marginally better than the 1998–99 harvest. The 1997–98 harvest was considered the worst in more than 50 years. For the tenth straight year, the Government continued its austerity measures known as the ''special period in peacetime.'' Agricultural markets, legalized in 1994, provide consumers wider access to meat and produce, although at prices beyond the reach of most citizens living on peso-only incomes or pensions. Given these conditions, the flow of hundreds of millions of dollars in remittances from the exile community significantly helps those who receive dollars to survive. Tourism remained a key source of revenue for the Government. The system of so-called tourist apartheid continued, with foreign visitors who pay in hard currency receiving preference over citizens for food, consumer products, and medical services. Most citizens remain barred from tourist hotels, beaches, and resorts.

The Government's human rights record remained poor. It continued to violate systematically the fundamental civil and political rights of its citizens. Citizens do not have the right to change their government peacefully. There were unconfirmed reports of extrajudicial killings by the police, and reports that prisoners died in jail due to lack of medical care. Members of the security forces and prison officials continued to beat and otherwise abuse detainees and prisoners. The Government failed to prosecute or sanction adequately members of the security forces and prison guards who committed abuses. Prison conditions remained harsh. The authorities continued routinely to harass, threaten, arbitrarily arrest, detain, imprison, and defame human rights advocates and members of independent professional associations, including journalists, economists, doctors, and lawyers, often with the goal of coercing them into leaving the country. The Government used internal and external exile against such persons, and it offered political prisoners the choice of exile or continued imprisonment. The Government denied political dissidents and human rights advocates due process and subjected them to unfair trials. The Government infringed on citizens' privacy rights. The Government denied citizens the freedoms of speech, press, assembly, and association. It limited the distribution of foreign publications and news, reserving them for selected party faithful, and maintained strict censorship of news and information to the public. The Government restricts some religious activities but permits others. Before and after the January 1998 visit of Pope John Paul II, the Government permitted some public processions on feast days, and reinstated Christmas as an official holiday; however, it has not responded to the papal appeal that the Church be allowed to play a greater role in society. During the year, the Government allowed two new priests to enter the country, as professors in a seminary, and another two to replace two priests whose visas were not renewed. However, the applications of many priests and religious workers remained pending, and some visas were issued for periods of only 3 to 6 months. The Government kept tight restrictions on freedom of movement, including foreign travel. The Government was sharply and publicly antagonistic to all criticism of its human rights practices and discouraged foreign contacts with human rights activists. Violence against women, especially domestic violence, and child prostitution are problems. Racial discrimination occurs. The Government severely restricted worker rights, including the right to form independent unions. The Government prohibits forced and bonded labor by children; however, it requires children to do farm work without compensation during their summer vacation.

Mr. LUGAR. Mr. President, I rise to join Senator LEIBERMAN and other Members of the Senate as an original sponsor of a bipartisan resolution critical of human rights practices in Cuba. The resolution we are introducing today urges the President to develop initiatives to assist the Cuban people and independent organizations in Cuba in their struggle for change, human rights and democracy. Our resolution cites U.S. support for Solidarity in Poland in the 1980s as a model to emulate. The resolution also urges the United States to take an active role in approving a resolution condemning Cuba at the United Nations Human Rights Commission in Geneva that is underway as we speak.

The recent arbitrary arrest of two Czech citizens, a legislator and a student, by Cuban authorities in Cuba reminds us of the extent to which the government will go to squash expressions of freedom and opposition to the regime. The two Czech citizens understand the arbitrary nature of their arrest because they have been victims of suppression in their own personal struggle for freedom and democracy in their own country a few years ago.

As Human Rights Watch noted, Cuba has ''a highly effective machinery of repression,'' Journalists, writers, intellectuals, and anyone else who disagrees or dares to challenge the regime risk harassment, imprisonment or other harsh treatment. Human rights repression in Cuba is one of the most serious impediments to improved relations with the United States.

The goal of our resolution is to encourage a peaceful transition to democracy through transparent initiatives that will support human rights groups in Cuba, make available materials and relevant literature on human rights, and provide humanitarian assistance to nongovernmental organizations on the island.

My criticism of human rights practices in Cuba is consistent with my criticism of our unilateral economic sanctions against Cuba. There is no inherent incompatibility between these two critiques. A pro-engagement policy can be a pro-human rights policy in much the same way it was in our policy towards central and eastern European countries during the cold war.

I believe that programs, such as those of the National Endowment for Democracy and its core institutes, can help promote democracy and political freedoms in Cuba and are likely to be more successful in promoting change than economic coercion. Contacts and interactions through trade, travel, tourism, student exchanges, and other forms of engagement will, in my view, yield more positive results in changing Cuba and improving Cuban human rights practices than isolation and punitive sanctions. This may not be true in all cases where we have differences with other countries, but I believe it has merit with respect to Cuba.

I hope my colleagues in the Senate will join Senator LIEBERMAN and the other sponsors in supporting this resolution and that some day Cuba will join Poland, Hungary, the Czech Republic, and other states around the world in making the transformation from tyranny to freedom and democracy.

Mr. KYL. Mr. President, as Americans, we sometimes take for granted the fundamental rights for which our forefathers fought and on which this great nation was founded. We must not forget, however, that there are places in the world where people are denied these basic freedoms. Sadly, even with the collapse of the Soviet Empire and the spread of freedom and democracy in Eastern Europe and the Baltics, there are countries that still do not have freedom of press, assembly, movement, religion or association; where people do not have the right to peacefully change their government; and where individuals do not have the right to due process.

Cuba is one such country, a nation that, despite our efforts over the past 40 years, remains subject to the dictatorial rule of Fidel Castro. Castro retains power over the Cuban people through force, fear, and deprivation. A 1999 Human Rights Watch Report, Cuba's Repressive Machinery: Human Rights Forty Years After the Revolution, summarized the deplorable situation in that country, stating,

> Over the past forty years, Cuba has developed a highly effective machinery of repression. The denial of basic civil and political rights is written into Cuban law. In the name of legality, armed security forces, aided by state-controlled mass organizations, silence dissent with heavy prison terms, threats of prosecution, harassment, or exile. Cuba uses these tools to restrict severely the exercise of fundamental human rights of expression, association, and assembly. The conditions in Cuba's prisons are inhuman, and political prisoners suffer additional degrading treatment and torture. In recent years, Cuba has added new repressive laws and continued prosecuting nonviolent dissidents while shrugging off international appeals for reform and placating visiting dignitaries with occasional releases of political prisoners.

Clearly, it is time to explore a different approach to dealing with Cuba. It is important that, as the era of Fidel Castro's rule comes to a close, we work to establish a long-term relationship with the Cuban people.

During the 1980's President Reagan was a champion for human rights in the Soviet Union and Eastern Europe, standing up for freedom, democracy, and civil society. He passionately spoke of American values and God-given rights, and more importantly, backed his words with action. In his 1982 ''Evil Empire'' speech before the British House of Commons, President Reagan stated:

> While we must be cautious about forcing the pace of change, we must not hesitate to declare our ultimate objectives and to take concrete actions to move toward them. We must be staunch in our conviction that freedom is not the sole prerogative of a lucky few but the inalienable and universal right of all human beings.

Poland is but one example of the success of this firm stance. Pope John Paul II, after he visited Cuba in 1998, said, ''I wish for our brothers and sisters on that beautiful island that the fruits of this pilgrimage will be similar to the fruits of that pilgrimage in Poland.''

Senator LIEBERMAN has introduced a resolution calling upon the United States to offer assistance to Cuban people and independent organizations, modeled after President Reagan's support for the Polish Solidarity Movement. Though our debate on the embargo is sure to continue during this Congress, Senator LIEBERMAN's resolution outlines the basic problem on which we can all agree. Fidel Castro's human rights record is deplorable, and the situation continues to deteriorate. Furthermore, this resolution proposes a solution that supports the strengthening of civil society in Cuba, offering hope to the people there who are struggling to emerge from beneath the shell of communism. It also calls upon the U.S. delegation to this year's meeting of the U.N. Human Rights Commission to actively support the passage of a resolution condemning Cuba for its human rights violations.

As we continue to enjoy the fruits of liberty, we have an obligation, as Americans, to take a stand against Castro's regime and assist the Cuban people in a peaceful transition to democracy. We have an opportunity, beginning with the passage of this resolution, to reach out to the Cuban people through the wall of repression that Castro has built around his small island, so that they may some day taste the freedom and justice that we have been afforded not by chance, but by the hard work and perseverence of those who believed that life should not be any other way. With our help, the Cuban people can further their progress down the road to democracy.

Mr. HELMS. Mr. President, democracy and the rule of law are the norm in the Western Hemisphere, but the Cuban people remain denied the blessings of freedom. And the violations of their rights by Fidel Castro's regime are widespread, well-documented, and impact upon every aspect of their lives.

Policymakers in Washington may wrangle over the details of how United States policy in Cuba should be implemented, but we can all agree that the Cuban people need and deserve our support to bring about change in their country.

It is important to underscore that the Cuban people aren't passively waiting for change. They are taking peaceful action every day trying to advance the cause of freedom and democracy. This often costs them their physical freedom, their jobs, their families—even their homeland.

Despite these endeavors, Castro remains as intransigent and repressive as ever. Since January, he has stepped up efforts to beat down Cubans who dare to hope for liberation by jailing and harassing those who speak out.

Not content to simply control the Cuban people, Castro has also intensified his harassment of foreigners who provide moral or material support to pro-democracy dissidents.

Swedes, Czechs, Lithuanians, Mexicans, and Americans have been detained by Castro's police in recent months for meeting with or giving money, printed material, and other help to Cuban dissidents.

Mr. President, foreign governments have been maligned for ''licking the Yankee boot'' because they support passage of a U.N. Commission on Human Rights resolution condemning the human rights record in Castro's Cuba.

Foreign officials have been not-so-cordially invited to cancel visits to Cuba because they had dared to suggest that there is room for improvement in Cuba's human rights record.

Therefore, Castro is essentially criminalizing contact with the Cuban people and trying bully democratic countries into abandoning their principles—and thereby abandoning the Cuban people.

We won't be bullied—and our allies in Europe and Latin America must not let themselves be bullied either.

It is against this back-drop that I am joining Senator LIEBERMAN and a distinguished, bipartisan group of my colleagues today in introducing a resolution regarding the human rights situation in Cuba, a resolution that is designed to give momentum to efforts to pass a U.N. Human Rights Commission resolution on Cuba when it convenes in Geneva this month.

It is also designed to give momentum to a more pro-active and creative U.S. policy of working with the Cuban dissident community modeled on President Reagan's successful efforts to help Poland's Solidarity Movement work for change during the cold war.

Most importantly, it is a message to remind the Cuban people that the United States stands solidly with them in their peaceful struggle for freedom. I am confident that other Senators will want to join Senator LIEBERMAN in supporting this important resolution.

SENATE RESOLUTION 63—COMMEMORATING AND ACKNOWLEDGING THE DEDICATION AND SACRIFICE MADE BY THE MEN AND WOMEN WHO HAVE LOST THEIR LIVES WHILE SERVING AS LAW ENFORCEMENT OFFICERS

Mr. CAMPBELL (for himself, Mr. HATCH, Mr. LEAHY, Mr. THURMOND, Mr. NICKLES, Mr. GREGG, Mr. HUTCHINSON, Mr. MILLER, Mrs. HUTCHISON, Mr. BIDEN, Mr. GRAMM, Mr. HELMS, Mr. BROWNBACK, Mr. COCHRAN, Mr. BINGAMAN, Mr. BOND, Mr. FRIST, Mr. INHOFE, Mr. ALLARD, Mr. DORGAN, Mr. EDWARDS, Mr. BYRD, Mr. REID, Mr. BAYH, Mr. AKAKA, Mr. DURBIN, Mr. DEWINE, Mr. THOMAS, Mr. CRAPO, Mr. DAYTON, Mr. SARBANES, Mr. KENNEDY, Mrs. BOXER, Mr. LEVIN, and Mr. VOINOVICH) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 63

Whereas the well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 700,000 men and women, at great risk to their personal safety, presently serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front line in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas 150 peace officers lost their lives in the line of duty in 2000, and a total of nearly 15,000 men and women serving as peace officers have now made that supreme sacrifice;

Whereas every year, 1 in 9 peace officers is assaulted, 1 in 25 peace officers is injured, and 1 in 4,400 peace officers is killed in the line of duty; and

Whereas, on May 15, 2001, more than 15,000 peace officers are expected to gather in the Nation's Capital to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes May 15, 2001, as Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe this day with appropriate ceremonies and respect.

Mr. CAMPBELL. Mr. President, today I am joined by the Chairman and Ranking Member of the Senate Judiciary Committee, Senators HATCH and LEAHY, along with 34 other Senators in introducing this resolution to keep alive in the memory of all Americans the sacrifice and commitment of those law enforcement officers who lost their lives serving their communities. Specifically, this resolution would designate May 15, 2001, as National Peace Officers Memorial Day.

As a former deputy sheriff, I know first-hand the risks which law enforcement officers face everyday on the front lines protecting our communities. Currently, more than 700,000 men and women who serve this nation as our guardians of law and order do so at a great risk. Every year, about 1 in 9 officers is assaulted, 1 in 25 officers is injured, and 1 in 4,400 officers is killed in the line of duty. There are few communities in this country that have not been impacted by the words: ''officer down.''

In 2000, approximately 150 federal, state and local law enforcement officers have given their lives in the line of duty. This represents more than a 10 percent rise in police fatalities over the previous year. And, nearly 15,000 men and women have made the supreme sacrifice.

The Chairman of the National Law Enforcement Officers Memorial Fund, Craig W. Floyd, reminds us, ''Despite improved equipment and better training, law enforcement remains the deadliest profession in America. On average, one officer is killed somewhere in America every 57 hours. At the very least, we must ensure that those officers, and their families, are never forgotten.''

On May 15, 2001, more than 15,000 peace officers are expected to gather in our Nation's Capital to join with the families of their fallen comrades who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities. In doing so, these heroes have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens. This resolution is a fitting tribute for this special and solemn occasion.

I urge my colleagues to join us in supporting passage of this important resolution.

Mr. HUTCHINSON. Mr. President, I am proud to rise today as an original cosponsor of Senator CAMPBELL's resolution designating May 15, 2001, as Peace Officers Memorial Day. I commend Senator CAMPBELL for his efforts to honor these brave men and women, and thank all of our Nation's law enforcement officials and their families for the daily sacrifices they make as they work to enforce our Nation's laws and ensure the safety of all American citizens.

According to the Federal Bureau of Investigation, 107 law enforcement officers lost their lives in the line of duty in 1999. Forty-two of these officers were killed feloniously and 65 died accidentally. An additional 55,026 officers were assaulted in the line of duty.

From 1990 to 1999, 28 Arkansas law enforcement officers lost their lives in the line of duty. Eleven of these officers were feloniously killed and 16 died accidentally. During the year 2000, Patrol Officer Lewis D. Jones, Jr. of the Forrest City Police Department and Captain Thomas Allen Craig of the Arkansas State Police lost their lives, and in the current year, Trooper Herbert J. Smith of the Arkansas State Police was killed in a car accident while rushing to assist a sick child.

Accordingly, I offer my condolences to the families and friends of Patrol Officer Jones, Captain Craig, Trooper Smith, and all of the other law enforcement officials who have died in the line of duty. I am deeply appreciative of their sacrifices and am sorry for their loss.

AMENDMENTS SUBMITTED AND PROPOSED

SA 137. Mr. COCHRAN proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

SA 138. Mr. WYDEN (for himself, Ms. COLLINS, Mr. BINGAMAN, and Mr. LEVIN) proposed an amendment to the bill S. 27, supra.

SA 139. Mr. MCCONNELL (for Mr. NICKLES (for himself and Mr. GREGG)) proposed an amendment to the bill S. 27, supra.

SA 140. Mr. SPECTER proposed an amendment to the bill S. 27, supra.

SA 141. Mr. HELMS proposed an amendment to the bill S. 27, supra.

SA 142. Mr. GRAMM proposed an amendment to the bill S. 143, to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes.

SA 143. Mr. GRAMM (for himself, Mr. THOMPSON, Mr. COCHRAN, Mr. VOINOVICH, and Mr. SCHUMER) proposed an amendment to the bill S. 143, supra.

TEXT OF AMENDMENTS

SA 137. Mr. COCHRAN proposed an amendment to the bill S. 27, to amend

the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 38, after line 3, add the following:

TITLE V—ADDITIONAL DISCLOSURE PROVISIONS

SEC. 501. INTERNET ACCESS TO RECORDS.

Section 304(a)(11)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(B)) is amended to read as follows:

''(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (24 hours in the case of a designation, statement, report, or notification filed electronically) after receipt by the Commission.''.

SEC. 502. MAINTENANCE OF WEBSITE OF ELECTION REPORTS.

(a) IN GENERAL.—The Federal Election Commission shall maintain a central site on the Internet to make accessible to the public all election-related reports.

(b) ELECTION-RELATED REPORT.—In this section, the term ''election-related report'' means any report, designation, or statement required to be filed under the Federal Election Campaign Act of 1971.

(c) COORDINATION WITH OTHER AGENCIES.—Any executive agency receiving an election-related report shall cooperate and coordinate with the Federal Election Commission to make such report available for posting on the site of the Federal Election Commission in a timely manner.

SA 138. Mr. WYDEN (for himself, Ms. COLLINS, Mr. BINGAMAN, and Mr. LEVIN) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 37, between lines 14 and 15, insert the following:

SEC. ___. LIMITATION ON AVAILABILITY OF LOWEST UNIT CHARGE FOR FEDERAL CANDIDATES ATTACKING OPPOSITION.

(a) IN GENERAL.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)), as amended by this Act, is amended by adding at the end the following:

''(3) CONTENT OF BROADCASTS.—

''(A) IN GENERAL.—In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this Act, unless such reference meets the requirements of subparagraph (C) or (D).

''(B) LIMITATION ON CHARGES.—If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

''(C) TELEVISION BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds—

''(i) a clearly identifiable photographic or similar image of the candidate; and

''(ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast.

''(D) RADIO BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

''(E) CERTIFICATION.—Certifications under this section shall be provided and certified as accurate by the candidate (or any authorized committee of the candidate) at the time of purchase.

''(F) DEFINITIONS.—For purposes of this paragraph, the terms 'authorized committee' and 'Federal office' have the meanings given such terms by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).''.

(b) CONFORMING AMENDMENT.—Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as amended by this Act, is amended by inserting ''subject to paragraph (3),'' before ''during the forty-five days''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to broadcasts made after the date of enactment of this Act.

SA 139. Mr. MCCONNELL (for Mr. NICKLES (for himself and Mr. GREGG)) proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

Beginning on page 35, strike line 8 and all that follows through page 37, line 14.

Mr. WELLSTONE. Mr. President, I do not oppose this amendment, but, as several of my colleagues have noted, it is for reasons far different than the sponsors of this amendment have put forward.

This amendment deletes Section 304 of the campaign finance reform bill. That section does two things. First, it affirms the obligation that Beck places on unions to afford non-members who pay fees under a union security clause the opportunity to object to paying for activities unrelated to collective bargaining, contract administration, or grievance adjustment. Second it clarifies the so-called ''objection procedures'' required. These are obligations placed on unions under current law. Keeping the provisions in the bill or taking them out will not change unions' lawful obligations to non-members.

Indeed, my understanding is that provisions such as Section 304 have been inserted in campaign finance reform measures for quite some time largely because some of my colleagues wanted assurance that unions would obey the law. The fact is that Beck has been the law for almost 13 years. Since Beck became law every union has created procedures to ensure the necessary opt-out procedures. This demonstrates to me that the provision is unnecessary—and has been for some time.

I do, however, want to take issue with the Senator from Kentucky's statement to the effect that Section 304 as currently drafted ''eviscerates'' Beck. The Beck Court did not reach the conclusions my colleague suggests. What the Court concluded was that unions were not permitted ''over the objections of dues-paying nonmember employees, to expend funds so collected on activities unrelated to collective bargaining, contract administration, or grievance adjustment . . .'' Hence it created the obligation on the part of the unions to offer opportunities to object and objection procedures that, as noted, are the subject of Section 304.

In sum, since Beck is the current law, and Section 304 does not change that fact, I have no objections to removing it from the bill.

SA 140. Mr. SPECTER proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

On page 7, line 24, after ''and'', insert the following: ''which, when read as a whole, in the context of external events, is unmistakable, unambiguous and suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.''

On page 15, line 20, insert the following:

''(iv) promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which, when read as a whole, and in the context of external events, is unmistakable, unambiguous and suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.''

On page 2, after the matter preceding line 1, insert:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) In the twenty-five years since the 1976 Supreme Court decision in Buckley v. Valeo, the number and frequency of advertisements increased dramatically which clearly advocate for or against a specific candidate for Federal office without magic words such as ''vote for'' or ''vote against'' as prescribed in the Buckley decision.

(2) The absence of the magic words from the Buckley decision has allowed these advertisements to be viewed as issue advertisements, despite their clear advocacy for or against the election of a specific candidate for Federal office.

(3) By avoiding the use of such terms as ''vote for'' and ''vote against,'' special interest groups promote their views and issue positions in reference to particular elected officials without triggering the disclosure and source restrictions of the Federal Election Campaign Act.

(4) In 1996, an estimated $135 million was spent on such issue advertisements; the estimate for 1998 ranged from $275–$340 million; and, for the 2000 election the estimate for spending on such advertisements exceeded $340 million.

(5) If left unchecked, the explosive growth in the number and frequency of advertisements that are clearly intended to influence the outcome of Federal elections yet are masquerading as issue advocacy has the potential to undermine the integrity of the electoral process.

(6) The Supreme Court in Buckley reviewed the legislative history and purpose of the

Federal Election Campaign Act and found that the authorized or requested standard of the Federal Election Campaign Act operated to treat all expenditures placed in cooperation with or with the consent of a candidate, an agent of the candidate, or an authorized committee of the candidate as contributions subject to the limitations set forth in the Act.

(7) During the 1996 Presidential primary campaign the Clinton Committee and the Dole Committee both spent millions of dollars in excess of the overall Presidential primary spending limit that applied to each of their campaigns, and in doing so, used millions of dollars in soft money contributions that could not legally be used directly to support a Presidential campaign.

(8) The Clinton and Dole Committees made these campaign expenditures through their respective national political party committees, using these party committees as conduits to run multi-million dollar television ad campaigns to support their candidacies.

(9) These television ad campaigns were in each case prepared, directed, and controlled by the Clinton and Dole campaigns.

(10) Former Clinton adviser Dick Morris said in his book about the 1996 elections that president Clinton worked over every script, watched each advertisement, and decided which advertisements would run where and when.

(11) Then-President Clinton told supporters at a Democratic National Committee luncheon on December 7, 1995, that, ''We realized that we could run these ads through the Democratic Party, which meant that we could raise money in $20,000 and $50,000 blocks. So we didn't have to do it all in $1,000 and run down what I can spend, which is limited by law so that is what we've done.''

(12) Among the advertisements coordinated between the Clinton campaign and the Democratic National Committee, yet paid for by the DNC as an issue ad, was one which contained the following: [Announcer] ''60,000 felons and fugitives tried to buy handguns that couldn't because President Clinton passed the Brady bill—five day waits, background checks. But Dole and Gingrich voted no. 100,000 new police—because President Clinton delivered. Dole and Gingrich? Vote no, want to repeal 'em. Strengthen school anti-drug programs. President Clinton did it. Dole and Gingrich? No again. Their old ways don't work. President Clinton's plan. The new way. Meeting our challenges, protecting our values.''

(13) Another advertisement coordinated between the Clinton campaign and the DNC contained the following: [Announcer] ''America's values. Head start. Student loans. Toxic cleanup. Extra police. Protected in the budget agreement; the President stood firm. Dole, Gringrich's latest plan includes tax hikes on working families. Up to 18 million children face health care cuts. Medicare slashed $167 billion. Then Dole resigns, leaving behind gridlock he and Gringrich created. The President's plan: Politics must wait. Balance the budget, reform welfare, protect our values.''

(14) Among the advertisements coordinated between the Dole campaign and the Republican National Committee, yet paid for by the RNC as an issue ad, was one which contained the following:

[Announcer] ''Bill Clinton, he's really something. He's now trying to avoid a sexual harassment lawsuit claiming he is on active military duty. Active duty? Newspapers report that Mr. Clinton claims as commander-in-chief he is covered under the Soldiers and Sailors Relief Act of 1940, which grants automatic delays in lawsuits against military personnel until their active duty is over. Active duty? Bill Clinton, he's really something.''

(15) Another advertisement coordinated between the Dole campaign and the RNC contained the following:

[Announcer] ''Three years ago, Bill Clinton gave us the largest tax increase in history, including a 4 cent a gallon increase on gasoline. Bill Clinton said he felt bad about it.''

[Clinton] ''People in this room still get mad at me over the budget process because you think I raised your taxes too much. It might surprise you to know I think I raised them too much, too.''

[Announcer] ''OK, Mr. President, we are surprised. So now, surprise us again. Support Senator Dole's plan to repeal your gas tax. And learn that actions do speak louder than words.''

(16) Clinton and Dole Committee agents raised the money used to pay for these so-called issue ads supporting their respective candidacies.

(17) These television advertising campaigns, run in the guise of being DNC and RNC issue ad campaigns, were in fact Clinton and Dole ad campaigns, and accordingly should have been subject to the contribution and spending limits that apply to Presidential campaigns.

(18) After reviewing spending in the 1996 Presidential election campaign, auditors for the Federal Election Commission recommended that the 1996 Clinton and Dole campaigns repay $7 million and $17.7 million, respectively, because the national political parties had closely coordinated their soft money issue ads with the respective presidential candidates and accordingly, the expenditures would be counted against the candidates' spending limits. The repayment recommendation for the Dole campaign was subsequently reduced to $6.1 million.

(19) On December 10, 1998, in a 6–0 vote, the Federal Election Commission rejected its auditors' recommendation that the Clinton and Dole campaigns repay the money.

(20) The pattern of close coordination between candidates' campaign committees and national party committees continued in the 2000 Presidential election.

(21) An advertisement financed by the RNC contained the following:

[Announcer] ''Whose economic plan is best for you? Under George Bush's plan, a family earnings under $35,000 a year pays no Federal income taxes—a 100 percent tax cut. Earn $35,000 to $50,000? A 55 percent ax cut. Tax relief for everyone. And Al Gore's plan: three times the new spending President Clinton proposed, so much it wipes out the entire surplus and creates a deficit again. Al Gore's deficit spending plan threatens America's prosperity.''

(22) Another advertisement financed by the NRC contained the following:

[Announcer] ''Under Clinton-Gore, prescription drug prices have skyrocketed, and nothing's been done. George Bush has a plan: add a prescription drug benefit to Medicare.''

[George Bush] ''Every senior will have access to prescription drug benefits.''

[Announcer] ''And Al Gore? Gore opposed bipartisan reform. He's pushing a big government plan that lets Washington bureaucrats interfere with what your doctors prescribe. The Gore prescription plan: bureaucrats decide. Bush prescription plan: seniors choose.''

(23) An advertisement paid for by the DNC contained the following:

[Announcer] ''When the national minimum wage was raised to $5.15 an hour, Bush did nothing and kept the Texas minimum wage at $3.35. Six times the legislature tried to raise the minimum wage and Bush's inaction helped kill it. Now Bush says he'd allow states to set a minimum wage lower than the Federal standard. Al Gore's plan: Make sure our current prosperity enriches not just a few, but all families. Increase the minimum wage, invest in education, middle-class tax cuts and a secure retirement.''

(24) Another advertisement paid for by the DNC contained the following:

[Announcer] ''George W. Bush chose Dick Cheney to help lead the Republican party. What does Cheney's record say about their plans? Cheney was one of only eight members of Congress to oppose the Clean Water Act . . . one of the few to vote against Head Start.

He even voted against the School Lunch Program . . . against health insurance for people who lost their jobs. Cheney, an oil company CEO, said it was good for OPEC to cut production so oil and gasoline prices could rise. What are their plans for working families?''

(25) On January 21, 2000, the Supreme Court in Nixon v. Shrink Missouri Government PAC noted, ''In speaking of 'improper influence' and 'opportunities for abuse' in addition to 'quid pro quo arrangements,' we recognized a concern to the broader threat from politicians too compliant with the wishes of large contributors.''

(26) The details of corruption and the public perception of the appearance of corruption have been documented in a flood of books, including:

(A) Backroom Politics: How Your Local Politicians Work, Why Your Government Doesn't, and What You Can Do About It, by Bill and Nancy Boyarsky (1974);

(B) The Pressure Boys: The Inside Story of Lobbying in America, by Kenneth Crawford (1974);

(C) The American Way of Graft: A Study of Corruption in State and Local Government, How it Happens and What Can Be Done About it, by George Amick (1976);

(D) Politics and Money: The New road to Corruption, by Elizabeth Drew (1983);

(E) The Threat From Within: Unethical Politics and Politicians, by Michael Kroenwetter (1986);

(F) The Best Congress Money Can Buy, by Philip M. Stern (1988);

(G) Combating Fraud and Corruption in the Public Sector, by Peter Jones (1993);

(H) The Decline and Fall of the American Empire: Corruption, Decadence, and the American Dream, by Tony Bouza (1996);

(I) The Pursuit of Absolute Integrity: How Corruption Control Makes Government Ineffective, by Frank Anechiarico and James B. Jacobs (1996);

(J) The Political Racket: Deceit, Self-Interest, and Corruption in American Politics, by Martin L. Gross (1996).

(K) Below the Beltway: Money, Power, and Sex in Bill Clinton's Washington, by John L. Jackley (1996);

(L) End Legalized Bribery: An Ex-Congressman's Proposal to Clean Up Congress, by Cecil Heftel (1998);

(M) Year of the Rat: How Bill Clinton Compromised U.S. Security for Chinese Cash, by Edward Timperlake and William C. Triplett, II (1998);

(N) The Corruption of American Politics: What Went Wrong and Why, by Elizabeth Drew (1999);

(O) Corruption, Public Finances, and the Unofficial Economy, by Simon Johnson, Daniel Kaufmann, and Pablo Zoido-Lobatoon (1999); and

(P) Party Finance and Political Corruption, edited by Robert Williams (2000);

(27) The Washington Post reported on September 15, 2000 that a group of Texas trial lawyers with whom former Vice President Gore met in 1995, contributed thousands of dollars to the Democrats after President Clinton vetoed legislation that would have strictly limited the amount of damages juries can award to plaintiffs in civil lawsuits.

(28) According to an article in the March 26, 2001 edition of U.S. News and World Report, labor-related groups—which count on their Democratic allies for support on issues such as the minimum wage that are important to unions—spent more than $83.5 million in the 2000 elections, with 94 percent going to Democrats, prompting some labor figures to brag that without labor's money, the election would not have been nearly as close.

(29) A New York Times editorial from March 16, 2001, observed that ''Business interests generously supported Republicans in the last election and are now reaping the rewards. President Bush and Republican Congressional leaders have moved to rescind new Labor Department ergonomics rules aimed at fostering a safer workplace, largely because business considered them too costly. Congress is also revising bankruptcy law in a way long sought by major financial institutions that gave Republicans $26 million in the last election cycle.''

(30) A New York Times article, from March 13, 2001, noted that ''A lobbying campaign led by credit card companies and banks that gave millions of dollars in political donations to members of Congress and contributed generously to President Bush's 2000 campaign is close to its long-sought goal of overhauling the nation's bankruptcy system.''

(31) According to a Washington Post article from March 11, 2001, when congressional GOP leaders took control of the final writing of the bankruptcy bill, they consulted closely with representatives of the American Financial Services Association and the Coalition for Responsible Bankruptcy, which represented dozens of corporations and trade groups. The 442-page bill contained hundreds of provisions written or backed by lobbyists for financial industry giants.

(32) It has become common practice to reward big campaign donors with ambassadorships, with an informal policy dating back to the 1960s allocating about 30 percent of the nation's ambassadorships to non-career appointees. According to a Knight Rider article from November 13, 1997, former President Nixon once told his White House Chief of Staff that ''Anybody who wants to be an ambassador must at leave give $250,000.''

SA 141. Mr. HELMS proposed an amendment to the bill S. 27, to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; as follows:

At the appropriate place, insert the following:

SEC. ____. DISCLOSURE OF EXPENDITURES BY LABOR ORGANIZATIONS.

Section 8 of the National Labor Relations Act (29 U.S.C. 158), is amended by adding at the end the following:

''(i) NOTICE TO MEMBERS AND EMPLOYEES.—A labor organization shall, on an annual basis, provide (by mail) to each employee who, during the year involved, pays dues, initiation fees, assessments, or other payments as a condition of membership in the labor organization or as a condition of employment (as provided for in subsection (a)(3)), a notice that includes the following statement: 'You have the right to withhold the portion of your dues that is used for purposes unrelated to collective bargaining. The United States Supreme Court has ruled that labor organizations cannot force dues-paying or fees-paying non-members to pay for activities that are unrelated to collective bargaining. You have the right to resign from the labor organization and, after such resignation, to pay reduced dues or fees in accordance with the decision of the Supreme Court.' ''.

SA 142. Mr. GRAMM proposed an amendment to the bill S. 143, to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes; as follows:

Insert the following new section 8 at the end of the bill:

''SEC. 8. STUDY OF THE EFFECT OF FEE REDUCTIONS.

''(a) STUDY.—The Office of Economic Analysis of the Securities and Exchange Commission (hereinafter referred to as the ''Office'') shall conduct a study of the extent to which the benefits of reductions in fees effected as a result of this Act are passed on to investors.

''(b) FACTORS FOR CONSIDERATION.—In conducting the study under subsection (a), the Office shall—

''(1) consider all of the various elements of the securities industry directly and indirectly benefiting from the fee reductions, including purchasers and sellers of securities, members of national securities exchanges, issuers, broker-dealers, underwriters, participants in investment companies, retirement programs, and others;

''(2) evaluate the impact on different types of investors, such as individual equity holders, individual investment company shareholders, businesses, and other types of investors;

''(3) include in the interpretation of the term ''investor'' shareholders of entities subject to the fee reductions; and

''(4) consider the economic benefits to investors flowing from the fee reductions to include such factors as market efficiency, expansion of investment opportunities, and enhanced liquidity and capital formation.

''(c) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Securities and Exchange Commission shall submit to the Congress the report prepared by the Office on the results of the study conducted under subsection (a).''

SA 143. Mr. GRAMM (for himself, Mr. THOMPSON, Mr. COCHRAN, Mr. VOINOVICH, and Mr. SCHUMER) proposed an amendment to the bill S. 143, to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes; as follows:

On page 41, line 8, strike all through page 44, line 16, and insert the following:

SEC. 6. COMPARABILITY PROVISIONS.

(a) COMMISSION DEMONSTRATION PROJECT.—Subpart C of part III of title 5, United States Code, is amended by adding at the end the following:

''CHAPTER 48—AGENCY PERSONNEL DEMONSTRATION PROJECT

''Sec.
''4801. Nonapplicability of chapter 47.
''4802. Securities and Exchange Commission.

''§ 4801. Nonapplicability of chapter 47.

''Chapter 47 shall not apply to this chapter.

''§ 4802. Securities and Exchange Commission

''(a) In this section, the term 'Commission' means the Securities and Exchange Commission.

''(b) The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under the securities laws as defined under section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

''(c) Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53.

''(d) The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).

''(e) The Commission shall consult with the Office of Personnel Management in the implementation of this section.

''(f) This section shall be administered consistent with merit system principles.''.

(b) EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.—To the extent that any employee of the Securities and Exchange Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this section (including the amendments made by this section).

(c) IMPLEMENTATION PLAN AND REPORT.—

(1) IMPLEMENTATION PLAN.—

(A) IN GENERAL.—The Securities and Exchange Commission shall develop a plan to implement section 4802 of title 5, United States Code, as added by this section.

(B) INCLUSION IN ANNUAL PERFORMANCE PLAN AND REPORT.—The Securities and Exchange Commission shall include—

(i) the plan developed under this paragraph in the annual program performance plan submitted under section 1115 of title 31, United States Code; and

(ii) the effects of implementing the plan developed under this paragraph in the annual program performance report submitted under section 1116 of title 31, United States Code.

(2) IMPLEMENTATION REPORT.—

(A) IN GENERAL.—Before implementing the plan developed under paragraph (1), the Securities and Exchange Commission shall submit a report to the Committee on Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Government Reform and the Committee on Financial Services of the House of Representatives, and the Office of Personnel Management on the details of the plan.

(B) CONTENT.—The report under this paragraph shall include—

(i) evidence and supporting documentation justifying the plan; and

(ii) budgeting projections on costs and benefits resulting from the plan.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—

(A) The table of chapters for part III of title 5, United States Code, is amended by adding at the end of subpart C the following:

''48. Agency Personnel Demonstration Project ..... 4801.''.

(B) Section 3132(a)(1) of title 5, United States Code, is amended—

(i) in subparagraph (C), by striking ''or'' after the semicolon;

(ii) in subparagraph (D), by inserting ''or'' after the semicolon; and

(iii) by adding at the end the following:

''(E) the Securities and Exchange Commission;''.

(C) Section 5373(a) of title 5, United States Code, is amended—

(i) in paragraph (2), by striking ''or'' after the semicolon;

(ii) in paragraph (3), by striking the period and inserting ''; or''; and

(iii) by adding at the end the following:

''(4) section 4802.''.

(2) AMENDMENT TO SECURITIES AND EXCHANGE ACT OF 1934.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) APPOINTMENT AND COMPENSATION.—The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of title 5, United States Code.

''(2) REPORTING OF INFORMATION.—In establishing and adjusting schedules of compensation and benefits for officers, attorneys, economists, examiners, and other employees of the Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.''.

(3) AMENDMENT TO FIRREA OF 1989.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended by striking ''the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, March 22, 2001. The purpose of this hearing will be to review the oversight of the Food Safety and Inspection Service.

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

COMMITTEE ON ARMED SERVICES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 22, 2001, at 9:30 a.m., in open and closed session to receive testimony from the Unified Commanders on their military strategy and operational requirements, in review of the defense authorization request for fiscal year 2002 and the future years' defense program.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 22, 2001, to conduct a markup of S. 149, the Export Administration Act of 2001.

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

COMMITTEE ON FINANCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, March 22, 2001, to hear testimony on Prescription Drugs and Medicare.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 22, 2001, at 10:30 a.m., to hold a member's briefing.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, March 22, 2001, at 2 p.m., in room 485 of the Russell Senate Office Building to conduct a hearing to discuss the goals and priorities of the Member Tribes of the National Congress of the American Indians for the 107th Congress.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to hold a joint hearing with the House Committee on Veterans' Affairs to receive the legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Retired Officers Association, and the National Association of State Directors of Veterans Affairs. The hearing will be held on Thursday, March 22, 2001, at 10 a.m., in room 345 of the Cannon House Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 22, 2001, at 2 p.m., to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, March 22, at 2:30 p.m., to conduct an oversight hearing. The subcommittee will review the National Park Service's implementation of management policies and procedures to comply with the provisions of title IV of the National Parks Omnibus Management Act of 1998.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Governmental Affairs Committee Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia be authorized to meet on Thursday, March 22, at 10 a.m., for a hearing entitled, ''An Assessment of the D.C. Metropolitan Police Department's Year 2000 Achievements.''

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

SUBCOMMITTEE ON PUBLIC HEALTH

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on ''Strengthening the Safety Net: Increasing Access to Essential Health Care Services'' during the session of the Senate on Thursday, March 22, 2001, at 10 a.m.

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

COMPETITIVE MARKET SUPERVISION ACT OF 2001

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 20, S. 143.

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

The assistant legislative clerk read as follows:

A bill (S. 143) to amend the Securities Act of 1933 and the Securities Exchange Act of 1934, to reduce securities fees in excess of those required to fund the operations of the Securities and Exchange Commission, to adjust compensation provisions for employees of the Commission, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Competitive Market Supervision Act of 2001''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Reduction in registration fee rates; elimination of general revenue component.
Sec. 3. Reduction in merger and tender fee rates; reclassification as offsetting collections.
Sec. 4. Reduction in transaction fees; elimination of general revenue component.

Sec. 5. Adjustments to fee rates.
Sec. 6. Comparability provisions.
Sec. 7. Effective date.

SEC. 2. REDUCTION IN REGISTRATION FEE RATES; ELIMINATION OF GENERAL REVENUE COMPONENT.

(a) SECURITIES ACT OF 1933.—Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) FEE PAYMENT REQUIRED.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee that shall be equal to the amount determined under the rate established by paragraph (3). The Commission shall publish in the Federal Register notices of the fee rate applicable under this section for each fiscal year.'';

(2) by striking paragraph (3);

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(4) in paragraph (3), as redesignated—

(A) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate determined under this paragraph is a rate equal to the following amount per $1,000,000 of the maximum aggregate price at which the securities are proposed to be offered:

''(i) $67 for each of fiscal years 2002 through 2006.

''(ii) $33 for fiscal year 2007 and each fiscal year thereafter.''; and

(B) in subparagraph (B), by striking ''this paragraph (4)'' and inserting ''this paragraph''; and

(5) by striking paragraph (4), as redesignated, and inserting the following:

''(4) PRO RATA APPLICATION OF RATE.—The rate required by this subsection shall be applied pro rata to amounts and balances equal to or less than $1,000,000.''.

(b) TRUST INDENTURE ACT OF 1939.—Section 307(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77ggg(b)) is amended by striking '', but, in the case of'' and all that follows through the end of the subsection and inserting a period.

SEC. 3. REDUCTION IN MERGER AND TENDER FEE RATES; RECLASSIFICATION AS OFFSETTING COLLECTIONS.

(a) SECTION 13.—Section 13(e)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3)) is amended to read as follows:

''(3) FEES.—

''(A) IN GENERAL.—At the time of the filing of any statement that the Commission may require by rule pursuant to paragraph (1), the person making the filing shall pay to the Commission a fee equal to—

''(i) $67 for each $1,000,000 of the value of the securities proposed to be purchased, for each of fiscal years 2002 through 2006; and

''(ii) $33 for each $1,000,000 of the value of securities proposed to be purchased, for fiscal year 2007 and each fiscal year thereafter.

''(B) REDUCTION.—The fee required by this paragraph shall be reduced with respect to securities in an amount equal to any fee paid with respect to any securities issued in connection with the proposed transaction under section 6(b) of the Securities Act of 1933, or the fee paid under that section shall be reduced in an amount equal to the fee paid to the Commission in connection with such transaction under this paragraph.

''(C) LIMITATION; DEPOSIT OF FEES.—

''(i) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

''(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

''(D) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

''(E) PRO RATA APPLICATION OF RATE.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.''.

(b) SECTION 14.—

(1) PRELIMINARY PROXY SOLICITATIONS.—Section 14(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)(1)) is amended—

(A) in subparagraph (A), by striking ''Commission the following fees'' and all that follows through the end of the subparagraph and inserting ''Commission—

''(i) for preliminary proxy solicitation material involving an acquisition, merger, or consolidation, if there is a proposed payment of each or transfer of securities or property to shareholders, a fee equal to—

''(I) $67 for each $1,000,000 of such proposed payment, or of the value of such securities or other property proposed to be transferred, for each of fiscal years 2002 through 2006; and

''(II) $33 for each $1,000,000 of such proposed payment, or of the value of such securities or other property proposed to be transferred, for fiscal year 2007 and each fiscal year thereafter; and

''(ii) for preliminary proxy solicitation material involving a proposed sale or other disposition of substantially all of the assets of a company, a fee equal to—

''(I) $67 for each $1,000,000 of the cash or of the value of any securities or other property proposed to be received upon such sale or disposition, for each of fiscal years 2002 through 2006; and

''(II) $33 for each $1,000,000 of the cash or of the value of any securities or other property proposed to be received upon such sale or disposition, for fiscal year 2007 and each fiscal year thereafter.'';

(B) in subparagraph (B), by inserting ''REDUCTION.—'' before ''The fee''; and

(C) by adding at the end the following:

''(C) LIMITATION; DEPOSIT OF FEES.—

''(i) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

''(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

''(D) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

''(E) PRO RATA APPLICATION OF RATE.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.''.

(2) OTHER FILINGS.—Section 14(g)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)(3)) is amended—

(A) by striking ''At the time'' and inserting the following: ''OTHER FILINGS.—

''(A) FEE RATE.—At the time'';

(B) by striking ''the Commission a fee of'' and all that follows through ''The fee'' and inserting the following: ''the Commission a fee equal to—

''(i) $67 for each $1,000,000 of the aggregate amount of cash or of the value of securities or other property proposed to be offered, for each of fiscal years 2002 through 2006; and

''(ii) $33 for each $1,000,000 of the aggregate amount of cash or of the value of securities or other property proposed to be offered, for fiscal year 2007 and each fiscal year thereafter.

''(B) REDUCTION.—The fee required under subparagraph (A)''; and

(C) by adding at the end the following:

''(C) LIMITATION; DEPOSIT OF FEES.—

''(i) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

''(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

''(D) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

''(E) PRO RATA APPLICATION OF RATE.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.''.

SEC. 4. REDUCTION IN TRANSACTION FEES; ELIMINATION OF GENERAL REVENUE COMPONENT.

Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended—

(1) by striking subsections (b) through (d) and inserting the following:

''(b) TRANSACTION FEES.—

''(1) IN GENERAL.—Each national securities exchange and national securities association shall pay to the Commission a fee at a rate equal to the transaction offsetting collection rate described in paragraph (2) of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, and security futures products)—

''(A) transacted on such national securities exchange; and

''(B) transacted by or through any member of such association otherwise than on a national securities exchange of securities that are—

''(i) registered on such an exchange; or

''(ii) subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association.

''(2) FEE RATE.—

''(A) TRANSACTION OFFSETTING COLLECTION RATE.—For purposes of this subsection, the 'transaction offsetting collection rate' for a fiscal year—

''(i) is the uniform rate required to reach the transaction fee cap for that fiscal year; and

''(ii) shall become effective on the later of the beginning of that fiscal year or 30 days after the date of enactment of appropriations legislation setting such rate.

''(B) TRANSACTION FEE CAP.—Subject to subparagraph (C), for purposes of this paragraph, the 'transaction fee cap' shall be equal to—

''(i) $915,000,000 for fiscal year 2002;

''(ii) $1,115,000,000 for fiscal year 2003;

''(iii) $1,340,000,000 for fiscal year 2004;

''(iv) $1,665,000,000 for fiscal year 2005;

''(v) $2,010,000,000 for fiscal year 2006;

''(vi) $1,015,000,000 for fiscal year 2007;

''(vii) $1,035,000,000 for fiscal year 2008;

''(viii) $1,225,000,000 for fiscal year 2009;

''(ix) $1,430,000,000 for fiscal year 2010; and

''(x) $1,665,000,000 for fiscal year 2011 and each fiscal year thereafter.

''(C) REDUCTION.—The amounts specified in clauses (i) through (x) of subparagraph (B)

shall be reduced by the amount of assessments estimated to be collected by the Commission for the subject fiscal year pursuant to subsection (e).

''(c) LIMITATION; DEPOSIT OF FEES AND ASSESSMENTS.—

''(1) LIMITATION.—Except as provided in subsection (d), no amount may be collected pursuant to subsection (b) or (e) for any fiscal year, except to the extent provided in advance in appropriations Acts.

''(2) DEPOSIT OF FEES AND ASSESSMENTS.—Fees and assessments collected during any fiscal year pursuant to this section shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

''(d) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall, until such a regular appropriation is enacted—

''(1) continue to collect fees (as offsetting collections) under subsection (b) at the rate in effect during the preceding fiscal year (prior to adjustments, if any, under subsections (b) and (c) of section 5 of the Competitive Market Supervision Act of 2001); and

''(2) continue to collect assessments (as offsetting collections) under subsection (e) at the assessment rate in effect during the preceding fiscal year.'';

(2) in subsection (e), by striking ''Assessments collected'' and all that follows through the period; and

(3) in subsection (f), by striking ''(f)'' and all that follows through ''paid—'' and inserting the following:

''(f) DATES FOR PAYMENT OF FEES AND ASSESSMENTS.—The fees and assessments required by subsections (b) and (e) shall be paid—''.

SEC. 5. ADJUSTMENTS TO FEE RATES.

(a) ESTIMATES OF COLLECTIONS.—

(1) FEE PROJECTIONS.—The Securities and Exchange Commission (hereafter in this Act referred to as the ''Commission'') shall, 1 month after submission of its initial report under subsection (e)(1) and on a monthly basis thereafter, project the aggregate amount of fees and assessments from all sources likely to be collected by the Commission during the current fiscal year.

(2) SUBMISSION OF INFORMATION.—Each national securities exchange and national securities association shall file with the Commission, not later than 10 days after the end of each month—

(A) an estimate of the fee and the assessment required to be paid pursuant to section 31 of the Securities Exchange Act of 1934 by such national securities exchange or national securities association for transactions and sales occurring during that month; and

(B) such other information and documents as the Commission may require, as necessary or appropriate to project the aggregate amount of fees and assessments pursuant to paragraph (1).

(b) FLOOR FOR TOTAL FEE AND ASSESSMENT COLLECTIONS.—If, at any time after the end of the first half of the fiscal year, the Commission projects under subsection (a) that the aggregate amount of fees and assessments collected by the Commission will, during that fiscal year, fall below an amount equal to the floor for total fee and assessment collections, the Commission may, by order, subject to subsection (e) of this section, increase the fee rate established under section 31(b)(2) of the Securities Exchange Act of 1934, to the extent necessary to bring estimated collections to an amount equal to the floor for total fee collections. Such increase shall apply only to transactions and sales occurring on or after the effective date specified in such order through August 31 of that fiscal year. Such increase shall not affect the obligation of each national securities exchange and national securities association to pay to the Commission the fee required by section 31(b) of the Securities Exchange Act of 1934, at the fee rate in effect prior to the effective date of such order for transactions and sales occurring prior to the effective date of such order. In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code.

(c) CAP ON TOTAL FEE AND ASSESSMENT COLLECTIONS.—If, at any time after the end of the first half of the fiscal year, the Commission projects under subsection (a) that the aggregate amount of fees and assessments collected by the Commission will exceed the cap on total fee and assessment collections by more than 10 percent during any fiscal year, the Commission shall, by order, subject to subsection (e), decrease the fee rate established under paragraph (2) of section 31(b) of the Securities Exchange Act of 1934, or suspend collection of fees under that section 31(b), to the extent necessary to bring estimated collections to an amount that is not more than 110 percent of the cap on total fee collections. Such decrease or suspension shall apply only to transactions and sales occurring on or after the effective date specified in such order through August 31 of that fiscal year. Such decrease or suspension shall not affect the obligation of each national securities exchange and national securities association to pay to the Commission the fee required by section 31(b) of the Securities Exchange Act of 1934, at the fee rate in effect prior to the effective date of such order for transactions and sales occurring prior to the effective date of such order. In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code.

(d) DEFINITIONS.—For purposes of this section—

(1) the term ''floor for total fee and assessment collections'' means the greater of—

(A) the total amount appropriated to the Commission for fiscal year 2002 (adjusted annually, based on the annual percentage change, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor); or

(B) the amount authorized for the Commission pursuant to section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk), if applicable; and

(2) the term ''cap on total fee collections'' means—

(A) for fiscal years 2002 through 2011, the baseline amount for aggregate offsetting collections for such fiscal year under section 6(b) of the Securities Act of 1933 and section 31 of the Securities Exchange Act of 1934, as projected for such fiscal year by the Congressional Budget Office pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 in its most recently published report of its baseline projection before the date of enactment of this Act; and

(B) for fiscal years 2012 and thereafter, the amount authorized for the Commission pursuant to section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk).

(e) REPORTS TO CONGRESS; JUDICIAL REVIEW; NOTICE.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Commission shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives to explain the methodology used by the Commission to make projections under subsection (a). Not later than 30 days after the beginning of each fiscal year, the Commission may report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on revisions to the methodology used by the Commission to make projections under subsection (a) for such fiscal year and subsequent fiscal years.

(2) JUDICIAL REVIEW; REPORTS OF INTENT TO ACT.—The determinations made and the actions taken by the Commission under this subsection shall not be subject to judicial review. Not later than 45 days before taking action under subsection (b) or (c), the Commission shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on its intent to take such action.

(3) NOTICE.—Not later than 30 days before taking action under subsection (b) or (c), the Commission shall notify each national securities exchange and national securities association of its intent to take such action.

SEC. 6. COMPARABILITY PROVISIONS.

(a) SECURITIES AND EXCHANGE COMMISSION EMPLOYEES.—

(1) IN GENERAL.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

''(1) APPOINTMENT AND COMPENSATION.—

''(A) IN GENERAL.—The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under this Act.

''(B) RATES OF PAY.—Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

''(C) COMPARABILITY.—The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).''; and

(B) by redesignating paragraph (3) as paragraph (2).

(2) EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.—To the extent that any employee of the Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this subsection.

(b) REPORTING ON INFORMATION BY THE COMMISSION.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Federal Deposit'';

(2) by striking ''the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation''; and

(3) by adding at the end the following:

''(b) In establishing and adjusting schedules of compensation and benefits for employees of the Securities and Exchange Commission under applicable provisions of law,

the Commission shall inform the heads of the agencies referred to under subsection (a) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.''.

(c) TECHNICAL AMENDMENTS.—

(1) Section 3132(a)(1) of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking ''or'' after the semicolon;

(B) in subparagraph (D), by inserting ''or'' after the semicolon; and

(C) by adding at the end the following:

''(E) the Securities and Exchange Commission.''.

(2) Section 5373(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking ''or'' after the semicolon;

(B) in paragraph (3), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(4) section 4(b) of the Securities Exchange Act of 1934.''.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), this Act and the amendments made by this Act shall become effective on October 1, 2001.

(b) EXCEPTIONS.—The authorities provided by section 13(e)(3)(D), section 14(g)(1)(D), section 14(g)(3)(D), and section 31(d) of the Securities Exchange Act of 1934, as so designated by this Act, shall not apply until October 1, 2002.

AMENDMENTS NOS. 142 AND 143, EN BLOC

Mr. GRAMM. I have two amendments at the desk and I ask they be considered en bloc.

The PRESIDING OFFICER. The clerk will report the amendments, en bloc.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes amendments Nos. 142 and 143, en bloc.

The amendments are as follows:

AMENDMENT NO. 142

(Purpose: To require a study to be conducted by the Securities and Exchange Commission for the purpose of determining the extent to which reductions in fees are passed on to investors)

Insert the following new section 8 at the end of the bill:

''SEC. 8. STUDY OF THE EFFECT OF FEE REDUCTIONS.

''(a) STUDY.—The Office of Economic Analysis of the Securities and Exchange Commission (hereinafter referred to as the ''Office'') shall conduct a study of the extent to which the benefits of reductions in fees effected as a result of this Act are passed on to investors.

''(b) FACTORS FOR CONSIDERATION.—In conducting the study under subsection (a), the Office shall—

''(1) consider all of the various elements of the securities industry directly and indirectly benefiting from the fee reductions, including purchasers and sellers of securities, members of national securities exchanges, issuers, broker-dealers, underwriters, participants in investment companies, retirement programs, and others;

''(2) evaluate the impact on different types of investors, such as individual equity holders, individual investment company shareholders, businesses, and other types of investors;

''(3) include in the interpretation of the term ''investor'' shareholders of entities subject to the fee reductions; and

''(4) consider the economic benefits to investors flowing from the fee reductions to include such factors as market efficiency, expansion of investment opportunities, and enhanced liquidity and capital formation.

''(c) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Securities and Exchange Commission shall submit to the Congress the report prepared by the Office on the results of the study conducted under subjection (a).''.

AMENDMENT NO. 143

(Purpose: To provide for a demonstration project under title 5, United States Code, relating to compensation of employees of the Securities and Exchange Commission, and for other purposes)

On page 41, line 8, strike all through page 44, line 16, and insert the following:

SEC. 6. COMPARABILITY PROVISIONS.

(a) COMMISSION DEMONSTRATION PROJECT.—Subpart C of part III of title 5, United States Code, is amended by adding at the end the following:

''CHAPTER 48—AGENCY PERSONNEL DEMONSTRATION PROJECT

''Sec.

''4801. Nonapplicability of chapter 47.

''4802. Securities and Exchange Commission.

''§ 4801. Nonapplicability of chapter 47.

''Chapter 47 shall not apply to this chapter.

''§ 4802. Securities and Exchange Commission

''(a) In this section, the term 'Commission' means the Securities and Exchange Commission.

''(b) The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under the securities laws as defined under section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

''(c) Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53.

''(d) The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).

''(e) The Commission shall consult with the Office of Personnel Management in the implementation of this section.

''(f) This section shall be administered consistent with merit system principles.''.

(b) EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.—To the extent that any employee of the Securities and Exchange Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this section (including the amendments made by this section).

(c) IMPLEMENTATION PLAN AND REPORT.—

(1) IMPLEMENTATION PLAN.—

(A) IN GENERAL.—The Securities and Exchange Commission shall develop a plan to implement section 4802 of title 5, United States Code, as added by this section.

(B) INCLUSION IN ANNUAL PERFORMANCE PLAN AND REPORT.—The Securities and Exchange Commission shall include—

(i) the plan developed under this paragraph in the annual program performance plan submitted under section 1115 of title 31, United States Code; and

(ii) the effects of implementing the plan developed under this paragraph in the annual program performance report submitted under section 1116 of title 31, United States Code.

(2) IMPLEMENTATION REPORT.—

(A) IN GENERAL.—Before implementing the plan developed under paragraph (1), the Securities and Exchange Commission shall submit a report to the Committee on Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Government Reform and the Committee on Financial Services of the House of Representatives, and the Office of Personnel Management on the details of the plan.

(B) CONTENT.—The report under this paragraph shall include—

(i) evidence and supporting documentation justifying the plan; and

(ii) budgeting projections on costs and benefits resulting from the plan.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—

(A) The table of chapters for part III of title 5, United States Code, is amended by adding at the end of subpart C the following:

''48. Agency Personnel Demonstration Project ..... 4801.''.

(B) Section 3132(a)(1) of title 5, United States Code, is amended—

(i) in subparagraph (C), by striking ''or'' after the semicolon;

(ii) in subparagraph (D), by inserting ''or'' after the semicolon; and

(iii) by adding at the end the following:

''(E) the Securities and Exchange Commission;''.

(C) Section 5373(a) of title 5, United States Code, is amended—

(i) in paragraph (2), by striking ''or'' after the semicolon;

(ii) in paragraph (3), by striking the period and inserting ''; or''; and

(iii) by adding at the end the following:

''(4) section 4802.''.

(2) AMENDMENT TO SECURITIES AND EXCHANGE ACT OF 1934.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) APPOINTMENT AND COMPENSATION.—The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of title 5, United States Code.

''(2) REPORTING OF INFORMATION.—In establishing and adjusting schedules of compensation and benefits for officers, attorneys, economists, examiners, and other employees of the Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.''.

(3) AMENDMENT TO FIRREA OF 1989.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended by striking ''the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation''.

Mr. GRAMM. I ask unanimous consent that the amendments, en bloc, be agreed to.

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

The amendments (Nos. 142 and 143) were agreed to.

CONVENTIONAL USER FEES

Mr. GRASSLEY. I engage in a colloquy with the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs, Senator GRAMM.

Tonight, the Senate will pass S. 143, the Competitive Market Supervision Act of 2001. This bill, which has been approved by the Banking Committee, reduces the schedule of Securities and Exchange Commission fees in a manner that properly conforms the structure of these fees to conventional user fees. If enacted, this bill ensures that these fees will be conventional user fees, not taxes, not generate general revenue, and therefore matters within the jurisdiction of the Banking Committee.

Mr. GRAMM. The distinguished Chairman of the Committee on finance is correct.

Mr. AKAKA. Mr. President, I too wish to express my appreciation to Senator GRAMM and Senator SARBANES for their willingness to work with the Committee on Governmental Affairs to provide a new compensation system for employees at the Securities and Exchange Commission. I also wish to thank Senator THOMPSON, the chairman of the Governmental Affairs Committee for his interest in this matter.

The Federal Government has a serious problem in attracting, motivating, and retaining its workforce, and the Committee on Governmental Affairs is no stranger to working with the Office of Personnel Management and Federal agencies in this regard. The Gramm/Thompson amendment will provide the SEC the flexibility it needs in personnel matters but also will ensure that basic employee statutory protections such as leave, health insurance and non-discrimination still apply.

Mr. THOMPSON. Mr. President, I thank the Chairman of the Banking Committee, Senator GRAMM, and the Ranking Member, Senator SARBANES, for their kind assistance in working with me and the other members of the Committee on Governmental Affairs, in crafting a fair and balanced solution to the current workforce needs of the Securities and Exchange Commission (SEC). Senators GRAMM, VOINOVICH, COCHRAN, and I have drafted an amendment which permits the SEC to establish a new compensation system for its employees. This new system is to be patterned on the pay and compensation systems established for other federal banking agencies under section 1206 (a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

Agencies in trouble often come to the Governmental Affairs Committee seeking flexibility because they can't get their job done under the current civil service system. Like most federal agencies, the Securities and Exchange Commission has difficulty finding, hiring, and retaining the people with the right skills to do the jobs they need done. In these situations, I often ask, if flexibility is good for one agency, why shouldn't we grant such flexibility governmentwide.

Clearly, flexibility is right for the Securities and Exchange Commission. At a very minimum, however, this legislation requires the SEC to plan strategically for the adoption of these flexibilities and report to us on the success of their implementation. We require that the SEC include its plans for these flexibilities in its annual performance plans and reports, required under the Government Performance and Results Act.

The Results Act requires agencies to adopt performance management principles—drafting a strategic plan, setting annual goals, and reporting to Congress on the extent to which they are meeting their goals. I applaud the fact that the SEC has embraced performance management in the past. I am sure they will agree that this is an excellent mechanism with which the SEC can report on its progress in addressing its workforce problems.

Guidance set forth by the Office of Management and Budget requires that agencies include their human resource strategies in their annual performance plans. Specifically, this guidance requires that agencies include in their performance plan the specific workforce they need to meet their goals. This legislation will allow the SEC to take the lead in integrating workforce planning with their performance plan and report to Congress on the extent to which the flexibilities they were granted allowed them to better meet their goals.

Again, I thank Chairman GRAMM and Ranking Member SARBANES for their cooperation and support on this important amendment. We've crafted something that may prove of enormous benefit to the Government as a whole, especially with respect to the workforce challenges that lie ahead.

Mr. GRAMM. I ask unanimous consent the committee substitute, as amended, be agreed to; the bill, as amended, be read the third time and passed; and the motion to reconsider be laid upon the table and any statements related to the bill be printed in the RECORD.

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

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 143), as amended, was read the third time and passed, as follows:

S. 143

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 ''Competitive Market Supervision Act of 2001''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Reduction in registration fee rates; elimination of general revenue component.
Sec. 3. Reduction in merger and tender fee rates; reclassification as offsetting collections.
Sec. 4. Reduction in transaction fees; elimination of general revenue component.
Sec. 5. Adjustments to fee rates.
Sec. 6. Comparability provisions.
Sec. 7. Study of the effect of fee reductions.
Sec. 8. Effective date.

SEC. 2. REDUCTION IN REGISTRATION FEE RATES; ELIMINATION OF GENERAL REVENUE COMPONENT.

(a) SECURITIES ACT OF 1933.—Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) FEE PAYMENT REQUIRED.—At the time of filing a registration statement, the applicant shall pay to the Commission a fee that shall be equal to the amount determined under the rate established by paragraph (3). The Commission shall publish in the Federal Register notices of the fee rate applicable under this section for each fiscal year.'';

(2) by striking paragraph (3);

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(4) in paragraph (3), as redesignated—

(A) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate determined under this paragraph is a rate equal to the following amount per $1,000,000 of the maximum aggregate price at which the securities are proposed to be offered:

''(i) $67 for each of fiscal years 2002 through 2006.

''(ii) $33 for fiscal year 2007 and each fiscal year thereafter.''; and

(B) in subparagraph (B), by striking ''this paragraph (4)'' and inserting ''this paragraph''; and

(5) by striking paragraph (4), as redesignated, and inserting the following:

''(4) PRO RATA APPLICATION OF RATE.—The rate required by this subsection shall be applied pro rata to amounts and balances equal to or less than $1,000,000.''.

(b) TRUST INDENTURE ACT OF 1939.—Section 307(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77ggg(b)) is amended by striking '', but, in the case of'' and all that follows through the end of the subsection and inserting a period.

SEC. 3. REDUCTION IN MERGER AND TENDER FEE RATES; RECLASSIFICATION AS OFFSETTING COLLECTIONS.

(a) SECTION 13.—Section 13(e)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)(3)) is amended to read as follows:

''(3) FEES.—

''(A) IN GENERAL.—At the time of the filing of any statement that the Commission may require by rule pursuant to paragraph (1), the person making the filing shall pay to the Commission a fee equal to—

''(i) $67 for each $1,000,000 of the value of the securities proposed to be purchased, for each of fiscal years 2002 through 2006; and

''(ii) $33 for each $1,000,000 of the value of securities proposed to be purchased, for fiscal year 2007 and each fiscal year thereafter.

''(B) REDUCTION.—The fee required by this paragraph shall be reduced with respect to securities in an amount equal to any fee paid with respect to any securities issued in connection with the proposed transaction under section 6(b) of the Securities Act of 1933, or

the fee paid under that section shall be reduced in an amount equal to the fee paid to the Commission in connection with such transaction under this paragraph.

''(C) LIMITATION; DEPOSIT OF FEES.—

''(i) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

''(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

''(D) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

''(E) PRO RATA APPLICATION OF RATE.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.''.

(b) SECTION 14.—

(1) PRELIMINARY PROXY SOLICITATIONS.—Section 14(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)(1)) is amended—

(A) in subparagraph (A), by striking ''Commission the following fees'' and all that follows through the end of the subparagraph and inserting ''Commission—

''(i) for preliminary proxy solicitation material involving an acquisition, merger, or consolidation, if there is a proposed payment of each or transfer of securities or property to shareholders, a fee equal to—

''(I) $67 for each $1,000,000 of such proposed payment, or of the value of such securities or other property proposed to be transferred, for each of fiscal years 2002 through 2006; and

''(II) $33 for each $1,000,000 of such proposed payment, or of the value of such securities or other property proposed to be transferred, for fiscal year 2007 and each fiscal year thereafter; and

''(ii) for preliminary proxy solicitation material involving a proposed sale or other disposition of substantially all of the assets of a company, a fee equal to—

''(I) $67 for each $1,000,000 of the cash or of the value of any securities or other property proposed to be received upon such sale or disposition, for each of fiscal years 2002 through 2006; and

''(II) $33 for each $1,000,000 of the cash or of the value of any securities or other property proposed to be received upon such sale or disposition, for fiscal year 2007 and each fiscal year thereafter.'';

(B) in subparagraph (B), by inserting ''REDUCTION.—'' before ''The fee''; and

(C) by adding at the end the following:

''(C) LIMITATION; DEPOSIT OF FEES.—

''(i) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

''(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

''(D) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

''(E) PRO RATA APPLICATION OF RATE.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.''.

(2) OTHER FILINGS.—Section 14(g)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)(3)) is amended—

(A) by striking ''At the time'' and inserting the following: ''OTHER FILINGS.—

''(A) FEE RATE.—At the time'';

(B) by striking ''the Commission a fee of'' and all that follows through ''The fee'' and inserting the following: ''the Commission a fee equal to—

''(i) $67 for each $1,000,000 of the aggregate amount of cash or of the value of securities or other property proposed to be offered, for each of fiscal years 2002 through 2006; and

''(ii) $33 for each $1,000,000 of the aggregate amount of cash or of the value of securities or other property proposed to be offered, for fiscal year 2007 and each fiscal year thereafter.

''(B) REDUCTION.—The fee required under subparagraph (A)''; and

(C) by adding at the end the following:

''(C) LIMITATION; DEPOSIT OF FEES.—

''(i) LIMITATION.—Except as provided in subparagraph (D), no amounts shall be collected pursuant to this paragraph for any fiscal year, except to the extent provided in advance in appropriations Acts.

''(ii) DEPOSIT OF FEES.—Fees collected during any fiscal year pursuant to this paragraph shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

''(D) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall continue to collect fees (as offsetting collections) under this paragraph at the rate in effect during the preceding fiscal year, until such a regular appropriation is enacted.

''(E) PRO RATA APPLICATION OF RATE.—The rate required by this paragraph shall be applied pro rata to amounts and balances equal to or less than $1,000,000.''.

SEC. 4. REDUCTION IN TRANSACTION FEES; ELIMINATION OF GENERAL REVENUE COMPONENT.

Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended—

(1) by striking subsections (b) through (d) and inserting the following:

''(b) TRANSACTION FEES.—

''(1) IN GENERAL.—Each national securities exchange and national securities association shall pay to the Commission a fee at a rate equal to the transaction offsetting collection rate described in paragraph (2) of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, and security futures products)—

''(A) transacted on such national securities exchange; and

''(B) transacted by or through any member of such association otherwise than on a national securities exchange of securities that are—

''(i) registered on such an exchange; or

''(ii) subject to prompt last sale reporting pursuant to the rules of the Commission or a registered national securities association.

''(2) FEE RATE.—

''(A) TRANSACTION OFFSETTING COLLECTION RATE.—For purposes of this subsection, the 'transaction offsetting collection rate' for a fiscal year—

''(i) is the uniform rate required to reach the transaction fee cap for that fiscal year; and

''(ii) shall become effective on the later of the beginning of that fiscal year or 30 days after the date of enactment of appropriations legislation setting such rate.

''(B) TRANSACTION FEE CAP.—Subject to subparagraph (C), for purposes of this paragraph, the 'transaction fee cap' shall be equal to—

''(i) $915,000,000 for fiscal year 2002;

''(ii) $1,115,000,000 for fiscal year 2003;

''(iii) $1,340,000,000 for fiscal year 2004;

''(iv) $1,665,000,000 for fiscal year 2005;

''(v) $2,010,000,000 for fiscal year 2006;

''(vi) $1,015,000,000 for fiscal year 2007;

''(vii) $1,035,000,000 for fiscal year 2008;

''(viii) $1,225,000,000 for fiscal year 2009;

''(ix) $1,430,000,000 for fiscal year 2010; and

''(x) $1,665,000,000 for fiscal year 2011 and each fiscal year thereafter.

''(C) REDUCTION.—The amounts specified in clauses (i) through (x) of subparagraph (B) shall be reduced by the amount of assessments estimated to be collected by the Commission for the subject fiscal year pursuant to subsection (e).

''(c) LIMITATION; DEPOSIT OF FEES AND ASSESSMENTS.—

''(1) LIMITATION.—Except as provided in subsection (d), no amount may be collected pursuant to subsection (b) or (e) for any fiscal year, except to the extent provided in advance in appropriations Acts.

''(2) DEPOSIT OF FEES AND ASSESSMENTS.—Fees and assessments collected during any fiscal year pursuant to this section shall be deposited and credited as offsetting collections in accordance with appropriations Acts.

''(d) LAPSE OF APPROPRIATIONS.—If, on the first day of a fiscal year, a regular appropriation to the Commission has not been enacted for that fiscal year, the Commission shall, until such a regular appropriation is enacted—

''(1) continue to collect fees (as offsetting collections) under subsection (b) at the rate in effect during the preceding fiscal year (prior to adjustments, if any, under subsections (b) and (c) of section 5 of the Competitive Market Supervision Act of 2001); and

''(2) continue to collect assessments (as offsetting collections) under subsection (e) at the assessment rate in effect during the preceding fiscal year.'';

(2) in subsection (e), by striking ''Assessments collected'' and all that follows through the period; and

(3) in subsection (f), by striking ''(f)'' and all that follows through ''paid—'' and inserting the following:

''(f) DATES FOR PAYMENT OF FEES AND ASSESSMENTS.—The fees and assessments required by subsections (b) and (e) shall be paid—''.

SEC. 5. ADJUSTMENTS TO FEE RATES.

(a) ESTIMATES OF COLLECTIONS.—

(1) FEE PROJECTIONS.—The Securities and Exchange Commission (hereafter in this Act referred to as the ''Commission'') shall, 1 month after submission of its initial report under subsection (e)(1) and on a monthly basis thereafter, project the aggregate amount of fees and assessments from all sources likely to be collected by the Commission during the current fiscal year.

(2) SUBMISSION OF INFORMATION.—Each national securities exchange and national securities association shall file with the Commission, not later than 10 days after the end of each month—

(A) an estimate of the fee and the assessment required to be paid pursuant to section 31 of the Securities Exchange Act of 1934 by such national securities exchange or national securities association for transactions and sales occurring during that month; and

(B) such other information and documents as the Commission may require, as necessary or appropriate to project the aggregate amount of fees and assessments pursuant to paragraph (1).

(b) FLOOR FOR TOTAL FEE AND ASSESSMENT COLLECTIONS.—If, at any time after the end

of the first half of the fiscal year, the Commission projects under subsection (a) that the aggregate amount of fees and assessments collected by the Commission will, during that fiscal year, fall below an amount equal to the floor for total fee and assessment collections, the Commission may, by order, subject to subsection (e) of this section, increase the fee rate established under section 31(b)(2) of the Securities Exchange Act of 1934, to the extent necessary to bring estimated collections to an amount equal to the floor for total fee collections. Such increase shall apply only to transactions and sales occurring on or after the effective date specified in such order through August 31 of that fiscal year. Such increase shall not affect the obligation of each national securities exchange and national securities association to pay to the Commission the fee required by section 31(b) of the Securities Exchange Act of 1934, at the fee rate in effect prior to the effective date of such order for transactions and sales occurring prior to the effective date of such order. In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code.

(c) CAP ON TOTAL FEE AND ASSESSMENT COLLECTIONS.—If, at any time after the end of the first half of the fiscal year, the Commission projects under subsection (a) that the aggregate amount of fees and assessments collected by the Commission will exceed the cap on total fee and assessment collections by more than 10 percent during any fiscal year, the Commission shall, by order, subject to subsection (e), decrease the fee rate established under paragraph (2) of section 31(b) of the Securities Exchange Act of 1934, or suspend collection of fees under that section 31(b), to the extent necessary to bring estimated collections to an amount that is not more than 110 percent of the cap on total fee collections. Such decrease or suspension shall apply only to transactions and sales occurring on or after the effective date specified in such order through August 31 of that fiscal year. Such decrease or suspension shall not affect the obligation of each national securities exchange and national securities association to pay to the Commission the fee required by section 31(b) of the Securities Exchange Act of 1934, at the fee rate in effect prior to the effective date of such order for transactions and sales occurring prior to the effective date of such order. In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code.

(d) DEFINITIONS.—For purposes of this section—

(1) the term ''floor for total fee and assessment collections'' means the greater of—

(A) the total amount appropriated to the Commission for fiscal year 2002 (adjusted annually, based on the annual percentage change, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor); or

(B) the amount authorized for the Commission pursuant to section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk), if applicable; and

(2) the term ''cap on total fee collections'' means—

(A) for fiscal years 2002 through 2011, the baseline amount for aggregate offsetting collections for such fiscal year under section 6(b) of the Securities Act of 1933 and section 31 of the Securities Exchange Act of 1934, as projected for such fiscal year by the Congressional Budget Office pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 in its most recently published report of its baseline projection before the date of enactment of this Act; and

(B) for fiscal years 2012 and thereafter, the amount authorized for the Commission pursuant to section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk).

(e) REPORTS TO CONGRESS; JUDICIAL REVIEW; NOTICE.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Commission shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives to explain the methodology used by the Commission to make projections under subsection (a). Not later than 30 days after the beginning of each fiscal year, the Commission may report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on revisions to the methodology used by the Commission to make projections under subsection (a) for such fiscal year and subsequent fiscal years.

(2) JUDICIAL REVIEW; REPORTS OF INTENT TO ACT.—The determinations made and the actions taken by the Commission under this subsection shall not be subject to judicial review. Not later than 45 days before taking action under subsection (b) or (c), the Commission shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on its intent to take such action.

(3) NOTICE.—Not later than 30 days before taking action under subsection (b) or (c), the Commission shall notify each national securities exchange and national securities association of its intent to take such action.

SEC. 6. COMPARABILITY PROVISIONS.

(a) COMMISSION DEMONSTRATION PROJECT.—Subpart C of part III of title 5, United States Code, is amended by adding at the end the following:

''CHAPTER 48—AGENCY PERSONNEL DEMONSTRATION PROJECT

''Sec.
''4801. Nonapplicability of chapter 47.
''4802. Securities and Exchange Commission.

''§ 4801. Nonapplicability of chapter 47.

''Chapter 47 shall not apply to this chapter.

''§ 4802. Securities and Exchange Commission

''(a) In this section, the term 'Commission' means the Securities and Exchange Commission.

''(b) The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out its functions under the securities laws as defined under section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

''(c) Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to the provisions of chapter 51 or subchapter III of chapter 53.

''(d) The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are then being provided by any agency referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).

''(e) The Commission shall consult with the Office of Personnel Management in the implementation of this section.

''(f) This section shall be administered consistent with merit system principles.''.

(b) EMPLOYEES REPRESENTED BY LABOR ORGANIZATIONS.—To the extent that any employee of the Securities and Exchange Commission is represented by a labor organization with exclusive recognition in accordance with chapter 71 of title 5, United States Code, no reduction in base pay of such employee shall be made by reason of enactment of this section (including the amendments made by this section).

(c) IMPLEMENTATION PLAN AND REPORT.—

(1) IMPLEMENTATION PLAN.—

(A) IN GENERAL.—The Securities and Exchange Commission shall develop a plan to implement section 4802 of title 5, United States Code, as added by this section.

(B) INCLUSION IN ANNUAL PERFORMANCE PLAN AND REPORT.—The Securities and Exchange Commission shall include—

(i) the plan developed under this paragraph in the annual program performance plan submitted under section 1115 of title 31, United States Code; and

(ii) the effects of implementing the plan developed under this paragraph in the annual program performance report submitted under section 1116 of title 31, United States Code.

(2) IMPLEMENTATION REPORT.—

(A) IN GENERAL.—Before implementing the plan developed under paragraph (1), the Securities and Exchange Commission shall submit a report to the Committee on Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Government Reform and the Committee on Financial Services of the House of Representatives, and the Office of Personnel Management on the details of the plan.

(B) CONTENT.—The report under this paragraph shall include—

(i) evidence and supporting documentation justifying the plan; and

(ii) budgeting projections on costs and benefits resulting from the plan.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—

(A) The table of chapters for part III of title 5, United States Code, is amended by adding at the end of subpart C the following:

''48. Agency Personnel Demonstration Project ..... 4801.''.

(B) Section 3132(a)(1) of title 5, United States Code, is amended—

(i) in subparagraph (C), by striking ''or'' after the semicolon;

(ii) in subparagraph (D), by inserting ''or'' after the semicolon; and

(iii) by adding at the end the following:

''(E) the Securities and Exchange Commission;''.

(C) Section 5373(a) of title 5, United States Code, is amended—

(i) in paragraph (2), by striking ''or'' after the semicolon;

(ii) in paragraph (3), by striking the period and inserting ''; or''; and

(iii) by adding at the end the following:

''(4) section 4802.''.

(2) AMENDMENT TO SECURITIES AND EXCHANGE ACT OF 1934.—Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) APPOINTMENT AND COMPENSATION.—The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of title 5, United States Code.

''(2) REPORTING OF INFORMATION.—In establishing and adjusting schedules of compensation and benefits for officers, attorneys,

economists, examiners, and other employees of the Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.''.

(3) AMENDMENT TO FIRREA OF 1989.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended by striking ''the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation''.

SEC. 7. STUDY OF THE EFFECT OF FEE REDUCTIONS.

(a) STUDY.—The Office of Economic Analysis of the Securities and Exchange Commission (hereinafter referred to as the ''Office'') shall conduct a study of the extent to which the benefits of reductions in fees effected as a result of this Act are passed on to investors.

(b) FACTORS FOR CONSIDERATION.—In conducting the study under subsection (a), the Office shall—

(1) consider all of the various elements of the securities industry directly and indirectly benefitting from the fee reductions, including purchasers and sellers of securities, members of national securities exchanges, issuers, broker-dealers, underwriters, participants in investment companies, retirement programs, and others;

(2) evaluate the impact on different types of investors, such as individual equity holders, individual investment company shareholders, businesses, and other types of investors;

(3) include in the interpretation of the term ''investor'' shareholders of entities subject to the fee reductions; and

(4) consider the economic benefits to investors flowing from the fee reductions to include such factors as market efficiency, expansion of investment opportunities, and enhanced liquidity and capital formation.

(c) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Securities and Exchange Commission shall submit to the Congress the report prepared by the Office on the results of the study conducted under subsection (a).

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), this Act and the amendments made by this Act shall become effective on October 1, 2001.

(b) EXCEPTIONS.—The authorities provided by section 13(e)(3)(D), section 14(g)(1)(D), section 14(g)(3)(D), and section 31(d) of the Securities Exchange Act of 1934, as so designated by this Act, shall not apply until October 1, 2002.

NATIONAL SAFE PLACE WEEK

Mr. GRAMM. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 25, and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The senior assistant bill clerk read as follows:

A resolution (S. Res. 25) designating the week beginning March 18, 2001, as ''National Safe Place Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAMM. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 25) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 25

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place program is committed to protecting our Nation's most valuable asset, our youth, by offering short term ''safe places'' at neighborhood locations where trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas Safe Place combines the efforts of the private sector and non-profit organizations uniting to reach youth in the early stages of crisis;

Whereas Safe Place provides a direct means to assist programs in meeting performance standards relative to outreach/community relations, as set forth in the Federal Runaway and Homeless Youth Act guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas over 500 communities in 32 States and more than 9,000 locations have established Safe Place programs;

Whereas over 47,000 young people have gone to Safe Place locations to get help when faced with crisis situations;

Whereas through the efforts of Safe Place coordinators across the country each year more than one-half million students learn that Safe Place is a resource if abusive or neglectful situations exist; and

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of March 18 through March 24, 2001 as ''National Safe Place Week'' and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place programs, and to observe the week with appropriate ceremonies and activities.

Mr. CRAIG. Mr. President, children are our most valuable resource. Youth are the future of this Nation and a resource that needs to be both valued and protected. Sadly, however, as my colleagues know, this precious resource is being threatened every day.

I come to the Senate floor today to talk about a tremendous initiative that has been reaching out to youth since 1983. Project Safe Place is a program that was developed to assist youth and families in crisis. It creates a network of private businesses who are trained to refer youth in need to the local service providers who can help them. Those businesses display a Safe Place sign so that young people know this is a place where they can go to receive help.

The goal of National Safe Place Week is to recognize those individuals who work to make Project Safe Place a reality. From trained volunteers to seasoned professionals, thousands of dedicated individuals are working together within their local communities and across the nation to serve young people, under a well-known symbol of safety for in-crisis youth.

Project Safe Place is a simple program to implement in any local community, and it works. Young people are much more likely to ask for help in a location that is familiar and nonthreatening to them. By creating a network of Safe Places across the nation, all youth would have access, through this nonthreatening resource, to needed help, counseling, or a safe place to stay. However, while the program has already been established in 32 States, there are still too many communities without this valuable youth resources.

If your State does not already have a Safe Place organization, please consider facilitating this worthwhile resource. To create more Project Safe Place sites in Idaho, the staff in three of my state offices have gone through the training to make them all Safe Place sites, and now have the skills and ability to assist troubled youth.

I am delighted that the U.S. Senate has passed Senate Resolution 25, designating the week of March 18–24, 2001 as National Safe Place Week. This action recognizes the importance of Project Safe Place and the work of the National Project Safe Place organization. Most important, in passing this resolution, the Senate is applauding the tireless efforts of the thousands of dedicated volunteers across the nation for their many contributions to the youth of our nation through Project Safe Place.

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

ORDERS FOR FRIDAY, MARCH 23, 2001

Mr. GRAMM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 8:45 a.m. on Friday, March 23. I further ask unanimous consent that on Friday, immediately

following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin the pending Helms amendment and there be 15 minutes for closing remarks, as previously ordered.

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

PROGRAM

Mr. GRAMM. For the information of all Senators, the Senate will conduct a rollcall vote at 9 a.m. on Friday. Other amendments are expected to be offered during Friday's session.

On Monday at 2 p.m., the Senate will consider Senator HOLLINGS constitutional amendment relating to elections. There will be debate throughout the day, with a vote scheduled to occur at 6 p.m. Further votes can be expected to occur following that vote at 6 p.m. on Monday.

ADJOURNMENT UNTIL 8:45 A.M. TOMORROW

Mr. GRAMM. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:41 p.m., adjourned until Friday, March 23, 2001, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate March 22, 2001:

DEPARTMENT OF COMMERCE

FARYAR SHIRZAD, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE TROY HAMILTON CRIBB, RESIGNED.

DEPARTMENT OF COMMERCE

MICHELE A. DAVIS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE MICHELLE ANDREWS SMITH, RESIGNED.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

ANDREW S. NATSIOS, OF MASSACHUSETTS, TO BE ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE J. BRADY ANDERSON, RESIGNED.

DEPARTMENT OF JUSTICE

LARRY D. THOMPSON, OF GEORGIA, TO BE DEPUTY ATTORNEY GENERAL, VICE ERIC H. HOLDER, JR.

DEPARTMENT OF VETERANS AFFAIRS

TIM S. MCCLAIN, OF CALIFORNIA, TO BE GENERAL COUNSEL, DEPARTMENT OF VETERANS AFFAIRS, VICE LEIGH A. BRADLEY, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS TO APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral

REAR ADM. (LH) DAVID R. NICHOLSON, 0000
REAR ADM. (LH) RONALD F. SILVA, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

To be lieutenant commander

BENES Z ALDANA, 0000
DANIEL J ALLMAN, 0000
JAMES E ANDREWS, 0000
ANTHONY T BAGINSKI, 0000
ROBERT E BAILEY, JR., 0000
CHARLES B BARBEE, 0000
CHRISTOPHER A BARTZ, 0000
DAVID E BECK, 0000
DAVID C BILLBURG, 0000
TRELLIS M BIVINS, 0000
SUSAN J BLOOD, 0000
ELIZABETH D BLOW, 0000
CHRISTOPER E BOEHM, 0000
JAMES BORDERS JR., 0000
FRANCIS T BOROSS JR., 0000
JON J BOWEN, 0000
ROBERT J BOWEN, 0000
JAMES M. BOYER, 0000
CRAIG S BREITUNG, 0000
JEFFREY M BROCKUS, 0000
APRIL A BROWN, 0000
GREGORY A BURG, 0000
MATTHEW C CALLAN, 0000
JOSEPH S CALNAN, 0000
MARK A CAMACHO, 0000
NICHOLAS D CARON, 0000
JEFFREY T CARTER, 0000
RIZAL M CASTILLO, 0000
TIMOTHY S CASTLE, 0000
GERALD M CHARLTON JR., 0000
JOSEPH A CHOP, 0000
PETER J CLEMENS, 0000
TODD M COGGESHALL, 0000
SHERRY A COMAR, 0000
BENJAMIN A COOPER, 0000
JONATHAN E COPLEY, 0000
RICHARD S CRAIG, 0000
DAVID H CRONK, 0000
TIMOTHY M CUMMINS, 0000
MARK T CUNNINGHAM, 0000
ANTHONY C CURRY, 0000
CHRISTOPHER L DAY, 0000
BRUCE N DECKER, 0000
RONALD R DEWITT JR., 0000
CHARLES A DIORIO, 0000
DAVID K DIXON, 0000
JEFFREY F DIXON, 0000
MARK P DORAN, 0000
JEFFREY D DOW, 0000
BRADY C DOWNS, 0000
DAVID A DRAKE, 0000
MICHAEL J DREIER, 0000
DARREN A DRURY, 0000
KEVIN P DUNN, 0000
JAMES L DUVAL, 0000
DAVID W EDWARDS, 0000
JAMES E ELLIOTT, 0000
ERIC S ENSIGN, 0000
BRAD J ERVIN, 0000
MARK J FEDOR, 0000
LEE S FIELDS, 0000
DAVID M FLAHERTY, 0000
DAVID S FLURIE, 0000
PAUL A FLYNN, 0000
ERIC J FORD, 0000
JOHN R FRANCIC, 0000
DANIEL J FRANK, 0000
JOHN R FREDA, 0000
THEODORE B GANGSEI, 0000
DUANE P GATES, 0000
MICHAEL L GATLIN, 0000
KEVIN P GAVIN, 0000
CHARLES E GEHINSCOTT, 0000
PAUL E GERECKE, 0000
TIMOTHY J GILBRIDE, 0000
SHANNON N GILREATH, 0000
JOSEPH J GLEASON, 0000
THOMAS J GLYNN, 0000
LYNN A GOLDHAMMER, 0000
CARLA J GRANTHAM, 0000
PAUL A GUMMEL, 0000
TODD C HALL, 0000
DUSTIN E HAMACHER, 0000
RICHARD C HAMBLET, 0000
MARK E HAMMOND, 0000
ROBERT T HANNAH, 0000
LONNIE P HARRISON, 0000
CHARLES A HATFIELD III, 0000
DIANE J HAUSER, 0000
RICHARD R HAYES, 0000
MICHAEL R HEISLER, 0000
ERIC G HELM, 0000
JOHN R HELTON JR., 0000
STEVEN B HENDERSHOT, 0000
GARY D HENDERSON, 0000
ROGERS W HENDERSON, 0000
ROBERT T HENDRICKSON JR., 0000
GLENN C HERNANDEZ, 0000
CHRISTOPHER M HOLLINSHEAD, 0000
RONALD S HORN, 0000
RICHARD E HORNER, 0000
GREGORY A HOWARD, 0000
ROBERT E IDDINS, 0000
JOSE L JIMENEZ, 0000
PEDRO L JIMENEZ, 0000
JEFFREY W JOHNSON, 0000
DANIEL C JOHNSON, 0000
MARK A JONES, 0000
KEVIN A JONES, 0000
DIANE R KALINA, 0000
KEVIN M KEAST, 0000
BRENDA K KERR, 0000
KRISTINE M KIERNAN, 0000
NATHAN E KNAPP, 0000
PATRICK A KNOWLES, 0000
SUZANNE E LANDRY, 0000
WILLIAM J LANE, 0000
JOHN H LANG, 0000
MARA M LANGEVIN, 0000
MICHAEL A LEATHE, 0000
SCOTT BILEMASTERS, 0000
BRIAN R LINCOLN, 0000
BRIAN M LISKO, 0000
KEVIN W LOPEZ, 0000
MARCUS X LOPEZ, 0000
CHRISTIAN R LUND, 0000
KURT A LUTZOW, 0000
KEVIN C LYONS, 0000
ERIN D MACDONALD, 0000
THOMAS I MACDONALD, 0000
THOMAS S MACDONALD, 0000
LILLIAN M MAIZER, 0000
EDWARD J MAROHN, 0000
JAMES M MATHIEU, 0000
JOHN W MAUGER, 0000
TIMOTHY A MAYER, 0000
PHILLIP S MCCARTY,M 0000
DAVID G MCCLELLAN, 0000
ROBERT S MCCLURE, 0000
MAURY M MCFADDEN, 0000
JESS W MCGINNIS, 0000
DARRAN J MCLENON, 0000
KEITH P MCTIGUE, 0000
NELSON MEDINA, 0000
TIMOTHY E MEYERS, 0000
DANIEL J MOLTHEN, 0000
DAVID W MOONEY, 0000
CHRISTOPHER P MOORADIAN, 0000
NATHAN A MOORE, 0000
DAVID C MORTON, 0000
CHRISTOPHER C MOSS, 0000
ANDREW D MYERS, 0000
MICHAEL C NEININGER, 0000
RANDALL K NELSON, 0000
RICHARD K NELSON 0000
THERESA M NEUMANN, 0000
JOHN P NOLAN, 0000
RONALD W NORTHRUP, 0000
THOMAS A NORTON, 0000
TODD J OFFUTT, 0000
RANDAL S OGRYDZIAK, 0000
THERESA A PALMER, 0000
BRIGID M PAVILONIS, 0000
ROBERT PEARCE JR., 0000
STEVEN T PEARSON, 0000
FRANK E PEDRAS JR., 0000
DAVID W PIERCE, 0000
DANIEL J PIKE, 0000
KELLY M POST, 0000
JAMES B PRUETT, 0000
RICHARD M PRUITT, 0000
DAVID E PUGH, 0000
ROBERT E PURINGTON, 0000
ANDREW M RAIHA, 0000
KEITH C RALEY, 0000
MICHAEL W RAYMOND, 0000
JOEL L REBHOLZ, 0000
PAUL E RENDON, 0000
DAWN C RICHARDS, 0000
FREDERICK C RIEDLIN, 0000
JONATHON N RIFFE, 0000
MELISSA L RIVERA, 0000
JAMES B ROBERSON III, 0000
CHRISTOPHER J ROBINSO, 0000
DANIEL C ROCCO, 0000
BRIAN W ROCHE, 0000
LANCE A ROCKS, 0000
JOSE L RODRIGUEZ, 0000
SCOTT M ROGERS, 0000
MICHAEL T RORSTAD, 0000
MATTHEW P ROTHER, 0000
TIMOTHY J SCHANG, 0000
DANIEL J SCHIFSKY, 0000
HARRY M SCHMIDT, 0000
PATRICK H SCHMIDT, 0000
DOUGLAS M SCHOFIELD, 0000
DANIEL SCHRODER, 0000
DAVID B SCOTT, 0000
PATTI S SEEMAN, 0000
RICKY M SHARPE, 0000
THOMAS H SHERMAN III, 0000
MICHAEL A SHIRK, 0000
KENNETH A SMITH, 0000
WILLIAM G SMITH, 0000
MIKEAL S STAIER, 0000
DREW K STEADMAN, 0000
JAMES Q. STEVENS III, 0000
JAMES A. STEWART, 0000
EDWARD M. STPIERRE, 0000
DAVID W. STRONG, 0000
TODD R. STYRWOLD, 0000
STEVEN A. SUTTON, 0000
THOMAS S. SWANBERG, 0000
WILLIAM B. SWEARS, 0000
STEVEN C. TESCHENDORF, 0000
PHILLIP R. THORNE, 0000
TIMOTHY A. TOBIASZ, 0000
GARY L. TOMASULO, 0000
CARLOS A. TORRES, 0000
JONATHAN W. TOTTE, 0000
MICHAEL T. TRIMPERT, 0000
ANDREW E. TUCCI, 0000
RALPH J. TUMBARELLO, 0000
OZIEL VELA, 0000
TRACY J. WANNAMAKER, 0000
MARK D. WARD, 0000
TIMOTHY J. WENDT, 0000
BENJAMIN B. WHITE, 0000
ROBB C. WILCOX, 0000
GERARD A. WILLIAMS, 0000
KARL R. WILLIS, 0000
DEAN E. WILLIS, 0000
MARK A. WILLIS, 0000
GREGORY D. WISENER, 0000
CHRISTOPHER J. WOODLEY, 0000
MARSHALL E. WRIGHT, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. WILLIAM P. ARD, 0000
COL. ROSANNE BAILEY, 0000
COL. BRADLEY S. BAKER, 0000
COL. CHARLES C. BALDWIN, 0000
COL. MARK G. BEESLEY, 0000
COL. TED F. BOWLDS, 0000
COL. JOHN T. BRENNAN, 0000
COL. ROGER W. BURG, 0000
COL. PATRICK A. BURNS, 0000
COL. KURT A. CICHOWSKI, 0000
COL. MARIA I. CRIBBS, 0000
COL. ANDREW S. DICHTER, 0000
COL. JAN D. EAKLE, 0000
COL. DAVID M. EDGINGTON, 0000
COL. SILVANUS T. GILBERT III, 0000
COL. STEPHEN M. GOLDFEIN, 0000
COL. DAVID S. GRAY, 0000
COL. CHARLES B. GREEN, 0000
COL. WENDELL L. GRIFFIN, 0000
COL. RONALD J. HAECKEL, 0000
COL. IRVING L. HALTER JR., 0000
COL. RICHARD S. HASSAN, 0000
COL. WILLIAM L. HOLLAND, 0000
COL. GILMARY M. HOSTAGE III, 0000
COL. JAMES P. HUNT, 0000
COL. JOHN C. KOZIOL, 0000
COL. DAVID R. LEFFORGE, 0000
COL. THOMAS J. LOFTUS, 0000
COL. WILLIAM T. LORD, 0000
COL. ARTHUR B. MORRILL, III, 0000
COL. LARRY D. NEW, 0000
COL. LEONARD E. PATTERSON, 0000
COL. MICHAEL F. PLANERT, 0000
COL. JEFFREY A. REMINGTON, 0000
COL. EDWARD A. RICE JR., 0000
COL. DAVID J. SCOTT, 0000
COL. WINFIELD W. SCOTT III, 0000
COL. MARK D. SHACKELFORD, 0000
COL. GLENN F. SPEARS, 0000
COL. DAVID L. STRINGER, 0000
COL. HENRY L. TAYLOR, 0000
COL. RICHARD E. WEBBER, 0000
COL. ROY M. WORDEN, 0000
COL. RONALD D. YAGGI, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. RONALD S. COLEMAN, 0000
COL. JAMES F. FLOCK, 0000
COL. KENNETH J. GLUECK JR., 0000
COL. DENNIS J. HEJLIK, 0000
COL. CARL B. JENSEN, 0000
COL. ROBERT B. NELLER, 0000
COL. JOHN M. PAXTON JR., 0000
COL. EDWARD G. USHER III, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. MALCOLM I. FAGES, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATE IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

GREGORY O. ALLEN, 0000
ANDREA M. ANDERSON, 0000
JACK L. ANDERSON, 0000
RUTH M. ANDERSON, 0000
M. LORETTA BAILEY, 0000
HARRY J. BATEY, 0000
RALPH A. BAUER, 0000
ELIZABETH L. BOWERSKLAINE, 0000
TYWANA F. C. BOWMAN, 0000
DAVID F. BRASH, 0000
DONALD L. BROWN, 0000
CHRISTOPHER F. BURNE, 0000
TERESA A CAMPBELL, 0000
LEELLEN COACHER, 0000
JAMES P COUNSMAN, 0000
STUART R COWLES, 0000
PAUL M DANKOVICH, 0000
MORRIS D DAVIS, 0000
ALLAN L DETERT, 0000
NORBERT J DIAZ, 0000
STEPHEN R DISTASIO JR., 0000
TERRENCE H FARRELL, 0000
BLAKE W FOLDEN, 0000
RICHARD L FORTNER, 0000
WILLIAM GAMPEL, 0000
GREGORY GIRARD, 0000
ROGER S GOETZ, 0000
WILLIE A GUNN, 0000
CONSTANCE D HICKMAN, 0000
BARBARA A HOSTETLER, 0000
JOHN A KENNEY, 0000
BERNARD J KERR JR., 0000
BEVERLY B KNOTT, 0000
STACY L LANHAMLAHERA, 0000
MARGARET R MCCORD, 0000
BRENDA J MCELENEY, 0000
CLIFFORD J MCKINSTRY, 0000
JAMES E MOODY, 0000
ROBERTA MORO, 0000
SALLY J PETTY, 0000
GREGORY B PORTER, 0000
ROBERT J RENNIE, 0000
RAYMOND E RISSLING, 0000
CHARLES R ROUNTREE, 0000
MARK R RUPPERT, 0000
MARC M SAGER, 0000
DAWN E B SCHOLZ, 0000
SCOTT W SINGER, 0000
NORMAN B SPECTOR, 0000
HOLLY M STONE, 0000
JO ANN STRINGFIELD, 0000
KEIKO L TORGERSEN, 0000
CAROL L VERMILLION, 0000
EDWRD Y WALKER III, 0000
WAYNE WISNIEWSKI, 0000

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JAMES R. GUSIE, 0000
MICHAEL P. JENSEN, 0000
DENNIS J. SANDBOTHE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY IN THE JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTION 624 AND 3064:

To be colonel

MICHAEL CHILD, 0000 JA
LELAND GALLUP, 0000 JA

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

WALTER T. ELLINGSON, 0000
RICHARD B. HARRIS, 0000
KAREN F. HUBBARD, 0000
KENNETH L. JORGENSEN, 0000
MICHAEL J. KANTARIS, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

MANUAL E.R. ALSINA, 0000
VINCENT S. SHEN, 0000