United States
*of* America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE *107th* CONGRESS, FIRST SESSION

*Vol. 147* WASHINGTON, THURSDAY, NOVEMBER *29*, 2001 *No. 163*

# *Senate*

The Senate met at 9 a.m. and was called to order by the Honorable JEAN CARNAHAN, a Senator from the State of Missouri.

## PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, we thank You for the privilege of living in this land You have blessed so bountifully. You have called the United States to be a demonstration of freedom and equality, righteousness and justice, opportunity and hope that You desire for all nations. O God, help us to be faithful to our heritage in this time of war against terrorism.

Today we gratefully remember the memory of Johnny Michael ''Mike'' Spann, marine and CIA agent who gave his life in the battle in Afghanistan, in his own words, ''to make this world a better place in which to live.''

Now we praise You for the way that You have blessed this Senate with great leaders in each period of our history. Through them You continue to give Your vision for the unfolding of the American dream. Bless the Senators with a renewed sense of their calling to greatness through Your grace. You have appointed them; now anoint them afresh with Your spirit. As they confront the soul-sized, crucial issues today, give them a spirit of unity and cooperativeness. The workload is great, the pressure is heavy, the challenges formidable, but nothing is impossible for You.

Fill this Chamber with Your presence. You are the judge of all that will be said and done today. Ultimately, we have no one to please or answer to but You. With renewed commitment to You and reignited patriotism, we press on to live the page of American history that will be written today. Through our Lord and Saviour. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable JEAN CARNAHAN 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. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, November 29, 2001.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEAN CARNAHAN, a Senator from the State of Missouri, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mrs. CARNAHAN thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

## SCHEDULE

Mr. REID. Madam President, this morning the Senate will resume consideration of the motion to proceed to H.R. 10. There will be 60 minutes of debate equally divided between the two leaders. The Senate will vote on cloture on the motion to proceed at approximately 10 a.m.

## MEASURE PLACED ON CALENDAR—H.R. 2938

Mr. REID. Madam President, I understand H.R. 2983 is at the desk and due for its second reading.

The ACTING PRESIDENT pro tempore. The leader is correct.

Mr. REID. I ask that H.R. 2983 be read a second time and then I would object to any further proceedings on this legislation at this time.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill.

The legislative clerk read as follows:

A bill (H.R. 2983) to extend indemnification authority under section 170 of the Atomic Energy Act of 1954, and for other purposes.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.



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

RESERVATION OF LEADER TIME

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

COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to proceed to H.R. 10, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to the bill (H.R. 10) to provide for pension reform, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, there shall be 60 minutes of debate prior to the cloture vote.

Who yields time? If neither side yields time, time will be charged equally to both sides.

The Senator from Nevada is recognized.

REPUBLICAN ENERGY PLAN

Mr. REID. Madam President, yesterday there was considerable talk on the Senate floor regarding the Republican energy plan, using that term loosely, talking about the need for us to move forward. The majority leader has announced that we are going to take up an energy bill in February. He has given a date. I guess it is difficult for some to take yes for an answer. We are going to go to an energy bill just as soon as we get back. It is important we do that.

In the meantime, there is this constant harangue from the other side about how important it is that we go to an energy bill right now. We agree that there should be an acknowledged policy in this country. It is very important we do that.

We have to understand that under their plan, an increase in oil import dependence would go from 56 percent today to well over 60 percent by the year 2010.

According to the Energy Information Administration, which is part of the DOE, by 2010, cars, light trucks, and SUVs will use an additional 1.8 million barrels of oil a day. Total oil use will increase by twice that much to about 3.6 million barrels a day. The Republican plan does virtually nothing to address oil consumption. Their mantra is supply, supply, supply.

Nothing the United States does will have any impact on the price of oil. That price is determined in the world market. If we don't address our consumption, we might drive the price higher.

The United States currently uses 25 percent of the world's oil supply.

U.S. oil production has been declining since 1970. Even if ANWR were opened to oil development, the most optimistic scenario would only result in a net increase of less than half a million barrels a day. That is a lot of oil, but certainly it will not do anything to address the major problems we have in this country. Those problems relate to consumption.

This assumes that oil companies don't shift production from other places in the United States. There are 32 million acres in the Gulf of Mexico that have been leased but not developed.

Most of the dollars spent on developing new oil supplies are invested outside the United States. Why? Because there is more oil outside the United States. We, who are so proud of our natural resources, must acknowledge, reluctantly but truthfully, that we don't have a lot of oil in the United States. It is estimated that out of 100 percent of the oil reserves in the world, we have 3 percent in the United States. Most of the dollars spent in developing new oil supplies are in places such as Russia, Africa, Brazil, the Caspian and, of course, the Middle East.

Major oil companies, led by Exxon, just committed $30 billion to develop gas and water projects in Saudi Arabia. This is a picture of the signing of that deal. Mobil has done well. We don't need to cry about how Mobil is doing in the economic world. Let's talk about ExxonMobil. I am glad they are doing well, but let's not cry about how they are doing. Profits in 2000 were $12.40 billion, total upstream profits. Profits from the U.S. oil and gas production is this much; you can see that. Investment in U.S. production is this much. We have learned how much they are doing with the Saudi Arabia program. The picture is of Lee Raymond of Exxon signing that deal. It was for $30 billion. The United States is spending that much. Investment in non-U.S. production in Saudi Arabia, Angola, Qatar, and others, is $5.2 billion. Madam President, we should understand where the money is going.

Natural gas: On the other hand, natural gas is currently being produced from existing oilfields on the North Slope of Alaska, and then reinjected because there is no pipeline to bring the gas to the lower 48 States.

Natural gas demand is projected to increase by 24 percent by 2010. We in the United States have a choice. We can build a pipeline to bring the gas to market. We can do that. It would be expensive, but it would be very productive and good for the consumer. Or we can become dependent on liquefied natural gas from oil and gas exporting countries as we are for our other oil.

So the question is: Arctic gas or liquefied natural gas from OPEC. Eleven of the world's gas-exporting nations gathered in Iran in May of this year for the inaugural meeting of the Gas Exporting Countries Forum. They control two-thirds of the world's natural gas reserves.

According to the OPEC bulletin of June 2001, ''Not only was the Gas Exporting Countries Forum born in the capital city of an OPEC member, but the two groups also have five members in common: Algeria, Indonesia, Iran, Nigeria, and Qatar. They can unite and coordinate their policies in much the same way as OPEC has done in the past four decades.'' That should give us pause.

We need a stimulus from the energy policy. Some argue that opening ANWR to oil development would be a great economic stimulus. As we now know, the job numbers thrown around have been grossly exaggerated.

CRS estimates job creation from ANWR might be between 60,000 and 130,000. Again, this assumes jobs are not just shifted from the Gulf of Mexico or the Rocky Mountain region.

Construction of an Arctic natural gas pipeline would create between 350,000 and 400,000 jobs in steel production, pipe manufacturing, trucking and shipping, and construction jobs for 3 to 4 years for assembling the pipeline. These projections are derived from the estimated construction costs and the Bureau of Labor Statistics for pipeline construction, and this is the same approach as the CRS analysis used for ANWR.

This pipeline would be a mammoth project, requiring 4 times as much steel as used for all the cars produced globally in 1999. The steel for the pipe would be enough to give each person on Earth enough stainless steel to make cutlery for six elaborate table settings. The potential natural gas resources could supply the American market for 50 to 60 years.

It seems that we have an easy choice to make. We can do it ourselves or we can be dependent on foreign oil. In the speeches we hear from the other side, I hope they will recognize that we can't continue to consume, consume, consume and meet our energy needs. We are going to have to cut back on consumption. We can do that in a number of simple ways. We can make cars more fuel efficient. We can save millions of barrels of oil a day by making our cars more efficient. Also, we need to look at what we are going to do with alternative energy sources, such as sun, wind, geothermal, biomass, and also spend some money—real dollars—in hydrogen development. For example, Senator HARKIN, for years, has worked with me in trying to come up with a hydrogen program in the United States. It can be done, but we can't get the research dollars to do it. We know it is a safe product. If you had a container of hydrogen that started leaking, you would get water vapor. That is what you would get—not the sludge and these terrible messes that we get in the ocean and on land.

In short, we are no longer going to stand by and let the other side speak about what a terrible thing is happening and that we are not doing something about energy policy. We want to do something. We want to have a full and complete debate, recognizing that

the answer to the problems of America is not drilling in the Arctic pristine wilderness.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. CORZINE. Madam President, I rise this morning to offer my strong support for the Railroad Retirement Survivor Improvement Act of 2001. It is a piece of legislation that truly will modernize the railroad retirement system and help ensure that our railroad retirees are offered benefits that are consistent with what is made available in the private sector to other industrial workers throughout our economy.

Quite frankly, this is simply a fairness issue, to which I think we need to attend. It is strongly supported on both sides of the aisle, and I think we ought to do away with the procedural hangups that are keeping us from addressing this issue and moving forward.

Today's railroad retirement system is deeply outmoded, badly in need of reform. Unlike most pension plans, the current pension system for railroad workers has tied the hands of those who have the fiduciary responsibility to manage it. It can't invest in private market assets, bonds, or equities. Instead, under the current law, the railroad retirement system is required to invest only in Government securities. That is whether it is the tier 1 benefits, which are like Social Security, or tier 2 programs, which are very consistent or the moral equivalent of a private pension system.

The result is that railroad retirees and their families are being placed at a significant and, I believe, unfair disadvantage relative to their peers in the economy.

Throughout modern pension activities, we have a different result than what happens for rail workers because they are not able to retire with the same certainty and security that other workers are, and their families are prejudiced as well because of the lack of effectiveness in their investment programs and retire programs. We need to do something about it.

This program is very simple and very straightforward. The legislation before us also represents a political compromise that enjoys broad support, as I suggested, by Republicans and Democrats, labor and management. It has wide sponsorship throughout all interested parties. It makes sense from an economic standpoint, a consistency standpoint, and certainly a political standpoint. After all, most people in this Chamber—putting this into a personal perspective—are not being forced to invest in pension plans that are limited only to Government securities.

Under the Thrift Savings Plan, Government employees, like most in the private sector, can invest in the private market, stock index funds, debt index funds—a whole host of options that improve the performance profile of the assets involved in the pension funds.

These funds historically have done better, and the academic history and testing objective data show private pension funds need more opportunities than just being limited to Government securities. I do not understand why we are denying to railroad workers the same opportunity that we have as public employees.

Because private debt and equities generally provide these higher returns, this also would allow for significant improvement in the retirees' benefits: For example, a simple concept such as reducing the retirement age from 62 to 60 after 30 years of service. It is a pretty straightforward, simple, commonsense view and is very consistent with what goes on in the private sector.

Also, widows and widowers would be guaranteed benefits at an amount no less than the amount of the annuity that the retiree received. If one works all their life to build up an annuity that is sensible, the widow or widower should receive more than 50 percent of the retiree's annuity. That is also pretty consistent with actions in the private sector.

This legislation will allow a retirement system to reduce its vesting requirement from 10 years to 5 years, a very standard feature in all private sector pensions. We ought to take advantage of this opportunity to modernize the railroad retirement system and put it in a consistent format with other elements in our society's retirement programs.

I am concerned that the reason this legislation is not moving is because there are those who believe we somehow are going to pilfer the money. The opposite is true. I believe when we do not properly manage, as a fiduciary, retirees' money, we are actually limiting their ability, and the pilfering is really our fault, not theirs. We ought to do something about that.

I am concerned about what is really happening. I believe it is sometimes the view of some that we are trying to limit our options in managing retirement funds. It is quite possible people are presuming that if we make this kind of move with respect to railroad retirement activities and pension investments, we must have an analogy that works for Social Security. There is reason to believe we ought to be thinking about how we manage our Social Security trust funds so that we secure their actuarial responsibility over the long run.

I hope we are not standing against doing something that makes sense for railroad workers because we have this great desire to resist modernizing our practices in how we handle our pension funds.

It is time for us to move forward with this legislation. It was overwhelmingly supported in the House. There is something approaching 75 cosponsors in the Senate. This is 21st century investing—actually, it is 20th century investing practices, and we need to make sure our railroad workers have that same right. I hope we will avoid all this haggling about procedure and move forward to protect their retirement the way we expect others in the economy to proceed.

Mr. ROCKEFELLER. Madam President, I am proud to have been an original cosponsor of the bipartisan Railroad Retirement and Survivors' Improvement Act of 2001 when it was introduced this spring. This legislation has strong bipartisan support and it deserves action before Congress adjourns this year.

In West Virginia, we have over 11,000 retirees and their families currently depending on railroad retirement, and almost 3,500 West Virginians working for the railroads who will need their railroad retirement in the future. These hardworking railroad employees have done tough jobs for years, and because of the physical work and often harsh outdoor working conditions, they deserve a good retirement package, at a earlier age than current benefits allow.

Nationwide, there are currently about 673,000 railroad retirees and families, and about 245,000 active rail workers. They, too, deserve a better retirement program, and I want to work with them to promote this historic package supported by both rail labor and rail management.

There can be no doubt that improving retirement benefits for railroad workers, retirees, and their families must be one of our top priorities. Right now, it takes 10 years of service before a railroad worker becomes vested in the retirement plan, while private companies covered by the Employee Retirement Income Security Act, ERISA, vest their employees in just 5 to 7 years.

The need to dramatically improve benefits for railroad widows and widowers is also obvious and has gone unaddressed for far too long. It is cruel to slash the benefits of the widow of a railroad retiree at the death of her spouse, as the current policy does. Railroad widows have called my offices and pleaded with me at West Virginia town meetings to understand how essential this legislation is for them.

A railroad widow living in Hinton, WV, recently told me that her current railroad pension benefit is too small for her to pay the premium for railroad health insurance. This widow's husband died when he was just 56, and she was only 46. She has been struggling to maintain her home and pay her bills, and can just barely do that, but she cannot afford to buy health insurance. She deserves a better deal. Railroad widows in my state and across our country living on fixed incomes face a tough challenge to maintain their homes and their dignity. Increasing pension benefits for railroad widows should be a priority before this Congress adjourns.

Today, experts predict that the Railroad Trust Funds are solvent for the next 25 years, and existing policy offers

guaranteed benefits to railroad retirees and their families. Under the new plan, the railroads would pay less taxes into the Railroad Retirement Trust Funds, but the fund would create an investment board to invest its reserves in private equities, so the increased rate of returns would cover the expanded benefits. Under the plan, there is a provision to increase railroad taxes in the future when necessary to fully fund the railroad retirement benefits.

As a member of the Senate Finance Committee, I have been pushing hard to enact this legislation to improve benefits for railroad retirees and their families. I will be working with Finance Chairman BAUCUS and Senate Majority Leader DASCHLE to achieve our goal of improving railroad retirement. Our railroad workers, our retirees, and their widows have been waiting too long for a better retirement package. It would be wrong for Congress to leave without acting on this vital program.

Mr. REID. Madam President, I suggest the absence of a quorum and ask that the time be charged equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE ENERGY BILL MUST BE DEBATED

Mr. BURNS. Madam President, I have heard several comments this morning with regard to energy, yet I am still in a fog about why we are even discussing this legislation.

Americans should know that September 11 not only changed the entire Nation but it also changed the mindset in Washington, DC. I can remember that morning because we were in a press conference talking about enhanced 9–1–1, legislation that was passed and signed by President Clinton. Basically what it did was it allowed the technology to move forward in our wireless communications that when someone used their cell phone and they hit 9–1–1, they got the nearest first responder or emergency responder.

In a State such as Montana where we have large rural areas, this is very important. I held a safety conference in Helena during the August break. We had around 200 people attending, saying we need to locate people whenever an emergency comes in on a cell phone because we have great distances to cover.

With the technology of triangulation of the towers and enhanced GPS, we can now locate the 9–1–1, or the emergency caller, just as we can when we pick up a phone in our own home where it is wired.

We were taking a look at the deployment of that technology in a news conference on that morning of September 11 when the terrorists decided to take their bite out of the United States of America. It was a shocking thing when we saw the second airplane go into the second tower and then the one that hit the Pentagon in Washington, DC. It changed our perspective on everything.

I bring that up because we are in a war, and the only defense against terrorists who will forfeit their lives to carry out a mission, the only way to prevent those people from doing great harm to our country, is to keep them on the run where they do not have a lot of time to plan to do bad things to us.

I congratulate the President this morning because we are taking out the al-Qaida and the terrorists who perpetrated this act of war on our country.

We are also in a recession. We have an agricultural sector that is hurting, and we are talking about something that affects none of the things that are affecting our country today. Nothing in this legislation, with the time we think we have left of this year, the first half of the 107th Congress, will stimulate the economy. It has nothing to do with the economy.

I am a cosponsor on the bill. We have farmers who are walking into their banks to renew their operating loans, and what are the bankers telling them? We have to have some concrete evidence this Government is going to be in your corner next year. We have been every year, but now they want to tie it down a little tighter. Yes, that is a stimulus. Agriculture is about 20 percent of the GDP in this country. It is very important, and it all starts at the production level. We do not hear anybody talking about that.

Yesterday morning I brought up the fact that energy is a part of this, and we hear speeches even this morning on energy, but we only hear speeches. Put a bill on the floor. Allow a bill to come to the Senate. We will debate conservation. We will debate the economy. We will debate production. The President had a task force put together headed by Vice President CHENEY, and a lot of the actions he wants taken are not allowed to be debated. Make no doubt about it. We are at war, and then we hear speeches. We have an energy crisis, but we hear speeches. The economy continues to slip; we continue to hear speeches. Put the bill before the Senate. That is all I say.

The Railroad Retirement Act probably has as many cosponsors as have ever cosponsored a bill in this body. Some folks would say fairness. Fairness to whom? Fairness with the rest of the country? It does nothing that would heal some of the ills that are afflicting our country right now.

What I am saying is let us get our work done. If we want to talk about energy, put an energy bill before the Senate. That is all we ask. Then we will let the chips fall where they may. That is what we should be doing this morning if we move forward on anything.

Let us do something substantive. Let us complete the appropriations. I serve on the Appropriations Committee. The assistant minority leader serves on that committee. We have worked together on a lot of issues, and I think he will agree that it is not going to take a lot of work or a lot of time to finish. As soon as we get the Defense appropriations and complete a stimulus bill, then let us go home and let us recharge the batteries. Let us talk to the people back home. Let us find out what their agenda is, what they want to see this Government and this Congress do as we complete the year 2001.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

UNANIMOUS CONSENT REQUEST—H.R. 3090

Mr. REID. Madam President, the junior Senator from Montana, my good friend, and I have worked together on a number of issues. We were the two who handled military construction appropriations for many years. He is a pleasure to work with. I enjoyed working with him this year on the Interior appropriations bill. In answer to my friend, the reason we are talking about energy this morning, it has been talked about so much from the other side, I must reply.

Regarding the railroad retirement bill, it is important legislation. For the widows, it is an important piece of legislation. I acknowledge we should move these appropriations conference reports as quickly as we can. Transportation was resolved yesterday. That is big news. We hope to complete that this week as soon as the House does.

Yesterday it was noted that if we moved to the House bill, which will be the vehicle for the railroad retirement legislation, the stimulus bill would be displaced. We agreed that the stimulus bill should not be displaced. We did not raise a point of order to knock it off the calendar. We could have raised a point of order against a Republican vehicle and then the stimulus bill would be gone forever from this session of the legislature. We chose not to do that. We agreed the stimulus bill should not be displaced. That is the reason we asked to call the railroad bill up by unanimous consent, but that was objected to by a Republican colleague.

To ensure again that the stimulus bill is not displaced by the railroad retirement bill, I ask unanimous consent the stimulus bill, H.R. 3090, recur as the pending business immediately upon the disposition of the railroad retirement bill.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. On behalf of the Republican leadership, I object.

The ACTING PRESIDENT pro tempore. The objection is heard.

SENATE WORK PRIORITIES

Mr. CRAIG. Madam President, let me speak for a few moments on the issue of railroad retirement, the stimulus package, and the business before the Senate. Our assistant Republican leader is on the floor and wants to speak to the motion to proceed, so I will be brief.

I rise in support of railroad retirement and have been a cosponsor of that legislation for the last several years. There is adequate time to deal with this issue. We can deal with it now following the stimulus package or certainly we can deal with it next year. The Democratic leadership has chosen to bring it up and force the issue at this time. It is an important piece of legislation. There are 75 cosponsors in the Senate. The Senate Finance Committee has worked some on it. The House has worked on it and passed it.

Is it a perfect piece of legislation? No. It goes a long way to fix a flawed system, a system at this time that is in deep trouble, a 65-year-old system that has been treated poorly in the past in many respects and will not serve the retirees or the railroad system effectively well in the future.

As a result of an effort on the part of management and labor to bring this issue together, they have worked hard to do so. There are many on my side who disagree and some on the other side who disagree. This issue does not find unanimous support in the Senate. I would hope issues of such critical nature could find unanimous support, but that will not happen.

It is important this issue be addressed. I hope the Senate can work its will. I will support efforts to bring it to the floor. At the same time, I hope the Democrat leadership understands a recession has been declared in this country by the institutions that measure our economics and measure the output of our economy. If we are in recession—and we are—we ought to deal with a stimulus package that will bring investment and job creation back to the marketplace.

We ought to be understanding that we are at war. We ought to move expeditiously, as the House now is, to deal with the DOD package to make sure our men and women in harm's way are adequately funded, and that all of the issues of post-September 11 are dealt with in the appropriate fashion. That doesn't mean we have to stay here for the next 3 weeks to get that done.

We do our timely work now; we come back in late January and do the balance. This is an issue that could have been dealt with in late January, as can agriculture, as energy, I hope, will be with a date definite and a vote up or down to pass. If energy is not dealt with in that fashion, and if the majority leader does not choose to give us a clear signal as to how energy will be voted on, energy will be an amendment to any amendable bill that comes before the Senate following the current effort.

This bill will be amendable. Maybe energy fits well into a railroad retirement package. It is every bit as critical to a broader base of the American economy as this bill is very critical to a lot of people in my State and across the Nation.

To reiterate, I support the railroad retirement legislation. I am one of the 75 cosponsors in the Senate. In the last Congress, when I was briefly a member of the Senate Finance Committee, I had an opportunity to participate in the hearings on the bill and vote in favor of passing it and sending it to the Senate floor for consideration. While I am a supporter of this bill, I can understand why some of my colleagues have genuine problems with it. Does this bill take a flawed system and make it perfect? No. However, does this bill take a flawed system and dramatically improve it? Yes.

I am here today to urge my colleagues: Do not let the perfect be the enemy of the very, very good. It is no small feat that rail labor and rail management came together, reasoned together in good faith, and devoted a great deal of energy, expertise, and old-fashioned innovation to improving a 65-year-old system in a bright and forward-thinking way. They have fashioned a remarkably good bill. It removes a 65-year-old requirement that assets of the system be invested solely in Federal instruments. It permits the kind of investments that any other industry pension plan might make. As a result, over time the system will bring in more revenue, and that will permit better benefits for retirees and surviving spouses, while reducing the contributions needed from rail employers.

It is important to remember that this bill also provides for the possibility that the returns on investments might be less than history suggests they will be. If that should occur, it would trigger an automatic adjustment mechanism requiring more contributions from the industry. This protects the federal government and the nation's taxpayers. On the other hand, if returns are greater than projected, both labor and management will be able to reduce contributions further. The new Investment Trust created by the bill will not include any government employees and will not be appointed by any. Trustees will be subject to ERISA fiduciary standards. They will be able to hire professional pension investment advisors. Congress will annually receive a report on the results of the investment efforts.

Let me also address the so-called ''cost'' of this bill. I agree with the House of Representatives that changing the investment mix is not an outlay, but just a new means of financing the government's obligations under the system. Those who take balanced federal budgets seriously should have no reason to back away from this legislation.

Mr. President, the thousands of working men and women, retirees, and surviving spouses who will benefit from this legislation have waited patiently while this bill has been reviewed again and again. They have waited long enough. This bill is an enormous step in the right direction, and one the entire Senate should support.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I rise in opposition on a motion to proceed. I have great respect for my friend and colleague from Nevada, but I happen to disagree that moving to railroad retirement is what we should be doing. Railroad retirement is an issue that some people say has been considered by Congress. It hasn't been considered. We didn't have a hearing in the House; we didn't have a hearing in the Senate. We have a bill written by special interest groups, by railroad companies and unions. They negotiated a deal and said, great, now have the American taxpayer pay for it.

If there is ever special interest legislation, this is it. We are going to say we want to set aside the stimulus package so we can take this bill up. I have told my friends and colleagues if we take it up, we will have to have a lot of amendments and a lot of debate.

I read where tier 1 is the same thing as Social Security. But it is not. It is not the same thing. There are differences. People who receive Social Security do not get to retire at age 60 with 100-percent benefits. And this is what this legislation does for railroad retirees.

Under private pension benefit plans, survivors of deceased usually receive 50 percent; the survivors under this bill receive 100 percent. We are going to do that? We are going to put that in the statute and say the Federal Government will pay for it?

People say they want to be treated like the private sector. Private sector gets to invest in the stock market. Great. Make this a private sector plan. We can do that. We are going to give them $15 billion, that is a heck of a cash infusion to a pension system. We have never done that in the history of America where we have taken $15 billion, given it to one industry for their retirement system. It benefits primarily a few companies and a whole lot of employees and retirees. They have worked it out in a mutually beneficial manner. They both benefit, almost exactly the same amount. They negotiated a deal to save $4 billion in 10 years and the employees get $4 billion in new benefits. And the Federal Government will gives them $15 or $16 billion in the process.

I question the wisdom of doing that. We have not had a hearing and have not been able to ask people: Why are we doing this? How does it work? Where does the money come from?

If we move to this bill, as I expect may well happen but, will have to have some amendments. We will have to consider should tier 1 really be equivalent to Social Security. If they are going to be in the Social Security system and pay Social Security taxes, they pay identical tier 1 taxes to Social Security, shouldn't we give them identical Social Security benefits? Or do we give them benefits far in excess of what Social Security provides? We are going to have to consider that.

What about this survivor benefit? They say this is great, we have a survivor benefit, and it is a big increase. Everyone likes it. If we are going to increase the survivor benefit for railroads, should we do it also for Social Security? Or conversely, should survivor benefits, at least for Social Security, be the same for all Social Security beneficiaries? There is a big difference. We have to look at that and we have to look at the cash infusion. The argument is made that this is just moving $16 billion of Government IOUs over into the private sector for real investment.

I asked the Treasury Secretary, how are you going to do it? He said: I am going to go out and borrow $16 billion. We are in a deficit situation. It is all going to be added to debt, so we are going to add $16 billion to our national publicly held debt that you and I and all taxpayers will be paying interest on every year. That means if we are paying something like 6 percent interest on $15 billion, we are going to be paying $1 billion per year in interest maybe forever for this cash infusion to go to this retirement fund which will greatly increase benefits and also reduce the contributions to that retirement fund.

I used to be a fiduciary and trustee of a retirement fund. You can't do that. You would have the Pension Benefit Guarantee Corporation saying: You are not making your minimum allocation requirements to make these funds adequately financed. You are doing just the opposite. You have a grossly underfunded actuarial benefit that is required, and you are not making those payments.

We are doing just the opposite. We have an unfunded plan that has financial problems in the future, and what we are doing is cutting taxes and increasing benefits. Oh, yes, we are going to transfer a whole bunch of money so it will last a little while, but it doesn't last even that long. As a matter of fact, it is kind of startling to find out the amount of money available. This fund starts evaporating pretty quickly. It is projected in 20 years the taxes are going to have to be raised as much as 70 percent—in 20 years, because of the shortfall.

My biggest problem is the way we have directed scorekeeping in here to say we are not going to count that $15 billion. Hocus pocus—write a check, and it doesn't count. That really bothers me.

There is language in the House-passed bill on page 25 that says:

Means of financing. For purposes of the Congressional Budget Act of 1974 and the Balanced Budget Act and Emergency Deficit Control Act of 1985—and on and on—notwithstanding the purchase or sale of non-Federal assets—shall be treated as a means of financing—i.e., it doesn't count; they are kind of clever legal words that say it doesn't count.

It will be interesting to see how Democrats and Republicans vote on this bill because we have a little section in here that says ''the budget doesn't count.''

I ask you, if you can do this for the railroad retirement system, why can't you do it for Social Security? Why don't we write a check for $1 trillion or $1.8 trillion, or whatever the Social Security trust fund balance is that is Government-held debt, Government IOUs to itself? Why don't we just write a check for that entire amount and say now we have real securities?

If you do it, you are going to have outlays and we are going to have to borrow money. This $16 billion we are going to have to borrow. We are going to increase the national debt to do this.

I wonder if people really thought about that and what that really means. Can we do this for Social Security? Is this real? Are we moving away from Government T-bills into Government stocks? No, we are not. We are moving away from Government IOUs, which are on paper, into real debt that we will have to write checks for and pay interest on every year—real debt, publicly held debt that could be held in the United States or overseas, on which we will be writing checks. We will have to pay interest on it to the tune of $1 billion a year.

We will put it in the railroad retirement fund and at the same time say: Railroad companies, you don't have to pay as much. We are going to reduce your taxes. Even though you signed contracts that are very generous in retirement benefits, we are going to reduce your contribution. Incidentally, retirees, because you were willing to go along with this, we are going to increase your benefits. We are going to give you benefits nobody else has in the private sector. We are going to give you benefits that are greater than Social Security.

You are tier 1, which is supposed to be equivalent to Social Security. In Social Security, the retirement age is going to 67. For tier 1 benefits, the retirement age is going to 60. For Social Security beneficiaries, for everybody—every Senator, every civil servant, employee who is on Social Security today—when they receive benefits, every person in the private sector on Social Security today, if they retire at 62, they receive 80 percent of their normal retirement benefit—80 percent.

Not railroad retirement; it is 100 percent under age 62, and under this bill it will be 100 percent at age 60. And they pay the same taxes. That is 12.8 percent, 6.4 percent by the employer, 6.4 percent by the employee for tier 1 taxes and Social Security taxes. These are the same taxes everybody else pays in America, but they get a lot better benefit under this bill we are considering.

The House almost passed this bill unanimously. Did they really know what they were doing? Did they realize the cost implications of this legislation? Does that really make sense, and can we afford it? Is this trust fund in such good shape we can give the most generous benefits in America? Does it make financial sense to do that? I don't think so.

I think people are going to be embarrassed when sometime, at some point, if and when this bill ever becomes law—and it has not become law yet because it still has to go through the amendment process, and I hope we can improve it, I hope we can strike out language that says this $16 billion check we are going to write doesn't count.

I am on the Budget Committee. I have been on the Budget Committee for 21 years. I am horrified by this language. I am embarrassed the House passed it, and I am embarrassed we would even consider it in the Senate. So we are going to have amendments to strike it, and we will find out whether or not people think when you write a check it doesn't count. If we say it doesn't count, let's just tear up the Budget Act totally.

Speaking about budgets, a lot of people are talking about emergencies. I met with the President last night, and I said we have been trying to respond to emergency situations in a bipartisan fashion, but I am looking at spending that is growing rather dramatically. The President proposed a budget that grew at 6.1 percent. We had an agreement at $686 billion. We signed a letter. Members of Congress actually asked the President to sign the letter that said: Here is our deal. October 2, our budget deal, $686 billion discretionary spending, a growth rate of 7.1 percent. We added a few billion more for education. All signed on, this is the deal.

Then we agreed, let's add $40 billion as a result of the September 11 attack. So that moved the $686 up to $726 billion. The growth of spending now is 13.3 percent. That doesn't include $16 billion coming in for railroad retirement. That doesn't include $16 billion or $15 billion or $7.5 billion for additional homeland security. That doesn't count the additional billions of dollars—we don't know how much it is going to cost—in the victims' compensation fund that is already the law of the land. That doesn't count the $15 billion we have for airline security and loan guarantees.

If we add all that together, we are on a spending spree in Congress. It looks to me as if people are trying to ram through all the spending they can this year because they know that next year we are in red ink. Next year we are going to have deficits.

There was a front page story in the Washington Post today alluding to the situation that we may have deficits for several years, so let's run this through now and put in little language in the bill that says it doesn't count.

So I hope to have several amendments to this legislation if we are forced to consider it. Although, I think it is more important that we stay on

the stimulus package and visit this legislation at another time. I hope we finish the Nation's business. I hope we get our appropriations bills done, pass the stimulus package trying to help this economy which is in a recession, and go home. But if we are going to say let's come out and spend this kind of money, we are going to have to rework this program and improve it.

Let's allow the unions and railroad companies to come up with whatever benefits they want. I don't care if they have retirement at age 40, as long as they pay for it and don't ask us to pay for it. If it is their retirement system and they are responsible for it, great. If they are asking taxpayers to pay for it, wait a minute, we should be a little more cautious. If they are going to have survivor benefits greater than almost every survivor benefit in America, that is fine, as long as they pay for it. But don't ask us to guarantee it.

So I urge my colleagues to vote no on the motion to move off the stimulus package and move on the railroad retirement bill.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. While the distinguished Senator from Oklahoma is on the floor, I ask unanimous consent the time for debate prior to the cloture vote on the motion to proceed to H.R. 10 be extended until 10:30, with the time equally divided and controlled as under the previous order, and that the remaining provisions of the previous order governing the cloture vote remain in effect.

Mr. NICKLES. Reserving the right to object, I suggest the absence of quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, I renew my request.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant 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.

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The senior assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 69, H.R. 10, an act to provide for pension reform and for other purposes:

Paul Wellstone, Richard Durbin, Byron Dorgan, Harry Reid, Jon Corzine, Hillary Clinton, Blanche Lincoln, Thomas Carper, Patrick Leahy, Tom Harkin, Benjamin Nelson, Mary Landrieu, Bill Nelson, Ron Wyden, Charles Schumer, Bob Graham, and Barbara Mikulski.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 10, an act to provide for pension reform, and for other purposes, shall be brought to a close? The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The yeas and nays resulted—yeas 96, nays 4, as follows:

[Rollcall Vote No. 343 Leg.]

YEAS —96

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

NAYS —4

| | |
|---|---|
| Gramm | Kyl |
| Gregg | Nickles |

The PRESIDING OFFICER. On this vote, the yeas are 96, the nays are 4. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

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

Mr. HATCH. Mr. President, I ask unanimous consent that I be allowed to speak for up to 15 minutes as if in morning business.

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

Mr. HATCH. Thank you, Mr. President.

## NOMINATION OF JOHN WALTERS

Mr. HATCH. Mr. President, I rise today to speak on behalf of all parents and grandparents, teachers, clergy, mentors, law enforcement, treatment and prevention coalitions, and all the others who work every day to prevent illegal drug use from destroying the lives of our young people. Our country needs John Walters, the President's nominee for drug czar, to be confirmed. It is shameful that here we are in November, and Mr. Walters remains the President's only Cabinet member who has not been confirmed.

To say that the confirmation of Mr. Walters has been obstructed is by no means an exaggeration. It has been 203 days since the President announced his choice of John Walters to be the next Director of the Office of National Drug Control Policy. It has been 177 days since the Senate received his nomination. It has been 50 days since Mr. Walters' hearing before the Judiciary Committee. And it has been 21 days since his nomination was voted out of the Judiciary Committee by a wide margin and sent to the Senate floor. How many more days, weeks, and months can we expect this nomination to linger before a vote is finally scheduled? In my view, we have already waited much too long.

John Walters' confirmation will also add another much-needed weapon to our arsenal in the war against terrorism. Since the September 11 attacks, there has been much discussion about the nexus between drug trafficking and terrorism. We know that proceeds from the manufacturing and trafficking of opium poppy helped sustain the Taliban's control of Afghanistan. We also know that terrorist organizations routinely launder the proceeds from drug trafficking and use the funds to support and expand their operations internationally, including purchasing and trafficking illegal weapons. I am sure in the coming months and years, we will continue to learn about the clandestine connection between drugs and terrorists.

The situation in Afghanistan also bodes ill for the world's supply of heroin. In 2000, over 70 percent of the world's heroin was produced in Afghanistan. Stockpiles of Afghan heroin were reportedly dumped on the market after the September 11 attacks. While officials in America and Europe are bracing for the onslaught of cheap heroin that will soon be hitting the markets in all neighborhoods across America and Europe, we have no drug czar. The

head of the Drug Enforcement Administration, the DEA, Asa Hutchinson, recently referred to the situation in Afghanistan as a ''rare opportunity'' for U.S. antidrug efforts to act on the successes of the military campaign and influence the future direction of heroin production in Afghanistan. While I have great confidence in the work Asa Hutchinson and the DEA are doing, the administration needs its lead drug control policy official in place to help formulate a comprehensive policy designed to reduce significantly heroin production in Afghanistan.

Mr. Walters will have to work closely with law enforcement and intelligence authorities to ensure that the international component of the Nation's drug control policy is designed not only to prevent drugs from being trafficked into America but also to prevent the manufacturing and sale of drugs for the purpose of funding terrorist activities. Mr. Walters is eminently qualified to carry out this task, and I am confident that he will be a first-rate Director. He is the right person for this job.

John Walters' career in public service has prepared him well for this office. He has worked tirelessly over the last 2 decades helping to formulate and improve comprehensive policies designed to keep drugs away from our children. By virtue of this experience, he truly has unparalleled knowledge and experience in all facets of drug control policy. Lest there be any doubt that Mr. Walters' past efforts were successful, let me point out that during his tenure at the Department of Education and ONDCP, drug use in America fell to its lowest level at any time in the past 25 years, and drug use by teens plunged over 50 percent. Mr. Walters has remained a vocal advocate for curbing illegal drug use. Tragically, as illegal drug use edged upward under the previous administration, his voice went unheeded.

John Walters enjoys widespread support from distinguished members of the law enforcement community, including the Fraternal Order of Police and the National Troopers Coalition. His nomination is also supported by some of the most prominent members of the prevention and treatment communities, including the National Association of Drug Court Professionals, the American Methadone Treatment Association, the Partnership for Drug Free America, National Families in Action, and the Community Anti-Drug Coalitions of America. All of these organizations agree that if we are to win the war on drugs in America, we need a comprehensive policy aimed at reducing both the demand for and supply of drugs. Mr. Walters' accomplished record demonstrates that he, too, has always believed in such a comprehensive approach. As he stated before Congress in 1993, an effective antidrug strategy must ''integrate efforts to reduce the supply of as well as the demand for illegal drugs.''

Despite this groundswell of support, ever since Mr. Walters was first mentioned almost 7 months ago to be the next drug czar, several interested individuals and groups have attacked his nomination with a barrage of unfounded criticisms. Because of these untruths, I believe his confirmation has been delayed, and I feel compelled to respond to some of these gross distortions of John Walters' record.

The most common criticism I have heard is that John Walters is hostile to drug treatment. This is categorically false. He has a long, documented history of supporting drug treatment as an integral component of a balanced national drug control policy. You do not have to take my word on this. You need only look at the numbers. Keep in mind, just today, just an hour ago, we passed the Hatch-Leahy ''Drug Abuse Education, Prevention, and Treatment Act of 2001'' out of the Judiciary Committee. The bulk of the money in that bill will go for drug treatment, education, and prevention programs. And we have done so with the advice and counsel of Mr. Walters. So that is a false accusation. But look at the numbers.

During Mr. Walters' tenure at ONDCP, treatment funding increased 74 percent. Compare that with the increase over 8 years for the Clinton administration of a mere 17 percent. This commitment to expanding treatment explains why John Walters has such broad support from the treatment community. It is simply inconceivable to believe that all of the prominent groups that are supporting Mr. Walters would do so if they believed he was hostile to treatment programs.

Another recurring criticism is that Mr. Walters doesn't support a balanced drug control policy that incorporates both supply and demand reduction programs. This criticism, too, is flat wrong and again belied by his record. For example, in testimony given before this committee in 1991, Mr. Walters, then acting Director of ONDCP, laid out a national drug control strategy that included the following guiding principles: educating our citizens about the dangers of drug use, placing more addicts in effective treatment programs, expanding the number and quality of treatment programs, reducing the supply and availability of drugs on our streets, and dismantling trafficking organizations through tough law enforcement and interdiction measures.

Mr. Walters' support of prevention programs is equally evident. His commitment to prevention became clear during his tenure at the Department of Education during the Reagan administration. He drafted the Department's first drug prevention guide for parents and teachers entitled, ''Schools Without Drugs'' and created the Department's first prevention advertising campaign, and implemented the Drug-Free Schools grant program.

These are not the words or actions of an ideologue who is hostile to prevention and treatment but, rather, represent the firmly held beliefs of a man of conviction who has fought hard to include effective prevention and treatment programs in the fight against drug abuse.

Some have also charged that Mr. Walters doesn't believe the oft-repeated liberal shibboleth too many low-level, ''non-violent'' drug offenders are being arrested, prosecuted, and jailed. I, too, plead guilty, and we have the facts on our side. Data from the Bureau of Justice Statistics, BJS, reveals that 67.4 percent of Federal defendants convicted of simple possession had prior arrest records, and 54 percent had prior convictions. Moreover, prison sentences handed down for possession offenses amount to just 1 percent of Federal prison sentences. It is flatly untrue that a significant proportion of our Federal prison population consists of individuals who have done nothing other than possess illegal drugs for their personal consumption.

The simple fact is that the drug legalization camp exaggerates the rate at which defendants are jailed solely for simple possession. Mr. Walters, to his credit, has had the courage to publicly refute these misleading statistics. And to these critics I want to make one other point perfectly clear. Those who sell drugs, whatever type and whatever quantity, are not, to this father and grandfather, nonviolent offenders, not when each pill, each joint, each line, and each needle can—and often does—destroy a young person's life. Mr. Walters' critics have shamefully distorted his statements to claim that he favors jailing first-time, nonviolent offenders.

I am committed 100 percent to expanding and improving drug abuse education, prevention, and treatment programs, and I know that John Walters is my ally in this effort. Earlier this year I introduced S. 304, the Drug Abuse Education, Prevention, and Treatment Act of 2001, a bipartisan bill that I drafted with my good friend, Senator LEAHY, Senators BIDEN, DEWINE, THURMOND, FEINSTEIN, and GRASSLEY. This legislation will dramatically increase prevention and treatment efforts. In drafting the bill, I repeatedly solicited Mr. Walters' expert advice. I know, and his record clearly reflects, that he agrees with me and my colleagues that prevention and treatment must remain integral components of our national drug control policy.

We just passed that bill out of the Judiciary Committee this morning. I hope it will be called up immediately and passed out of the Senate because it will make such a difference in the lives of our young people around this country. If I recall correctly, Joe Califano, the former head of HEW, Health, Education, and Welfare—now Health and Human Services—called this bill truly revolutionary and one that he could support wholeheartedly. He is not alone.

We need to shore up our support for demand reduction programs if we are

to reduce illegal drug use in America. This belief is bipartisan. Our President believes it. Our Attorney General believes it. Our Democratic leader in the Senate believes it. My Republican colleagues believe it. And most importantly, John Walters believes it.

Since being nominated in May, Mr. Walters has made himself available to all Senators on the Judiciary Committee. He has throughly answered all questions posed to him by the Judiciary Committee, as well as questions from Senators not on the Committee. I commend the President for his selection and nomination of John Walters, and I call upon the Democratic leader to end the delay, remove all holds, and schedule a vote on Mr. Walters' nomination as early as possible, this week, if he could. At a time when we are at war, it is simply not prudent or proper to play politics with this nomination. I urge my colleagues to reject the efforts of those who have wrongfully sought to taint John Walters and to support an immediate vote on his nomination.

Finally, I urge Chairman LEAHY not to let this session end without holding hearings for the deputy positions at ONDCP. Mr. Walters needs his team in place. I look forward to working with my Senate Republican and Democratic colleagues and the administration to carry forward our fight against drug trafficking and terrorism.

Let me make one or two final remarks. I was pleased to see the Judiciary Committee pass out the nine additional district judges, one a circuit court judge nominee and eight district court nominees, and, in addition, to pass out two other top officials in the Bush administration and, of course, a number of U.S. Attorneys. I commend our chairman for doing that. I commend him for moving forward on these judges.

We have come a long way from when the criticisms reached their height. We still have a long way to go because there are still 101 vacancies in the Federal judiciary as I stand here today. Frankly, that is probably 101 too many. Be that as it may, we all know that we have to do something about them.

As we prepare to recess, there is one startling fact that needs more attention. On May 9, President Bush nominated 11 outstanding attorneys to serve as Federal appellate court judges. To this date, nearly three quarters of those nominees are still pending in the Judiciary Committee without a hearing. Although all of these nominees received qualified or well-qualified ratings from the American Bar Association, only 3 of those first 11 nominees have had a hearing. At present, there are 30 vacancies in the Federal courts of appeals. Some courts, such as the DC circuit, are functioning under a dramatically reduced capacity.

President Bush has responded to the vacancy crisis in the appellate courts by nominating a total of 28 top-notch men and women to these posts, a number of circuit court nominees that is unprecedented in the first years of recent administrations. Yet the Judiciary Committee has managed to move just five appeals court judges from the committee to the Senate floor for a vote. Last year at this time we had 67 vacancies in the Federal judiciary. Since Senator LEAHY has become chairman, the vacancy rate has never been below 100. I am concerned that this number will only continue to grow after Congress recesses next month.

I urge my colleagues on the other side to use the remaining weeks of this session to hold hearings and votes on judicial nominees to combat the alarming vacancy rate.

Having said that, I am pleased that the chairman did allow nine judges to pass out today. I hope he will continue to work in a bipartisan fashion with me to pass more out. I am proud to work with Senator LEAHY. I certainly want to cooperate with him in every way I possibly can. I believe the other Republicans on the committee do as well.

There is a lot of criticism that goes back and forth on judges. I have to say, it is difficult to be chairman of this committee. I sympathize with Senator LEAHY on some of the difficulties he has had. I know there are people on his side who would just as soon not have any Bush judges go on through, as there were occasionally on our side. It is very difficult to meet some of the objections and to overcome them and to resolve some of the political problems that arise. We have to do it. We have to stand up and work with both sides to get the Federal courts as full as we possibly can so that justice can proceed, especially in the case of the Circuit Court of Appeals for the District of Columbia, the District Court of the District of Columbia as well, so that we can handle all of the terrorist issues that will come before that particular court.

Having said all of that, I hope we can move ahead with John Walters; if there are any holds, that they will be removed; and if they won't remove them, I hope the majority leader will ignore the holds, bring this up for a battle on the floor, and then have a vote up or down and let the chips fall where they may.

I believe Mr. Walters will be confirmed. I believe he must be confirmed. If we don't get him confirmed, I believe the rate of youth drug use will continue to rise. Frankly, we have had enough of that. We have to get a very tough policy going again on drugs, and that should include both the supply and demand sides.

I will make sure that this new administration, under John Walters, will take care of the demand side as well as the supply side. If we pass S. 304 through the Senate on which Senator LEAHY and I have worked so hard, I believe it will go to the House. I believe they will pass it, and it will go a long way toward resolving some of the really serious drug problems we have among our young people.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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.

## ORDER FOR RECESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in recess today from 12:30 to 3:30 p.m., and that the time be charged under rule XXII. We will reconvene at 3:30.

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

Mr. REID. Mr. President, for those who are listening, this is really important that we do this. We are privileged today that both the Democrat and Republican caucuses will listen to the Secretary of State, Colin Powell, talk about world affairs. Then we are going to have a briefing upstairs.

It is important that all Senators attend the luncheon with Colin Powell and the briefing upstairs about what is going on in Afghanistan.

We know that a number of Senators have expressed a desire to speak. The junior Senator from Michigan is here. She wishes to speak. I understand Senator CARNAHAN is here. So we will recess at 12:30. Everybody should be advised that the time until then is open. Perhaps we could arrange some times, if that is helpful to the parties here. It is my understanding that Senator CARNAHAN wishes to speak, but I don't know for how long. Maybe we can get things set up so people don't have to wait around. The Senator from Michigan wants to speak for 15 minutes. The Senator from Illinois wants 5 minutes. So we have Senator DURBIN for 5, Senator CARNAHAN for 10, Senator STABENOW for 15, and Senator THOMPSON wants 15.

I ask unanimous consent that the Senator from Illinois be recognized for 5 minutes, the Senator from Michigan be recognized for 15 minutes, the Senator from Missouri be recognized for 10 minutes, and then Senator THOMPSON be recognized for the final 15 minutes. That would take us to the recess.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Illinois.

## ECONOMIC STIMULUS

Mr. DURBIN. Mr. President, I thank the Senator from Nevada for his leadership. He works so hard on the floor on a regular basis to make sure things run smoothly and we get about the business of deliberating important issues. At this time, there is no more important an issue than the economic stimulus package. As we move around the Nation, clearly people have lost jobs

and businesses are hurting. We need to spark this economy, to move it forward.

There was good news yesterday on Capitol Hill. The leaders—Democrats and Republicans—came together to start a process to lead to a stimulus package, a recovery package that will truly help all Americans. I have taken a look at many of the proposals here, and I certainly support the Democrats' position that we need to help families who have lost their jobs. If you are unemployed in America today and you are lucky enough to have unemployment insurance, you get about $230 a week on which to live. Imagine for a moment, as you follow these proceedings, what life would be like on $230 a week, trying to make your mortgage or rental payment, pay utility bills, buy food for your family, and provide for the necessities. It is very difficult.

Over half of the unemployed workers don't even have unemployment insurance. They have left part-time jobs and they have no help. It is no wonder we are finding that food pantries and kitchens for the poor across America are being overwhelmed with those coming in asking for help at the end of the year. It is important that we remember these people as part of the stimulus package. Money given to these families is money that will be spent on the necessities of life, and that would be an expenditure that would not only help them but equally important, spark the economy because they are going to be making purchases that help retailers and producers of goods and services across America.

In addition, health insurance is one of the first casualties of an unemployed family. And $500 or $600 a month for a COBRA plan, a private health insurance plan, is beyond the reach of most families. Think for a moment. If you are one of those lucky Americans, such as myself, whose family is insured, what would it be like to know that tomorrow your health insurance is gone; you are one accident or one illness away from disaster?

We don't want that to happen to the families of the unemployed. That is why the Democrats pushed hard to keep that in the package.

Let me tell you another thing we can do to spark the economy. We need a tax cut that will have an immediate impact and is fair. One I have talked about over the last several weeks—Senator DOMENICI of New Mexico raised it as well—is a Federal tax holiday. It means that for a month we would suspend the collection of Federal payroll taxes on employees and employers across America. What is the impact? If your family earns, say, $40,000 a year, it means that in that month-long payroll tax holiday you would see an additional $250 in your paycheck, $250 at the end of the year for important purchases for your family, for holiday purchases, for year-end purchases that you might otherwise have put off.

The good thing about this approach is that it is fast, focused, and it is fair. It not only helps workers, every worker who gets a payroll check, it is going to help businesses, particularly small businesses.

Let me give you an illustration. If you had a small business with 100 employees, with each employee having an average income of $40,000, it would mean for your small business, in that month-long holiday period, an additional $25,000 in tax savings. Why does small business need that? The last time I talked to people running a small business, they told me, for example, the increase in health insurance premiums is causing a real problem and hardship. So they can turn around and make sure their employees are covered and also have this money through a tax holiday.

This idea has strong bipartisan support. It certainly makes more sense for us to spend the $30 billion involved in this proposal rather than to put it on a tax cut for people in the highest income categories in America. This payroll tax holiday, which I and Senator DOMENICI and others support, would be focused on helping employees and employers across America. We can do this. The Congress can enact it. We can say to the American people, even before this holiday season comes to an end, we are going to provide them a real tax cut and real tax relief.

I hope as part of our bipartisan package we can include this provision. We can get this economy moving and do it in the right way, and do it in a fair fashion.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I rise to commend my colleague from Illinois for his comments. I wish to associate myself with the comments of both Senator DURBIN and Senator DOMENICI, who are involved in advocating common-sense approach to put money in people's pockets immediately. I congratulate them for doing that.

I also rise to speak about what needs to happen in terms of economic recovery and an economic stimulus package. I commend our leader, Senator DASCHLE, for bringing together the leaders for discussions. I thank the leaders on both sides of the aisle for sitting down together to move this measure because we do need to move quickly on a stimulus and recovery package. But we all know it has to be the right thing.

I am very concerned about what the House Republicans passed and the fact their approach is so very different from what mainstream economists are telling us needs to be done in terms of moving this economy forward quickly. What we saw in the House was an attempt to place into law another round of large tax cuts for the top 1 percent of the public, and literally billions of dollars in tax cuts for the largest multinational corporations—supply-side economics at its best—hoping that it would trickle down somehow in time to help small businesses, workers, professionals, middle-income people, somehow that it would trickle down in order for people to be able to receive some kind of assistance during this recession.

We know in the past that approach has not worked. I am here today to encourage us to do what mainstream economists across the board have suggested we do, which is to put something in place that is immediate, temporary, and stimulates the economy by putting money directly into people's pockets. I think the payroll tax holiday is one good way to do that. It would certainly support small businesses.

We hear a lot of talk about big business in the Congress. Yet small business is the fastest growing part of our economy, employing millions of people. They, too, have been affected—many times more so by what happened in terms of the recession. We need to make sure we are focusing on support for small business, whether it is being able to write off investments more quickly, whether it is a payroll tax holiday. I think supporting small business in this equation is very important.

I want to share some facts. We know that if we focus on those who have lost their jobs, whether it is through the airline industry since September 11 or other jobs in our economy, when we give dollars directly to those who are unemployed, they turn around and buy groceries for the family, school supplies, Christmas, or other holiday gifts. Those activities are important to keep the economy going. It moves the economy along, and it helps our families. It is a win-win situation for everyone.

Studies have also shown that for every $1 invested in unemployment insurance, we generate $2.15 in the gross domestic product. A 1999 study by the Department of Labor estimated that unemployment insurance mitigated the real loss in GDP by 15 percent. That is real, that is measurable, and it is an immediate stimulus to the economy. In the last 5 recessions, real loss of GDP was mitigated by 15 percent, and the average peak number of jobs saved was 131,000 jobs.

Economists are telling us that this is not just about doing what is fair; it is the best solution. It is the best way to stimulate the economy. Joseph Stiglitz, co-winner of the 2001 Nobel Prize in Economics, has stated: We should extend the duration and magnitude of the benefits we provide to our unemployed. This is not only the fairest proposal but also the most effective. It is the most effective for the economy. People who become unemployed cut back on their expenditures. Giving them more dollars will directly increase expenditures and improve the economy.

We are talking about a demand-side approach. The Republicans in the House of Representatives have said

trickle-down economics, supply side, that is the way to get the economy going. Economist after economist has come forward to say the problem is not supply. In my State of Michigan where we make outstanding automobiles, trucks, and SUVs, we want folks to purchase those vehicles. We know the problem is not supply; the problem is demand and people having a job, having income, and being able to purchase that vehicle. It is demand side, and that is what the economists are all telling us.

I want to speak about the economy and why we need to expand the unemployment insurance needs and modernize the system and why the Senate Democratic approach is so important to women in our economy.

When we look at unemployment insurance today, only 23 percent of unemployed women meet the current unemployment insurance eligibility requirements. Only 23 percent of unemployed women meet the eligibility requirements of unemployment insurance. Women who are heads of households and families dependent upon two incomes are disproportionately and unfairly affected by layoffs and by our current unemployment system.

That is why the Senate Democrats have put forward a modernization of unemployment compensation by covering both part-time and low-wage workers. This proportionately helps women more than it does men because women are more likely to be in part-time positions or in lower wage positions.

Unfortunately, the administration plan and the House plan do nothing to include part-time or low-wage workers. Sixty percent of low-income workers are women and 70 percent of part-time workers are women.

I believe it is important for us to understand that those part-time workers may be care giving for their children, may be care giving for a mom, a dad, a gramps or grandma who need assistance. They are fulfilling other family obligations while providing important income for their family. They should not be left out of the economic picture. When we are looking for ways to support the economy and working men and women, we need to remember those women who are working part time or are in low-wage professions.

Women are the majority of workers in industries that have been hardest hit by the economic downturn: 56 percent of retail sales, 69 percent of restaurant and wait staff, 65 percent of kitchen workers, 79 percent of flight attendants.

I find it so disconcerting that here we are, long past September 11 when we immediately responded to the concerns—and I supported doing that—of the airline industry to help them recover from what happened on September 11, we have yet to pass a bill to support the people who work in that industry.

We were promised that if we dealt with the industry first, we would come back to those hundreds of thousands of airline industry-related workers who had been laid off. Yet we have not done that. Again, we see that this disproportionately affects women.

Also, women only earn 76 percent of men's median income, and women of color earn 64 percent of the wages of working men. As a result, women have a greater need for income replacement when they are unemployed. It is important to note that we are talking about women who are providing a significant percentage of their family income, in addition to caring for their children and caring for older adults and all of the other work in which women are involved. For poor female heads of households who work part time, their earnings represent 91 percent of the family income. If they lose their job, we are talking about 91 percent of the family income disappearing. Failure to replace the wages of part-time workers through unemployment insurance benefits detrimentally impacts working women and their families.

This is about doing the right thing in stimulating the economy. It is about coming up with ways that support small business, as well as large, and our workers. It is about tax cuts that go to low- and moderate-income people who will put that back into the economy.

Also, this is about making sure we remember the large part of our workforce, our women, who are disproportionately affected by the current unemployment system. It is designed in a way that unfairly penalizes women who are working part time while caring for their children and caring for loved ones at home or working in important but very low-wage jobs.

This debate about stimulating the economy, about economic recovery, is incredibly important for everyone. We need to keep an eye on the fact that the policies we set may, in fact, have different results for working women than for working men, and we need to remember women and their families as we put together this economic recovery package.

I urge we do what is right, what is fair, and most importantly what is effective, what the economists across this country have said we need to do, put money into the pockets of working people and those who are unemployed, and make sure we do not forget our small businesses as part of this economic recovery process.

The PRESIDING OFFICER (Mr. NELSON of Florida). Under the previous order, the Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, I want to address some of the issues my distinguished friend from Michigan has been discussing. First of all, not only can we not agree as to what belongs in the stimulus package, we cannot seem to agree in the Senate, unfortunately, as to what our priorities ought to be. We are a nation at war and in recession. Those ought to be our priorities. Yet we are talking about railroad retirement, we are talking about farm bills, everything but what we ought to be discussing.

We ought to be talking about the issues my friend from Michigan has raised concerning the stimulus package. I will address that for a few moments myself. There is no doubt for some time now there has been pretty much a consensus on the idea we need a stimulus package. Later on in my remarks I will discuss further whether or not that is really necessarily true. I think there has been a consensus, but there certainly has been no consensus as to what we ought to do about it and what belongs in it.

In fact, there is no consensus as to what in fact stimulates the economy. Everybody has their own ideas. We have our own ideas in this Chamber, and we state them authoritatively. But it is not only us, it is the economists. We cannot really say the economists think this or say that. They think everything and they say everything. They are on all sides of all of these issues. So are businesspeople, labor people. Remarkably, their economic philosophy seems to somewhat coincide with their vested interest, which is not really different from the rest of us, I suppose. That is the situation we are confronting.

I want to discuss for a moment where we are, examine the validity of the ideas we are using in support of our positions in general terms, and then discuss what we should do about it.

Assume for a moment this is not a political issue. One could make that case. There have been a lot of disparaging remarks about certain provisions in the House bill. There certainly have been a lot of disparaging remarks about what came out of the Senate Finance Committee, all the pork and unrelated items, but we can put that aside for a moment. We can put aside the remarks of the former adviser to President Clinton, who in a local publication said it is in the Democrats' self-interest to defeat a stimulus package or not have one because it might affect the economy negatively and President Bush would get blamed for a negative economy. I do not think that is the way most of my colleagues believe, but those thoughts exist.

Unfortunately, we do spend a little bit too much time in this body talking about how to divide the pie instead of trying to figure out how to make the pie bigger, who is going to get what. There is the tax-cuts-for-the-rich rhetoric, of course, we all have heard, ignoring the fact that 80 percent of the individual tax cuts would go to small businesspeople who provided 80 percent of the new jobs over the last decade.

I must say I find it somewhat ironic that every time we get into the stimulus discussion, we talk about tax breaks for the rich, when the same folks who make those arguments are also promoting a farm bill where 10 percent of the richest people in farming get 61 percent of the benefits. So

tax cuts for the rich are bad, but pork for the rich is good.

Let us set all that aside for a moment, take the political aspects out of it, and talk about the economics of it. Basically, we have two different economic views in this body—at least two main ones—as to what in fact does stimulate the economy. We each make statements as to what will stimulate it and what will not, but we never provide any authority or any evidence or any historical precedence for what we are saying.

There are four or more proposals now before us: The House bill, the Senate Finance bill, the President's bill, a compromise that is being worked on; a lot of things in common among all of those bills: Rebates for low-income folks, additional unemployment benefits, health care provisions. We disagree on the amounts of those, but those are pretty much common to all of these proposals, and if a stimulus package passes, that is going to be in there. That is where the similarity breaks down and the division begins.

There is nothing wrong with philosophical divisions. That is why we have elections, and that is why we have parties. Everyone is entitled to their opinion, but they are not entitled to their facts or their history. Let us examine which side is supported by history or precedent or facts and which is not.

On our side of the aisle, we basically think the majority of the package ought to be tax cuts for the private sector, working men and women who are carrying the load and paying the taxes, and that includes a speed-up of the reduction of the individual tax rates. That way, people can get not just an extra check in their pocket one time, but they can rely on a tax system that is going to be lower, and they can look at it in the future and base their conduct, whether it is additional work or additional investment, on a tax code that has been changed to their benefit on out into the future, not just a check but a change of policy. That is what we believe.

Our friends on the other side of the aisle basically seem to think the way to stimulate the economy is spending by the Federal Government, and therein lie the differences and the debate. Our friends on the other side of the aisle and some on our side, and many in the media and some economists, point out we need to get money into the hands of the consumer by means of the Federal Government, which incidentally is money that either has to be borrowed or on which people have to be taxed. That is where the Federal Government gets its money and redistributes it to others in the form of checks which they will immediately spend.

The argument goes, the lower the income level, the more likely they are to spend it. So getting checks into the hands of consumers will stimulate the economy. The problem is there is not any evidence to support that proposition. I know it is often said. It might even be considered to be common wisdom at this stage of the game. But I submit all of the evidence and historical precedent indicate Federal spending programs designed to grow the economy have not proven to be successful.

What are my citations for that? I am accusing other folks of not giving their reasons, historical precedent or evidence. ''Thompson, what are your citations?'' one might say. I cite studies prepared by the Joint Economic Committee back in 1988. I cite the 1930s, when in an attempt to ameliorate the effects of the Great Depression, we saw a percentage of the gross domestic product in this country almost triple while unemployment doubled.

I cite the case of Japan. They have been trying to do this fordecades—spend themselves into prosperity. They have had 10 separate spending stimulus packages in the 1990s, to no effect. France and Sweden have had similar problems. I ask, if in fact we really run our economy based on an ATM principle, where we have it figured out, that we have to put in our card, our solution, our congressional solution, and out comes the result we want, why do we ever tolerate recession anyway? Why do we not print some more money? Why do we not send out some more checks? Why do we ever sustain the average recession of 11 months? Why do we go that long if that is the solution? It is an easy solution and an easy one to understand. I submit it is because it has not proven to work.

On the idea the poor will spend more, there is no historical evidence for that either. It might seem logical, but a lot of things that seem logical are not borne out in real practice. The last time we sent checks out, 18 percent of people spent them. According to the Presidential adviser, Mr. Hubbard, I was reading the other day he says all the economic evidence is that people spend at various income levels. People basically spend the same percentage. We already have the budget with $686 billion in spending, an additional $40 billion that has been allocated, and an additional $15 billion in airline support.

Certainly, when we hear of economists saying this is a solution, you would not want to include Mr. Greenspan in that category. He doesn't say that spending is the way to do this. He says if we do it, we cannot do it fast enough to have any effect anyway. In fact, by the time it kicks in, by the time our governmental spending kicks in and the checks get in the mail, are received and spent, even if it works the way we want it to, it will be too late. If the average recession lasts 11 months—and ours started last March—we are going to have to hurry up or the doggone recession will be over before we act and we will not get credit for anything. There is no way we can possibly have anything that affects the economy by next February or spring. We could assist it if we did exactly the right thing. Is it worth $100 billion under those circumstances, when we cannot agree on the components? I question that.

What about the other side? I have been talking about the philosophy of Federal spending being the answer to stimulating the economy. What about this side of the aisle? As to the idea that the private sector is the source of the solution for recession and that tax cuts, and especially marginal rate cuts, is an integral part of that, what about the evidence for that? I submit the historical evidence to support that proposition is just as clear as the historical evidence that fails to support the Federal Government spending proposition.

The evidence is, those kinds of tax cuts not only grow the economy but they produce more revenue to the Federal Government. President Kennedy pointed that out. He said: It is not a matter of either tax cuts or higher deficits; the more you cut taxes, the more revenue you will generate. Of course, he was right.

Incidentally, the rich pay more as a percentage of the taxes paid when you have the marginal rate tax cuts than beforehand. At every level it is borne out, and especially marginal rate reductions, which encourage work, encourage investment, are the kinds of action that get the economy going. Sending someone a check to buy a pair of gym shoes will be momentarily beneficial to somebody, I suppose, but that is not the kind of policy that strengthens our economy or causes that money to recirculate or to be there for a longer period of time.

What is my historical evidence? I refer to the 1920s, the 1960s and the 1980s. During those periods, the country went with that approach. In every instance, we had more economic growth, more revenue to the Federal Government, and the richer paid a higher percentage of the taxes that were paid in terms of dollars. From 1961 to 1968, the economy expanded 42 percent because of President Kennedy's tax cuts, over 5 percent a year. I would settle for that. We could use a little of that right now.

When you look at the package from the Finance Committee or what is being talked about in the Chamber by my friends on the other side of the aisle, the best I can figure is, only 20 to 25 percent of the possibly $100 billion package would in any way justify being called stimulative, if you look at the evidence and do not just pick this economist's statement who is aligned philosophically with one group or another economist aligned with another group or someone who comports with our own philosophy.

My concern is that in all this compromise language talk, we will say, OK, let's do what we often do around here and take both of them: Have the tax cuts and additional spending. That is what got us in trouble before. We do not need to go that way. Not only would it not be good, it would be harmful.

We will need that revenue. If we had good reason to believe such an approach that just gave pennies on the dollar to stuff that would be stimulative, and the rest would make us feel good and help us with certain voters in certain segments of the economy—we are all concerned about the unemployed. I am as concerned about unemployed in Tennessee as unemployed in New York. They are all unemployed and all deserve our consideration, and they will under these bills, but they will not stimulate the economy.

We have only begun to assess the costs of what happened in September. We know now almost overnight not only will we have to spend a whole lot more in our defense budget, but we have law enforcement, public health facilities, nuclear facilities, government buildings, Border Patrol, post offices, airports, mass transit. Those are all directly at the feet of the Government and the private sector. We have handling of the mail, insurance costs, transportation costs. Somebody said it is not that ''just in time'' philosophy with the average business, it is ''just in case'' philosophy. That will cost money. Slowing globalization has hit a lot of company pockets; computer security—all these things cost a lot of money in the public and private sectors. Unless we are very sure what we are doing with $100 billion or $85 billion, we should not do it.

Now the OMB Director says we will be in deficit at least until 2005. If we cannot at least get half of a stimulus package that stimulates the economy, we should not do it. We do not know how long the recession will be. If it is average, we have already bottomed out and are working our way back. Nobody knows for sure. But we do know retail sales are up, unemployment stabilized, low oil prices, and interest rate reductions have put more money into the consumer's hands faster than the Federal Government could. The stock market is not doing too badly.

We should give ourselves a chance. There is a good argument to be made that we can do the right thing, have policy that stimulates the economy, which is the private sector, and a large portion has to be tax cuts and rate reductions which are tried and true. We can also make some compromises and do some things in terms of spending that many think are not stimulative but within the bounds of political reality, realizing that has to be part of the package, and have a decent mix and maybe do some good. Anything less than that, I fear, would do harm.

I hope the President draws the line and says something to the effect, if part of this package cannot be stimulative, I will veto it. I think that is a position we ought to take. I don't think we have been talking about this for so long and the markets are so convinced and have been convinced that this is what we are going to do and it is such a great idea. I don't think they are paying that much attention to us in that regard. I don't think that train is down the track that far that we have to pass something, regardless. I will not vote for something ''regardless'' that is, in the long term interests, detrimental to the economy of this Nation. But it will be unfortunate if we do not have the opportunity to do something that would be beneficial and come together on something that would be beneficial.

I still hope we will be able to do that because I think that would be the best solution for the economy and for the Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. Mr. President, I wonder if the senior Senator, the distinguished Senator from Tennessee, would respond to a question.

Mr. THOMPSON. Yes.

Mr. CORZINE. I wonder if the Senator is familiar with the Federal Reserve's view of how they model or look at the economy, and how tax cuts and spending cuts work through the economy. We just had a Joint Economic Committee meeting yesterday in preparation for that. We went back and looked at some of their models which are based on statistics and observations through time.

When you were commenting earlier, I thought it would be worthwhile if I mentioned that, at least according to the Federal Reserve's models, spending has a multiplier effect of 1.4 times in the first year relative to tax cuts, which have about a half of 1 percent impact in the first year.

Sometimes when you drag those out over a longer period, you catch up with the benefits of taxes, depending on the nature of them. But there is solid evidence in the economic community, and I think among the Federal Reserve, that spending can have and often does have meaningful multiplier effects on the economy. That is why so many people would argue, and I think they would argue based on fact, or at least data, that there is reason to believe that spending does have a positive impact on the economy.

Mr. THOMPSON. I will respond to my friend that I do not doubt that. I do not know the details of how they do that. I am aware that they do it. I do not doubt, as I have indicated, someone, going down at the micro level, going down and getting a check and buying some goods has some effect; that a lot of people doing that might not have some effect.

I think the difference has to do with short term versus long term. The history I have read on the subject concerning a concerted effort by the Government, with Federal spending programs over a period of time—whether it be the United States in the 1930s, or Japan for the last decade—has not proved beneficial, has not brought about growth. So we might be talking about the difference between microeconomics and macroeconomics. I am not sure. I do not dispute the statistic that the Senator gave, but I think the studies that were done from the Joint Economic Committee back in 1998 is the other side of that coin.

Mr. CORZINE. Would the Senator comment on whether he believes unemployment benefits tend to get expended or not in the process of going to people who have lost their jobs? Do you think that goes to savings? Is that what I am reading you to say?

Mr. THOMPSON. No, I think you can assume in most cases, if you are talking about that very small part of the economy that has to do with unemployment benefits, that those checks probably are spent.

My concern, I suppose, is that if you expand that concept, then why not send everybody a check. A lot of people laughed at Senator McGovern several years ago—what was the size of the check he wanted to send everybody, $1000? Why not extrapolate that concept, if the concept is the solution?

I think there is some factual validity to what you are saying. But I am saying if you expand that concept in terms of the overall economy, the evidence is not there to support it.

If it is that simple, if that is the solution, why do we ever put up with a recession? When we first see one, why don't we decide to whom we want to send the checks and get it over with and the economy will bounce back?

Mr. CORZINE. I appreciate the remarks of the distinguished Senator. I think there really is—the point that I was trying to make—some evidence that spending does have meaningful impact on the growth of the economy. I will make sure I send you over a copy of the Federal Reserve Bulletin's commentary on this so you can get a sense of what this is about.

Mr. DASCHLE. Mr. President, I ask unanimous consent the recess be postponed until 1 o'clock.

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

Mr. DASCHLE. Mr. President, 5 months ago, America had a projected budget surplus of $2.7 trillion over the next 10 years. The stock market was soaring. The question before us was one that most leaders could only dream of: ''What should be we with out prosperity?''

At that time, we came to this floor to debate our Nation's fiscal future—how could we sustain that hard-won prosperity, meet our great unmet needs, and, yes, provide meaningful tax relief for millions of American families.

Democrats put forward a balanced plan that maintained our fiscal discipline, while at the same time making sound investments in our children, our health, and our security, and provide tax relief.

Because we recognized how fragile and inaccurate budget projections are, we left room to deal with an economic downturn or an unforeseen emergency.

Unfortunately, our approach was not the one that prevailed.

Instead of a balanced and fiscally responsible plan, we ended up with one so top-heavy with tax cuts, it left little room for other investments, and no flexibility for a change in circumstances.

I made no secret of the fact that I was unhappy with that debate, and its outcome. But based on the administration's predictions—and assurances—that we could afford such cuts without running into deficits or shortchanging our priorities, the majority of my colleagues voted for it.

Early this morning, just several months after receiving those assurances, and several months into the administration's 10-year plan, we now learn that the White House budget director is predicting that our government is likely to run budget deficits until 2005. This is a stark reversal from the situation this administration inherited less than a year ago.

This is a marked departure from the rosy predictions we were being offered just months ago.

So, how did this happen? Let's start with how it did not happen.

As deeply as the September 11 attacks impact our lives, our security, and our economy—they are not responsible for the fiscal situation in which we now find ourselves.

While the attacks of September 11 seemed to change everything in a moment, the economic trends before September 11 were clear.

As a panel of economists announced earlier this week, our economy had officially entered a recession in March.

Neither does our current situation have to do with congressional spending.

We have not spent a dollar more than what the President and the Congress agreed to, either in the course of the normal appropriations process, or in response to the events of September 11—not a dollar.

Although we have taken a great deal of action in the aftermath of these attacks—supporting the President's use of force in Afghanistan, keeping the airlines solvent, giving law enforcement additional tools to combat terrorism, and strengthening airport security—to date, we have actually spent less than $40 billion. So why are we now facing deficits when just months ago we were looking at years of surpluses?

Regrettably, what we feared then is what we are faced with now. The economic plan that was passed ate up nearly two-thirds of what was an optimistic prediction of our 10-year surplus. It left no room for an economic slowdown, or an unanticipated emergency.

As Robert Reischauer, the former Director of the nonpartisan Congressional Budget Office said:

> Had we not had the tax cut, it's likely that we would have skated along with close to a balanced budget, despite the costs of the war and the effort to contain terrorism.

Even more ominously, the administration warned that decisions about taxes and spending in the next year ''will determine whether we ever see another surplus.''

Despite the fact that some of us did not approve of the plan that got us here, all of us should now work together to make sure that we pass an economic recovery plan that helps—rather than exacerbates—the problem.

As we consider a package to stimulate the economy, we need to be extremely careful to pursue a policy that is temporary, truly stimulative, and—now more than ever—fiscally responsible.

As I look at the Republican proposals, I am disappointed to see that they are based on tax cuts that fail these simple yet essential tests, and they do little or nothing for the dislocated workers who most need our help.

In the weeks since September 11, Democrats and Republicans have been able to work together in a way that I haven't seen in all my time in Washington.

Our ability to speak together and work together is one of the reasons, I believe, we have been able do so much, so quickly, in response to the attacks and the continuing terrorist threat. The fiscal outlook we are now facing is as serious as anything we have faced to date.

We need to renew that same spirit, if we are to address this problem as well.

Right now, we have an opportunity to help those who are hurting, and lift our economy in the process.

It is an opportunity we cannot afford to lose.

I appreciate the opportunity to come to the floor because I do fear with these economic projections—we have said on several occasions we knew the real possibility existed—that we will revert right back to the bad old days of deficits and huge new debt. I never dreamed it would be this soon. I never dreamed we would be talking in the third quarter—now the fourth quarter of this calendar year and the first quarter of the new fiscal year—that we would have deficits well into the third year beyond this year.

That ought to be as strong an indication as we ever need that what we did last spring was a mistake; that what we did in economic policy with the passage of that tax cut was a disaster, not only for our economy but for our ability now to respond to the array of challenges we face in the aftermath of the crisis of September 11.

How sad it is that the legacy of the last 8 years did not last longer than a few months. I am very hopeful we will take to heart the admonition of the Budget Committee chairman who has asked every Member of our Senate body to look very carefully at the report made by the OMB Director, to look at it with the recognition that, as we face these other additional challenges, whether it is the economic stimulus plan or the array of other challenges we face as we meet the needs of our current situation in fighting terrorism, that we do so prudently and with the recognition that a major mistake was made last spring.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I ask the Chair, are we under an earlier agreement for a time limit?

The PRESIDING OFFICER. The Senator is correct. Senator CARNAHAN will have 10 minutes, but there is not a particular sequence.

Mr. DAYTON. Mr. President, I ask unanimous consent that at the conclusion of Senator CARNAHAN's remarks I be granted 10 minutes in morning business, and following the conclusion of my remarks Senator REED be granted 10 minutes, and that the time be charged against postcloture.

The PRESIDING OFFICER. Under the previous order, we are to recess at 1 o'clock. Is the Senator asking to extend that time?

Mr. DAYTON. No. I am not asking to extend the time. Maybe the Chair could clarify exactly what we are in.

The PRESIDING OFFICER. We have 16 minutes remaining before the recess time. Under the previous order, the Senator from Missouri is recognized for 10 minutes. That leaves 6 minutes remaining.

Mr. DAYTON. Mr. President, I ask unanimous consent that order be modified: That at the conclusion of Senator CARNAHAN's remarks, I be granted 10 minutes to speak as in morning business, after which Senator REED be granted 10 minutes to speak in morning business, the time be charged against postcloture, and the time for the recess be extended until the completion of Senator REED's remarks.

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

The Senator from Missouri.

Mrs. CARNAHAN. Mr. President, I am very encouraged to hear that the leadership has begun negotiations regarding the stimulus package.

Congress has been paralyzed on this issue for weeks now. And while we sat here at an impasse, economists confirmed that our Nation is in a recession.

We must act quickly to jump start our slowing economy. It is well past time for us to find common ground.

As we seek compromise, I encourage my colleagues to keep in mind the goal of a stimulus package.

In order to truly promote economic growth, the policies we approve should take effect immediately, they should have a temporary cost, and they should focus on those individuals and businesses most likely to spend and invest additional cash.

These are the bipartisan principles that we started with. These principles ought to guide our negotiations now.

A wide range of proposals will be on the table for this negotiation.

The Republicans have a plan, and the Democrats have a plan. The Centrist Coalition has its own proposal.

From among all these ideas, we must put together a balanced, reasonable package.

In the end, the stimulus package needs to promote business investment, spur consumer demand, and assist those Americans who have lost their livelihoods during this recession.

Shortly before Thanksgiving, Senator DOMENICI, with the support of my colleague from Missouri, Senator BOND, added a new and interesting idea to the debate. They suggested that Congress should provide a payroll tax holiday for the month of December. This idea has some merit. It would distribute benefits across a broad range of taxpayers, including most individuals who earn less than $80,000 a year. And it would provide needed cash to businesses based on the size of their payrolls.

However, the question remains:

How does this new idea fit into the overall stimulus debate?

It has been suggested that a payroll tax holiday could substitute for proposed rebate checks to low-income workers.

I have serious reservations about such a tradeoff.

Rebate checks of $300 would go to low-income workers who have not yet received any tax refund this year.

Let me give you an example.

A single mother working full time at a minimum wage job would probably be eligible for a $500 rebate check. This money could help her put food on the table, or cover the rent, or keep her old car going a few months more.

However, under the Social Security tax holiday, she would receive about $50 worth of tax relief—not enough to make a real difference.

That is not a fair trade.

I am sure that the single mother who is struggling to make ends meet would not consider that a good deal.

This is not to say that the payroll tax holiday has no place in a stimulus package. Rather, I simply suggest that it is not an appropriate substitute for tax relief for our lowest income workers.

In spite of this observation, I think that the payroll holiday may have a place in the stimulus package. The payroll tax holiday has the benefit of providing assistance to both workers and businesses. It is therefore appropriate that it be included in place of other individual and business tax cuts under consideration.

I propose that the payroll tax holiday is appropriate in lieu of two proposals in the House bill: The acceleration of the 28 percent tax rate cut, and the repeal of the corporate alternative minimum tax, or AMT.

Let us first look at the impact of my suggestion for individuals.

Under current law, the 28 percent tax bracket is scheduled to be reduced to 25 percent by 2006. It has been proposed that it would be stimulative to implement this cut next year. This tax cut would benefit married couples filing jointly with income over $45,000, and individuals who earn more than $27,000. This is approximately one-quarter of all income tax payers.

On the other hand, a payroll tax holiday will help almost all taxpayers.

Americans are subject to payroll taxes on the first $80,400 of income per year.

In other words, every worker who has earned less than about $80,000 by the end of November would get a tax break. And very importantly, the payroll tax break is immediate and temporary.

If we accelerate the rate cuts next year, it will still cost us money in 2003, in 2004, and in 2005.

In all, over the next 10 years the accelerated tax cuts could cost $78 billion. But only the money put into workers' hands now can stimulate the economy. The payroll tax holiday would inject more money into the economy now. It would cost less in the long run than accelerating rate cuts. And it would benefit a much greater number of workers. In short, the payroll tax holiday meets our basic principles for stimulus and accelerating rate cuts simply does not.

Now I will discuss the impact of my suggestion for corporations. The House-passed stimulus bill and the proposal made by Senator GRASSLEY would repeal the corporate alternative minimum tax. Elimination of this tax would cost approximately $25 billion next year.

Let's be clear. This is a tax paid by profitable corporations that would otherwise pay no tax at all. By contrast, a payroll tax holiday would benefit all corporations.

Under current law, corporations pay a Social Security payroll tax equal to 6.2 percent of each employee's income up to $80,400 per year. With a payroll tax holiday for the month of December, these businesses would save $19 billion.

This is additional cash infused into virtually all businesses. It would help our small businesses, the true engine of our economy. The size of the tax benefit is linked directly to the wages the company is paying to its employees. This tax cut would make it easier for businesses to keep workers on their payrolls, and that is the whole goal of this stimulus package, to keep America working.

Congress ought to act quickly to reinvigorate this country. In order to do so, we must be willing to compromise. While I may not think that a payroll tax holiday is the perfect way to stimulate our economy, I understand compromise, and I am willing to support Senator DOMENICI's proposal, if it is offered in place of these other tax cuts that are unpalatable to me.

This is a compromise that makes sense to me. It makes sense to that single mother who is trying to make ends meet. It makes sense to most businesses which would not benefit from a repeal of the corporate AMT. And it makes basic sense, based on the principles that were laid out by the House and Senate Budget Committees at the beginning of this year, that the effects of the stimulus be temporary, immediate, and focused on those most likely to spend the investment.

I hope my colleagues will join me in support of this sensible compromise.

Thank you, Mr. President.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, during the last few weeks we have all heard about and discussed many ideas and proposals for inclusion in the economic stimulus legislation. In fact, one of our difficulties is we have so many meritorious proposals that we could not possibly fit them all in, even if we could all agree on them.

One proposal of which I have heard recently, and one I believe may have merit, deals with tax provisions which apply to many families and small businesses throughout the country. Many were taxed for years under subchapter C of the Internal Revenue Code. In recent years, with the liberalization of the rules under subchapter S of the code, many of these businesses have elected a sub S status, which means, in general, all corporate income is taxed at the shareholder level, not to the corporation as a separate legal entity.

One exception to this rule applies to built-in gains which are taxed at the corporate level in full and at the shareholder level in full for 10 years after a C corporation converts to an S corporation.

The original and primary purpose of this tax on built-in gains was to prevent C corporation shareholders from converting to subcorporation status and thereafter immediately being able to liquidate or mix corporate distributions with only the single level of taxation applicable to an S corporation as opposed to the double layer taxation applicable to a C corporation.

Unfortunately, however, this proper purpose also prevents the shareholders of an S corporation from selling corporate assets without incurring a double tax even if the proceeds are not distributed to shareholders but instead are reinvested in the business to help create new jobs and stimulate the U.S. economy.

This tax burden makes it difficult, if not impossible, for many families and small businesses that have elected S status to access the capital of the business to help stimulate our economy.

This proposal would provide for the elimination of the built-in gain tax where the entire proceeds of the sale are reinvested in the business. In other words, it would permit the business owners to do what we should want any good business to do as much and as often as possible: expand the business and create new jobs. That should be the foundation of our economic stimulus legislation. It will also be the foundation of our national economic recovery.

All of us know that small businesses provide most of the jobs in America.

Their abilities to do so have been longstanding concerns of Republican and Democratic Members of this Senate body for many years.

When I worked as a legislative assistant in 1975 and 1976 for one of Minnesota's greatest Senators, Walter Mondale, one of my areas of responsibility was to staff him on the Senate Small Business Committee. The committee operated then, as I understand it does now, largely in the spirit of bipartisan cooperation to help encourage and assist in the creation and growth of as many American businesses as possible.

This proposal presents us with an important opportunity to take another step in that direction.

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

The PRESIDING OFFICER. The Senator has 6 minutes 39 seconds remaining.

Mr. DAYTON. I thank the Chair.

Mr. President, I also wish to express my strongest possible support of the Railroad Retirement and Survivors' Improvement Act of 2001. I would like to thank Senator BAUCUS and Senator HATCH for offering this important legislation.

My office has received hundreds of calls and letters from current and retired railroad employees. From St. Paul to St. Cloud, from Brainerd to Duluth—from everywhere in Minnesota—railroad retirees and current railroad employees understand the critical need to pass this legislation now.

My very good friend Tom Dwyer, originally from Hibbing, MN, has been working on railroad retirement issues since 1973. He also was a clerk for different railroad companies for 35 years until he retired in 1997. Tom is now the legislative director for the National Association of Retired and Veteran Railway Employees.

Advocating for retired railroad workers, widows, and widowers is Tom's life work. He reminds me that this debate is not over Government money. This bill is about the pensions that workers have paid into this fund. It is their money.

Throughout our country, there are 673,000 railroad retirees and families and about 245,000 active rail workers. Minnesota's Eighth Congressional District, up in the northeastern part of our State, ranks 10th in the Nation in the number of retired and active railroad employees. Throughout our State there are over 18,000 retirees and their families depending on railroad retirement benefits.

In addition, over 5,500 Minnesotans are presently working for the railroads. They will eventually need pensions for their retirement.

All of these fine men and women have worked hard, and they all deserve the best possible retirement program. They know better than we what kind of retirement program is best for them. They paid in the money, out of their paychecks, for all their working years, and all they are asking us to do now, by passing this legislation, is to return to them their money in a way that is best for them.

What could be controversial about that? Which one of us, if we were in their shoes, would not want the same and think we deserve it. They are right. And they do deserve it.

This bipartisan legislation presents a historic opportunity for our Nation's railroad retirement system. Senator BAUCUS and Senator HATCH deserve tremendous credit, and they have my gratitude, for bringing together railroad companies, labor organizations, and retirees to work together to modernize this system. The result of all that hard work is this legislation, which provides better and more secure benefits, and which does so at a lower cost. What could be better than that?

I say, let's vote on this bill today and pass it.

I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized.

Mr. REED. Thank you, Mr. President. I ask unanimous consent that, at the conclusion of my remarks, Senator GREGG be recognized for 10 minutes, and upon the conclusion of his remarks, the Senate stand in recess under the previous order.

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

Mr. REED. Mr. President, I am privileged to serve as the vice chairman of the Joint Economic Committee. The Democratic staff of the Joint Economic Committee issued a very pressing report about America's economy. I would like to read from the first paragraph of the Executive Summary.

> New reports from the Bush Administration's Office of Management and Budget and the Congressional Budget Office confirm that the combination of the large tax cut and the worsened economic situation have essentially eliminated any expected on-budget surplus for the next five years. Indeed, there is a growing possibility that the government's fiscal position could be even worse, with no surplus at all by the end of the decade and with a national debt that might be even higher in ten years than it is now.

What is particularly prescient about this report is the fact that it was not issued this morning, hours after Mr. Daniels of OMB declared that the fiscal policies of this administration have locked this Government into deficits for the next several years. This report was issued on September 7, 2001.

It is also interesting to note that this report suggests very strongly, prior to the attack on America on September 11, that the fiscal policies of this administration had headed us down a road to deficit after deficit after deficit.

The attack on September 11 was a dreadful assault on this country, but it is not the cause of the current deficit we are staring at over the next several years. It may have accelerated the timing, but the fundamental core was the irresponsible tax policies of this administration.

If we look across several years, we see a situation where our colleagues on the other side resisted, in 1993, President Clinton's plan, which mercifully passed by a very narrow margin, which set the fiscal context, together with monetary policy, for the largest expansion of our economy perhaps in our history. Yet when this party came to power, not only in the Senate and the House but in 2001 in the Presidency, it took them a scant 9 to 10 months to reverse years of economic progress and prosperity and cast us back again into deficit after deficit after deficit.

The consequences are severe. We are approaching critical choices about Social Security and Medicare. Just a year ago, we had surpluses which we could use to make these difficult choices. Those surpluses are gone. But the demographic timebomb of the baby boomers is not gone. It will be here. It is virtually on our doorstep. So we now have to respond to these issues bereft of a surplus that was hard-earned over years of effort during the 1990s.

There is something else, obviously, that is one of the direct consequences of September 11. We are at war. This is a war that will demand increased expenditures which we cannot decline to make, not just in the military operations, which are expensive inherently, but if we are not to repeat the mistakes that were made previously in the area of Southwest Asia. We have to maintain a presence there. We have to be one of the international participants to help in the reconstruction of Afghanistan. We have to take steps across the globe to eliminate other terrorist threats, sometimes more sinister than the dreadful events we saw in New York.

We have to recognize there are loose nuclear materials around the world, particularly in Russia, loose biological agents around the world. All of these things will cost money. And the war on terror will not end simply with the defeat of al-Qaida. It will be a constant ongoing battle, perhaps akin to the Cold War—increased expenditures now, because of this tax cut policy, without the benefit of a surplus.

There is something else we must recognize. We are looking at short-run economic consequences of this tax policy. But what is going to happen in the next several months and days and years ahead is that the administration's response will be OK, we can't shun funding defense. We will have to cut back in every other area of effort.

The key to our long-run economic prosperity is the productivity of America. That productivity is not simply machines and tools and computers. It is human capital. It is healthy, educated Americans who can use these tools, who can invent new tools, who can continue this growth. When we cut education and when we refuse to fund special education and when we go ahead and cut back on health care and we do all these things, we are harming our long-run productivity.

That is the dilemma we are in today. It is a dilemma that was entirely avoidable by a more responsible fiscal policy of this administration.

There is no surprise about Mr. Daniels' announcement yesterday. Perhaps the only shock, if you will, was the timing. It was inevitable after we passed this tax cut. Now as we go forward, we are seeing the consequences. Those consequences will be very difficult to bear. What is worse than that, our colleagues are compounding this terrible situation by advancing the same policies in the guise of a stimulus package: Accelerating marginal tax cuts further and proposing corporate AMT that is retroactive. That is not going to get this economy moving. That will simply make the hole we are in much, much deeper and the climb out much steeper and longer and harder, particularly for working Americans.

Again, there should be no surprise about Mr. Daniels' announcement, but there should be surprise, shock, and perhaps even anger, that having brought us down this path, they refuse to see the error of their ways. They refuse to recognize that, yes, we do need a stimulus package but one that would truly stimulate the economy by getting consumers back in the marketplace, by ensuring that middle- and low-income working Americans get access to additional dollars that they will spend quite quickly. We must in fact protect ourselves through increased expenditures on homeland defense.

I hope yesterday's announcement represents not just waking up to the reality of their policies but changing the policies, that in working collectively with the leaders in the House and in the Senate to script and craft a fiscal package that will move America forward, we will begin our slow climb out of this deficit situation. But there should be no confusion about the fundamental cause of our current economic situation—a precipitous collapse from surpluses to deficits. It was an unwise, irresponsible tax plan promoted and proposed by the President and regrettably accepted by this Congress.

I hope the searing news that Mr. Daniels gave us yesterday will provide something more than heat, that will provide a little illumination to those who seek to lead this country.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire is recognized for 10 minutes.

## NOMINATIONS

Mr. GREGG. Mr. President, I come to the floor to talk about one of the problems we have had over the last few months, which is a failure of the majority party to address the issue of nominations sent up by the President. This failure has been most blatant, of course, in the area of judicial nominations where we now have well over 100 openings in the judiciary which have not been filled, which is an extraordinary number, especially when you put it in context of the prior administration. It is almost 100 percent larger than what the prior administration experienced under a Republican Senate.

There are also, independent of the judiciary nominations, a number of other nominations critical to the operation of the Government which are being held up by the majority party.

I rise to speak to one specifically. That is the nomination of Eugene Scalia to be the solicitor of the Department of Labor. Most people have never heard of the term or the individual solicitor of the Department of Labor. It is, however, a significant position within a significant department.

It is the fair arbiter of the laws within the Labor Department. It is the place at which the Government represents its cases, the individual who carries forward a great deal of the policy of the Government, as it has been set forth by the Congress and the Executive.

Why is Mr. Scalia not being brought to the floor? First off, you have to understand that it is not because the nomination hasn't been pending. The nomination has now been pending for 213 days. That is the longest period of time that any nomination has been pending around this body. Ironically, I think the reason it is not being brought forward is that it is tied to something that occurred 351 days ago, and that was the case of Gore v. Bush, or Bush v. Gore—the issue settled in the Supreme Court as to how the Florida law would be applied and the prior election, therefore, resolved. You see, Eugene Scalia, through family ties, appears to be tied to that case by the majority in the Senate.

There is a lot of frustration about that case on the other side of the aisle. Many of my colleagues, with great energy, believe it was decided the wrong way. Many have taken it personally, I suspect. Obviously, they have taken it personally because they are applying it personally in the case of Eugene Scalia, a relative to one of the decisionmakers in that process —of course, Justice Anthony Scalia—and who was one of the majority in the decision of Bush v. Gore. Well, Eugene Scalia is his son.

So we now have a scenario where the son has come up for a nomination to serve in the Government. I suppose you can argue, well, maybe he is not being approved because he was sent up quickly. I pointed out it was 313 days ago. You may argue he is not qualified. Actually, he is extraordinarily well qualified. He is one of the finest attorneys in the area of labor law in the country. In fact, five former Solicitors General of the Department of Labor have said he is unquestionably an extraordinarily qualified individual. To quote them, they say:

> We are unaware of any prior solicitor nominee with his combination of academic accomplishment, prolific writing on labor and employment matters, and many years of practice as a labor and employment lawyer.

That is five prior Solicitors of the Department. They have said this is a great nomination. It is not because he holds views that are antithetical or inappropriate to the position. In fact, he strongly is supported by some of the leading civil rights attorneys in this country; for example, William Coleman, who is one of the leading civil rights attorneys in our Nation's history, said that Eugene Scalia would be among the best lawyers who have ever held the important position—the position of Solicitor of the Department of Labor. He went on to say:

> Eugene Scalia is a bright, sophisticated lawyer whose writings are well within the mainstream of ideas.

So he is not being attacked because he doesn't have the ability. He has all the ability you could possibly want. In fact, it is great that we can attract people of his talent and capability to public service. No, Eugene Scalia—Scalia the younger—is being attacked because of Scalia the elder. You might say, well, maybe he came up too quickly. We pointed out that isn't right.

Maybe he doesn't qualify. That is not true either.

Maybe he holds outrageous opinions. Actually, during the hearing process, the only significant attack made on his writings was a disagreement over his position on ergonomics. Eugene Scalia committed the ''cardinal sin'' of opposing the ergonomics rule as put forward by OSHA, so he was aggressively attacked during the hearings—not personally but on that issue relative to policy.

Well, that is OK. You can disagree with him on that policy point, but you have to acknowledge that on that policy point he agreed with the majority of the Congress. The Congress found the regulation that was promulgated by OSHA to be too officious, bureaucratic, counterproductive, and we—the Senate and the House of Representatives—threw the regulation out.

In my experience in the Congress, that has only occurred once or twice. We as a Congress actually rejected the regulation of OSHA on the issue of ergonomics, confirming the arguments that the younger Mr. Scalia had made on that issue.

So it is pretty hard to come to the floor with a straight face and say this man should not be confirmed as Solicitor of the Department of Labor because he took a position on ergonomics, when that position was consistent with the position taken by the Congress earlier this year.

No, regrettably, the younger Scalia is being held hostage because of attitudes toward the elder Scalia. That isn't the way we should govern. We should not prejudice an individual because of their race, their ethnic background, their gender, and we certainly should not prejudice an individual because they happen to be the son of an

individual who some people do not agree with and who feel antipathy towards.

Eugene Scalia's nomination should be brought to the floor of this Senate. If people want to vote against him, that is their right. Then if he is defeated on the floor of the Senate, so be it. But let's not shuttle him off and hold him hostage to try to make a point to his father. That is not right and that is what is being done by the leadership of this Senate at this time.

Mr. President, I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3:30 p.m.

Thereupon, the Senate, at 1:17 p.m. recessed until 3:31 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

Mr. REID. 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. 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.

The assistant majority leader.

## MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate be in a period for morning business from now until 4:30 p.m., that the time be divided equally, and that at 4:30 the Senate go in recess subject to the call of the Chair.

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

Mr. REID. Mr. President, I ask unanimous consent that any time that is used be charged against the 30 hours under postcloture.

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

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent to be recognized for 15 minutes.

The PRESIDING OFFICER. The Senator is recognized.

## PROUD NEW YORKERS

Mr. SCHUMER. Mr. President, I thank all of my colleagues for their understanding for my State and my city of New York over the last 2 months. I particularly thank the majority leader, the Senator from South Dakota; the majority whip, the Senator from Nevada; the Senator from Montana, Mr. BAUCUS, chairman of the Finance Committee; and the chairman of the Appropriations Committee, Senator BYRD; as well as all of our Senate colleagues for being there for New York in its greatest hour of need.

I spoke with the mayor of New York this morning, and we were commenting to one another about what amazing fortitude New Yorkers have. The spirits are high. The desire grows to stay the course and rebuild our city and make it greater than ever before. The desire of New Yorkers to stay in New York, if one looks at the poll numbers, is higher than ever before. The number of people when asked if they expect to be living in New York 5 years from now increased since September 11.

We know all about the bravery of the firefighters and the police officers and the rescue workers, but maybe we do not know enough about the fortitude and the love of the city had by so many in New York City and the metropolitan area of New York have. They are brave people.

As New Yorkers, we come from all over the globe. New York takes us and shapes us and makes us into Americans, and we are proud of that. We now know more than ever that America is proud of that as well.

That is the good news. The good news is the fortitude, the strength, the courage, and the good grace of the people of New York. The bad news is that despite our confidence that our nightmare will soon end, we are in trouble. Two months after the attack, the economic damage to our city is becoming increasingly apparent and has been documented in publication after publication. The damage is enormous.

Let me give some statistics. Our streets are littered with 37 miles of high-voltage electricity lines that are but one prankster away from shutting off power to our Nation's financial center. Over 40 percent of the lower Manhattan subway infrastructure has been destroyed, adding hours to the daily commute of 375,000 people who work in New York City. All our major river crossings: The Brooklyn, Manhattan and Queensboro Bridges, the Lincoln and Holland Tunnels, have been and continue to be subject to nightmarish traffic jams because of security requirements.

Two weeks ago, they were all shut down again because of the crash of flight 587. Twenty-five million square feet of commercial office space was destroyed or heavily damaged. The amount destroyed—nearly 20 million square feet—surpasses the entire office space inventory of large, important cities, such as Miami and Atlanta. Over 125,000 jobs have at least temporarily vanished from the area and the city estimates that 30,000 of those jobs, at a minimum, are gone for good.

Noxious fumes continue to emanate from the hole at the World Trade Center, creating great concern among the workers and residents for their personal health. There is even a possibility that the Hudson River retaining wall, which is underground and stops the Hudson from washing in, will break and flood the area as the debris is removed.

Insurance companies are another problem—problems come from all sides—demanding 100 percent increases from companies doing business in New York simply because they are located in a confirmed terrorist target zone. Those offers are some of the better ones. There are many insurance companies offering no insurance at all.

Mayor Guiliani has had to cut $1 billion from the city budget just to prevent an immediate fiscal meltdown at a time when the need for city services is at an all-time high, and Mayor-elect Bloomberg will have to cut much more than that and begin thinking about it the day he enters office because the city is staring at a $3 billion deficit next year as a direct result of this crisis.

Governor Pataki has it even worse. The State's revenue loss is projected at $9 to $12 billion. The comptroller of the city of New York places the economic loss to the city and its businesses at $105 billion over the next couple of years.

We were so proud as our city grew and grew and grew and added over 800,000 people in the last decade. It was a record. But now we have had the first decline in the city gross product in over 9 years.

In short, we have taken a hit for the Nation. None of the problems I describe was of the making of New Yorkers. None of these problems was the result of a single thing New York did or didn't do. And so we find ourselves in extremely difficult times.

Now, with Chairman BYRD and Senator DASCHLE at the helm and broad support of Senate colleagues, I believe we will ultimately get the disaster aid needed to rebuild our damaged and destroyed infrastructure. That is coming through. Some Members would like it to come through more quickly, but it is coming. We don't have much of a dispute about that.

We thank everybody. Senator CLINTON and I are extremely grateful to all of our colleagues for the support they have shown New Yorkers.

What we are here to talk about today is the need for tax provisions for New York to deal with the kind of economic damage I have mentioned. As we all know, the FEMA dollars go to the Governor, as they have for disaster after disaster. They go to replace the subway lines and streets that were destroyed. They go to pay for the cleaning up of the refuse. They deal with the firefighters and the police officers and their overtime. But none of that will give one iota of help to keep the businesses in New York or get the jobs growing to where they were.

Senator CLINTON and I put together an economic stimulus package. We had great help from the Finance Committee, Chairman BAUCUS and members of the Finance Committee, and help from the staff, led by Russ Sullivan. We were extremely grateful when it was included in our stimulus package that we presented.

The reason I take the floor today, it appears there is a good chance we will

have a stimulus package. I remind my colleagues how much we need that part of the package that went for New York to remain in the package. The provisions in it are designed to counter the uncertainty and fear we believe may lead many companies to walk away from us. We believe if we do not do it now, it will be too late.

Company after company, the large ones, the small ones, are making their decisions over the next few months as to whether they stay in lower Manhattan and in New York City or whether they leave. Once they decide to leave, we can be as generous as we want, but come next spring it won't do any good. Their leases will have been signed, their decisions will have been made.

There is urgency to do this now. It is not related to the FEMA spending or even the extra help in some of the appropriations measures that we have asked of the Appropriations Committee. Senator BYRD has been extremely generous to Senator CLINTON and myself. We have been in constant conversation with him. But this relates to tax cuts. This relates to keeping the businesses in New York lest the financial center—not just of New York but of America—dissipates. That would be a real blow to our country—not just our city but our country—because so much of the capital to build the factories and the homes and so much of the capital to start new businesses comes from the financial center located in downtown New York. It is the greatest capital market in the world.

Whether you live in Manhattan, Brooklyn, Buffalo, Albany, or even if you live in Omaha, Seattle or Wilmington, you have a real interest in seeing that financial center remain as strong as it has been. It has helped create the unprecedented prosperity we have seen.

The need to act is now. The amount of money we are asking for in a huge budget is modest. We hear, as we talk about the stimulus package, of many other needs. We are aware of them and want to be helpful, too. Maybe I am a bit parochial, but I can't think of a better need than this one—a need for New York, a need for America.

Let me outline to my colleagues—and I know many are familiar with this—the three complimentary provisions included in the stimulus package. There is $4,800 for an employee tax credit to companies that retain jobs and to not abandon New York in the area immediately around ground zero.

There is the creation of special private activity bonds to lower the cost of redevelopment projects.

There is a provision that would permit companies that replace equipment destroyed in the World Trade Center bombing to take a special deduction if they replace that property in New York, minus the insurance costs they will get back. We all know an insurance company will give $500 for a 2-year-old computer and you have to replace the computer with $1,000 in costs; the difference would be deductible.

There is a one-time residential tax credit designed to encourage residents in Lower Manhattan to continue to live there. They are all afraid. Many visited Senator CLINTON and myself here yesterday. They are scared. They are worried. These are their homes. They don't know if they should stay. This will be an incentive for them to stay and overcome the fear and disruption that has been visited upon their lives.

And there will be permission for New York municipal bond issuers and hospitals to issue advance additional refunding to help enable them to refinance their debt service.

Not a single aspect of the provision is designed to take business from another part of the country. We want to just keep what we had, what bin Laden and al-Qaida tried to take away from us.

The provisions are designed very carefully. We worked closely with both the business and labor communities. They are designed very carefully to do just enough—not more, not overly generous but just enough—to keep the businesses in New York.

I am making a humble plea. There are many, many needs and many, many conflicts embodied in the stimulus package. We need your help. I have tried in my few years as Senator to be generous.

I have tried in my years here to respond when other areas of the country needed help. I did not do it thinking New York would. We do not have the kinds of natural disasters we are accustomed to seeing in many other parts of the country. But when I heard about and read about the earthquake in California, the hurricane in Florida, the floods in North Dakota and North Carolina, I knew they needed help. Now, unexpectedly but in a devastating way, we were hit by, not a natural disaster but one very real. We need your help.

I thank Chairman BAUCUS. These provisions for New York he championed, not because of politics but because it was the right thing. He has done the right thing. I believe the Nation, with his stimulus bill which will also extend unemployment and COBRA to hard-working Americans, is the right thing to do. I thank Senator DASCHLE who has stood with us through thick and thin. Among all my colleagues I have hardly heard a word of dissent. There was tremendous sympathy.

At our Thanksgiving table this year, we closed our eyes and had some moments of silence as we thought of the thousands and thousands of New York families who, that same day, were having their Thanksgiving dinners—their turkeys and stuffing and corn bread—but at whose tables there was an empty seat. Someone wasn't there who had been there for all the previous Thanksgivings. That person will never come back. Those families' hearts will remain broken for the rest of their lives.

We remember them. We think of them. But when we talk to the families who have survived, they tell us: Rebuild New York. Don't let those deaths be in vain. Don't let Mr. bin Laden and his evil band succeed in permanently hurting our country and our city. This is a mission. It is a mission to rebuild New York. It is a mission to rededicate ourselves, in the name of so many in the New York metropolitan area who lost their lives. We hope and we pray that all of you will join us in this effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

## RAILROAD RETIREMENT REFORM

Mr. NELSON of Nebraska. Mr. President, I rise today in support of the Railroad Retirement and Survivors' Improvement Act of 2001.

For years, our Nation's railroad workers have played a vital role in moving commerce and passengers around this country, and it is my belief and hope that America will benefit from their hard work for years to come.

This bill is designed to strengthen the Railroad Retirement System and ensure that these men and women who have helped build, run, and maintain our railroads, have adequate resources to care for themselves and their families when they finally complete their years of hard labor.

The current system, which has been around for over 65 years, currently serves more than 690,000 retirees and their family members, and more than 245,00 active employees.

Because the Railroad Retirement System, unlike other industry pension plans, is funded by payroll taxes on employees, it is easy to see why this program, that pays retirement benefits to almost three times as many people as there are paying for those benefits, is in desperate need of reform.

Most Americans are concerned about the future of Social Security for similar reasons—because the number of retirees in America will greatly increase in the coming years as baby boomers retire. Well, the problem for Railroad Retirement is here and now, and so is the right time for a commonsense solution.

Railroad Retirement has always been restricted to investing only in government securities, and while this may have been a good policy 65 years ago, it does not make sense in today's economy.

Because of this policy, the system's annual average investment return has been far lower than that of private multiemployer pension plans.

This bill would solve that problem by allowing Railroad Retirement to be operated more like a private pension plan, by establishing a private trust in which assets of the system can be invested in various ways, including private securities.

Moreover, the legislation would shift greater responsibility to the railroad

industry, and away from the government, to ensure adequate funding of the system.

Better financing means enhanced returns to provide for an improved benefit structure for Railroad Retirement beneficiaries.

These benefits would include a lowering of the incredibly high payroll taxes currently paid by railroad workers and employers; a lowering of the retirement age for those with 30 years of service to age 60; reducing the vesting period in the system from 10 years to 5; and improving the benefits paid to widows and widowers.

All of these improved benefits are desirable reforms, and they can be achieved without compromising the solvency of the system, which the Railroad Retirement Board's actuary has projected out to 75 years under this legislation.

Because this legislation is the right solution at the right time, it has received overwhelming bipartisan support in both Houses of Congress.

Last year, when the bill was first introduced, it was approved on the floor of the House by a vote of 391–25, and had the support of 80 Members in the Senate. However, after it was reported favorably by the Finance Committee, it never made it to the Senate floor.

After its reintroduction in the current Congress, the bill has again been approved by a landslide on the floor of the House, and now awaits action here in the Senate, where it has enjoyed the support of 74 cosponsors.

I urge your continued support of this legislation, and speedy passage of the reform that railroad workers and their families throughout this country so badly deserve.

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

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

The bill clerk proceeded to call the roll.

Mr. THOMAS. 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. THOMAS. Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

## THE SENATE AGENDA

Mr. THOMAS. Mr. President, we are hopefully working down to the end of this session. We have completed most of those things that we need to do. We need now to focus on those remaining items that I think are imperative for us to complete. Obviously, there are lots of things that could be done. The fact is, we have spent an extraordinary amount of money. We are going to exceed our budget with the budget activities and, of course, about $50 billion in addition to that. I agree that it should indeed be spent for those things. We are in an emergency situation with the terrorists. We are in an emergency situation with the economy.

The two things I believe we have to do are, No. 1, finish our appropriations. We are moving along. The House passed one of the most difficult bills yesterday. We will now undertake to do Defense appropriations. There are about four more with which we need to deal.

Then we need to finish a stimulus package. The President has called upon the Senate to pass a responsible economic stimulus bill.

It is difficult to identify what will have a short-term impact on the economy. Our economy is much lower than we would like. Indeed, as has been said, we are in a recession. But we need to do something that will have some impact.

The President has suggested a package that would extend unemployment benefits for 13 weeks for Americans who lost their jobs as a result of the terrorist attacks; making $11 billion available to low-income people to obtain health insurance in a manner such that the system would not become mandatory in the future; $3 billion in special energy emergency grants to help displaced workers. That has to do with health care coverage.

Then, of course, the other portion has to do with helping create jobs, which, after all, is really the result we would like. We would like to help people without jobs. Most importantly, we provide encouragement to companies and corporations by accelerating depreciation so they will invest in new material; partial expensing to encourage the purchasing of new equipment; and also have payments for low-income workers and get the money in their hands so we can see increased purchasing.

Those are things on which I hope we focus. I know we are talking about agriculture. We are talking about railroad retirement. They need to be completed. But there is a question of whether they need to be completed now with this emergency. We really need to evaluate the money. We have already made available $12 billion in new spending for many of the things we talked about. The President and the administration determine where it will go.

I am hopeful that we can focus in the relatively short time we have left. I am pleased that we seem to be making progress in terms of the economic stimulus. The bill that came out of the committee was not a bipartisan bill. We did not work on it from both sides. Now we have a House bill that is somewhat different. We have a Democratic bill that is somewhat different. The President's bill is somewhat different. Of course, we need to find a reasonable agreement among those groups to come up with something that works. I certainly encourage that we do that.

I yield the floor.

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

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to make my remarks while seated at my desk.

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

Mr. HELMS. I thank the Chair.

## THE NORTH SHORE ROAD MUST BE COMPLETED

Mr. HELMS. Mr. President, for some time I have felt inclined to discuss in the Senate a matter for the RECORD and of importance to the people living in the far western counties of North Carolina and in the beautiful mountains adjacent to the Tennessee border.

The matter involved is the federal government's finally fulfilling after a fashion a commitment made in 1943 in writing by the U.S. Government to the citizens of Swain County. The federal government proposed to build a road along the north shore of Fontana Lake which was created in World War II to provide power to the TVA. This written commitment was made to citizens who voluntarily gave up their homes to support the U.S.'s World War II defense efforts.

The federal government has not yet fulfilled its commitment, and that has caused a great deal of resentment and mistrust of the government among the citizens of Swain County and other surrounding counties on the North Carolina side of the Great Smoky Mountains National Park.

These citizens understandably believe that the federal government should now live up to its written commitment made during World War II because these people gave up their homes in order that Fontana Lake could be built so that power could be generated by TVA.

But, there has been a curious development. A small group of citizens in Swain County now proposes to ask that the federal government buy them out, thereby voiding that federal government commitment made in 1943. They presented the proposal that they be bought out to the Swain County Commissioners, and, praise the Lord, the commissioners rejected this suggestion.

So as a result of the $16 million appropriation in the fiscal year 2001 Department of Transportation and Related Agencies Appropriations Bill, this project has at long last begun to move. The National Park Service and the Federal Highway Administration have restarted this process to complete that road as promised, in writing, in 1943 to the citizens of Swain County and western North Carolina.

Mr. President, I have a letter in hand, along with the text of the resolution adopted by the Swain County Commissioners which expresses their thanks for the $16 million that provided for continued road construction and improvements that were included in the fiscal year 2001 Transportation and Related Agencies Appropriations Bill.

The commissioners of Swain County want that road completed. The people of Swain County want that road completed.

Mr. President, I ask unanimous consent that the aforementioned letter and resolution be printed in the RECORD, following which I shall resume my remarks.

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

NOVEMBER 9, 2001.

JESSE HELMS,
*Dirksen Senate Building,*
*Washington, DC.*

SENATOR JESSE HELMS: I again take this opportunity to thank you for the continued support you have showed for projects in Swain County.

Attached is a statement, which you should have received earlier, thanking you for the work you have done on behalf of Swain County and the North Shore Road.

Sincerely Yours,

JIM DOUTHIT,
*Chairman, Swain County Commissioners.*

---

SWAIN COUNTY BOARD OF COMMISSIONERS

STATEMENT REGARDING THE APPROPRIATION OF $16M FOR CONSTRUCTION OF AND IMPROVEMENTS TO THE NORTH SHORE ROAD

The Swain County Board of Commissioners would like to thank Senator Jesse Helms, Congressman Charles Taylor, and President Bill Clinton for making available from the Highway Trust Fund for Swain County 16 million dollars for construction of and improvements to the North Shore Road in Swain County North Carolina.

With the completion of this road, the federal government will have fulfilled their contract with Swain County known as the 1943 Agreement, then trust can be restored between Swain County and the federal government. We feel this appropriation will go a long way in helping Swain County.

Mr. HELMS. Mr. President, roads in national parks are vital pieces of economic infrastructure that fuel the engines of economic growth. In fact, the National Park Service itself recognizes as much on its Web site. Let me quote: ''Recreation travel accounts for 20 percent of travel in the United States. Park roads are a vital part of America's transportation network, providing economic opportunity and growth in rural regions of the country. In addition to the park access, motor tourism has created viable gateway communities en route. In some areas entire economies are based on park road access. Examples include communities near Yellowstone, Glacier, and Great Smoky Mountains National Parks, and the Blue Ridge Parkway.''

Why on Earth, then, are these economic benefits denied to the people living in the counties on the North Carolina side of the Great Smoky Mountains National Park? I will tell you why. The Department of the Interior and the National Park Service have been held hostage by self-proclaimed environmentalists and their sympathizers in the Interior Department who are horrified, obviously, by their pretended apprehension that environmental Armageddon will somehow result from the construction of a simple ''two-lane dustless road,'' as specifically called for in the 1943 agreement, signed by the Federal Government.

Mind you, this would be a Blue Ridge Parkway-type road allowing for greater access on the North Carolina side of the park just as long ago occurred on the State of Tennessee side a few miles west.

Additionally, according to the National Park Service statistics, there are 5,000 miles of paved roads and 3,000 miles of unpaved roads in the National Park System of this country. My question is, can anybody seriously suggest that 30 more miles will cause an environmental Armageddon? The thought is laughable. Of course not. But that is the ringing cry of these professional environmentalists.

In fact, the Federal Government began building the road back in 1963, and did build 2½ miles of it. In 1965, they built another 2.1 miles. Then in 1969, they built an additional mile, plus a 1,200-foot-long tunnel.

That was when, Mr. President, the self-appointed environmentalists created an uproar and forbade the Federal Government from going further, which has caused, by the way, economic problems for the four North Carolina counties surrounding the park that I am talking about.

Road engineering has improved enormously since that most recent section was built in 1969. Many more improved methods are now available to address the concerns thrown up by these self-appointed environmental opponents of progress.

Let me make it clear, I have no problem with our Tennessee neighbors who are ably represented by Senators FRIST and THOMPSON, but I am obliged, as a Senator from North Carolina, to emphasize some meaningful and relevant statistics of the National Park Service.

In the 2000 report, which has the most recent statistics available, the Park Service stated that 4,477,357 visitors came to the North Carolina side of the park, while 5,698,455 visitors came to the Tennessee side of the park. Of course, for anybody who wants to figure it out, it is a difference of 1,221,098 visitors.

Additionally, according to the latest available retail sales per capita figures from the U.S. Census Bureau, the four Tennessee counties surrounding the park have averaged $9,431.25, but the average for the four North Carolina counties that need that road for more tourists to come there have averaged $7,964.00, a difference of $1,467.25, if you want to get down to the penny.

The North Carolina State average is $9,740.00 per capita, and the Tennessee State average is $9,448.00 per capita. The four Tennessee counties surrounding the park averaged just $16.75 under the Tennessee State average. The four North Carolina counties, on the other hand—the four counties of which we are talking about in terms of building this road along the north shore of Fontana Lake—come in $1,776.00 under the North Carolina average.

Now then, these figures are among countless indications of the inequities between the North Carolina side and the Tennessee side of the Great Smoky Mountains National Park.

Let me assure the Administration of this: I have met with the distinguished Director of the National Park Service, Fran Mianella and she is a very pleasant lady—to let her know that this is a significant issue with citizens of western North Carolina who have been neglected.

I am hopeful she and Secretary Norton will give this matter their highest priorities and will continue to move this project well away from those who have for too long been holding it hostage.

I will continue my opposition to a Federal buyout of the Federal Government's commitment in 1943 to the citizens of Swain County and western North Carolina. I commend the commissioners of Swain County for standing flatfooted against it as well.

Mr. President, I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for 5 minutes.

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

## GINA'S LAW

Mr. DORGAN. Mr. President, I have today written a letter to the Attorney General and to the head of the Office of Management and Budget expressing my great concern over regulations that should now have been in place as a result of a law that was signed by the President last December. That law would have required regulations to be published by the Justice Department in July. No such regulations have been published.

Here is the background of this issue. I, along with my colleague, then-Senator John Ashcroft, authored legislation that became law, when signed by the President, dealing with the transportation of violent criminals around this country. Private companies have been contracted by State and local governments to transport prisoners around America from one prison and one location to another.

These private companies were transporting violent criminals, and all too often those criminals were walking away. We decided the companies that were hauling violent offenders were not adhering to standards or regulations and there should be some regulations. The President signed a bill, authored by myself and then-Senator Ashcroft,

establishing regulations with respect to private companies that are transporting violent prisoners.

The law is called Gina's bill. It is named for an 11-year-old girl in Fargo, ND, who was murdered brutally by a man named Kyle Bell. Kyle Bell was being sent to a prison in Oregon after being convicted of first-degree murder, being transported by a private company in a bus. They stopped for gas. One guard was asleep; the other apparently went in to get a cheeseburger. The other guard was filling the bus with gasoline. Kyle Bell slipped out the top vent of the bus, walked in street clothes into a parking lot of a shopping center and was gone for 3 months. They found him. He is now in prison.

This has happened all too often: Violent offenders, including convicted murders, walking away from private companies that are transporting them. There should have been regulations in place in July of this year that establish how these private companies are transporting violent criminals. As for me, I don't believe any State or local government should ever contract with a private company to turn over a murderer to be transported somewhere. Law enforcement officials ought to transport convicted murderers.

As long as some State and local governments are using private companies for that transport, those private companies ought to be subject to regulation as is required by the law signed by the President in December, regulations such as what kind of restraints are used, what color clothing is required to be worn by the violent offender being transported, the training of the guards, and so forth.

Since July, when the regulation should have been in effect, in Wisconsin a private company was hauling a violent criminal and that violent criminal escaped and stabbed a law enforcement officer in the neck. Down South, a private company was transporting a violent offender. The violent offender escaped and went on a bank robbing spree.

When we passed the law, I told the story of a retired sheriff and his wife showing up at a prison to pick up five convicted murderers with a minivan. The warden said: You have to be kidding; you and your wife are here to pick up five convicted murderers to transport them?

He was not kidding. They put them in the minivan. Those five convicted murderers escaped, of course. That is why we wrote the law and why the President signed it. That is why in July the Justice Department had a responsibility to put the regulations in place. To date, nearly 5 months later, those regulations do not exist.

I have written to the Attorney General and the Office of Management and Budget to say lives are at stake. The public safety is at stake. Get this done and get it done now.

This law, called Gina's bill, named after this wonderful 11-year-old girl who was brutally murdered by Kyle Bell, is a law designed to keep violent offenders behind bars, keep them in the arms of law enforcement officials, and make certain if they are transported by those other than law enforcement officials, they are transported safely.

I don't want any American family to drive to a gas pump somewhere and have a minivan drive up next to them with a retired law enforcement officer and his brother-in-law calling themselves a transport company hauling three murderers in the back seat and not having the basic safety standards in place to make sure that transportation is safe. I don't want any family to come up to a gas station and have that situation next to them and put them at risk. That is why we wrote this bill. That is why the President signed it into law.

I hope my letter to the Attorney General and the Office of Management and Budget will stimulate them to do what they should have done in the month of July. I know there are reasons that bureaucracies act in a slow way and drag their feet from time to time. There is no good reason for this to have happened. I ask the Attorney General for his cooperation. I ask the head of the Office of Management and Budget to cooperate. Get this done. The Congress required you to do it after 180 days. That was July. This is December. It should have been done 5 months ago.

I yield the floor and 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. DASCHLE. 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. DASCHLE. Mr. President, I ask unanimous consent that the recess be postponed for 10 minutes, and that the Senate stand in recess following my remarks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## ELECTION REFORM

Mr. DASCHLE. Mr. President, I wanted to come to the floor for a moment because I feel the need to talk about a lot of unfinished business, as we consider what remains for the balance of the time we have here. We will be going into our caucus shortly.

This morning, prior to the opening of our session, I held my daily news conference and made mention of the fact that among those issues that are of greatest importance to us is the issue of election reform. I don't know of another bill that is pending in this Congress that has the unanimous support of our caucus. It is rare that one ever sees all of the members of our Caucus—51 in this case—as cosponsors of a bill. But election reform has that distinction. All 51 of our caucus members have endorsed the bill introduced by Senator DODD earlier this year.

The reason that they have endorsed that bill unanimously is because of the extraordinary degree of concern that exists within our caucus about the need for election reform as quickly as possible. Because of the tragedy of September 11, and the crisis of being at war, we haven't had the opportunity to focus on the many, many problems associated with the last presidential election—not just in Florida, but across the country.

The studies and the reports that have been issued have made the problems quite clear: outdated and unreliable technology, confusing ballots, language barriers, lack of voter education, lack of poll worker training, and inaccurate voting lists that prevented legitimately registered voters from casting ballots. All of those concerns were of such gravity and magnitude that 6 million voters across the country were disenfranchised.

So it probably should not surprise anybody that almost immediately following the beginning of this session of Congress, Senator DODD went to work as chairman of the Rules Committee. He worked with Members on both sides of the aisle in both the House and the Senate to try to respond to the growing awareness of how serious the situation really is: how problematic, how incredibly unfair, how undemocratic were the results reflected in the degree of difficulty with our election processes—while we should proclaim our democracy with each and every election. So as a result of just a tremendous amount of work, Senator DODD and members of the Rules Committee produced a bill that, as I said, generated 51 cosponsors.

I simply wanted to come to the floor this afternoon to say this: If between now and the end of this session, Senator DODD is able to reach an agreement with our Republican colleagues on a bill that we can bring to the floor to address all of these issues, these serious concerns, it is my intention to bring it to the floor. If somehow that is not possible and the negotiations continue, and we are able to reach an agreement prior to the next session of Congress, one of the very first pieces of legislation I expect to bring up will be election reform. If at any time during the coming year that agreement can be reached, my intention will be to bring the agreement to the Senate floor very quickly. But I will say this: Even absent an agreement, we will come to the floor and we will have a debate about election reform. We will make a comprehensive proposal to deal with this issue. We have no choice. It will be part of the agenda of the second session of the 107th Congress.

I simply wanted to come to the floor to emphasize that and relate my concern, and the concern of a lot of members of our caucus, about the importance of this issue, and reiterate our

determination to deal with it in this Congress. We cannot simply sit idly by and watch 6 million people—maybe more next time—as they are disenfranchised when they attempt to exercise their constitutional right to vote and participate in our political process.

I appreciate the attention of my colleagues on this issue, and I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, first of all, I appreciate the comments of the distinguished majority leader on this issue. From the very beginning, he has been a very strong and vocal advocate of this body and the Congress of the United States in fashioning a piece of legislation that would address not just the events of last year. As the majority leader properly points out, this was not a one-time event in one jurisdiction. In the consistent reports, whether by MIT, CalTech, or the General Accounting Office, and surveys done by the media, that analyzed the election last year in Florida, all of these organizations that analyzed it, including the Carter Commission, the story has ultimately been about who wins or loses. That has been the headline.

The real story is about the pathetic and tragic situation of our electoral system of this country. It didn't happen in one event and in one State. It is in all 50 States—some worse than others—and has been going on for years.

So those of us who have been involved in this issue over the last several months, my colleague from New York, Senator SCHUMER, my colleague from New Jersey, Senator TORRICELLI, members of the Rules Committee, have been stalwarts in this effort going back to the earliest days in January, cosponsoring legislation, reaching out, trying to fashion some proposals that would make the Federal Government a true partner with our States and localities in trying to correct a wrong that is in desperate need of being addressed.

Senator MCCONNELL of Kentucky is the ranking member of the Rules Committee, as the majority leader knows. He has a deep interest in this subject matter. I want the majority leader to know that Senator MCCONNELL and his staff—Senator KIT BOND of Missouri and his staff—brings a separate set of issues that he is particularly worried about, the issue of fraud. We have been working with Senator SCHUMER's staff, our staff. There have been serious negotiations, I say to the leader, over the last number of weeks, actually going back even further than that, but most intensely in the last few weeks. We have not yet arrived at a product we can present to this body that is a bipartisan proposal.

I will let Senator SCHUMER speak for himself, but it is my fervent desire, I say to the leader and to my friends on the other side—Senator MCCONNELL and Senator BOND, obviously, they do not need me to speak for them, but I know it is their desire as well to fashion legislation of which all of us can be proud.

I know the events of September 11 have obviously taken over the agenda and debate. It is hard to imagine a year ago what we were in the middle of. We were in the middle of one of the worst debacles in terms of a national election in the history of the United States, and it was not just about Florida. It was in almost every jurisdiction. In my State alone, we have not bought a new voting machine in 26 years, and the company that made them no longer exists. We had an election in one of my communities in Connecticut a few weeks ago where the incumbent officeholder did not receive a single vote in his own hometown because the machines did not record them, which shows us we can go anywhere we want and we will find this system is in need of work.

I say to the leader I appreciate immensely his comments. We are pretty close to getting an agreement. I hope we can. I also take to heart what he has said, that we have been patient in trying to work this out. My hope is we can come to the Senate with a bill that involves ideas and thoughts that we can all live with that will address the problems. I also appreciate his comments that if that is not possible we will come to the Senate with a bill to debate this issue and bring people to the table. We cannot go on and not address this issue.

The majority leader has said it far more eloquently than I can. It would be a travesty of significant proportions if this Congress were to convene and adjourn in the wake of what happened in the election of 2000 in this country and not step up to the plate and offer the kind of assistance our jurisdictions so desperately need. For those reasons, I thank the leader for his comments, and I yield to my colleague from New York.

Mr. DASCHLE. Mr. President, we are out of time under the unanimous consent agreement. I ask unanimous consent that we not enter into recess until we have accommodated the remarks of the Senator from New York and the Senator from Idaho.

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

Mr. SCHUMER. Mr. President, I will be very brief because I know we have other business to do. I thank the majority leader, who I know has to get over to the Democratic caucus, for his wonderful leadership on so many issues. This is a man who believes strongly in so many things, including the right to vote. I say to the majority leader, Senator DODD has done a superb job. He has had the patience of Job and the persistence of whatever Biblical character was very persistent.

We are all proud of the job he has done. His leadership in bringing up this issue as soon as we can come up with a compromise, or next year if, God forbid, we cannot, is vital to America.

I wish to add one point, aside from my thanks to the Senator from Connecticut, our chairman of the Rules Committee, for doing such a great job on this. I have been proud to be working with him. My point is this: He made an excellent point, that we almost have forgotten about, the wrenching agony we all went through, whatever party, a year ago last November. There is one point that, if anything, September 11 should increase our ardor and our fervor to bring forward a good bill, hopefully a bipartisan bill. The terrorists hate our right to vote. They want a group of religious leaders controlling everything and not letting people make any determination.

The beauty of America is we can vote, and our job as Senators, our job as citizens, is to perfect that right so nothing stands in the way. Unfortunately, too much stands in the way. Usually not by design but, rather, because we have not paid attention. Malfeasance, we are going to correct that.

The Senator from Connecticut has taken on a great leadership role and brought together Senator MCCONNELL and Senator BOND and myself in hours and hours of painstaking meetings. We talked today. We are willing to move in the direction necessary to get a bill. It is heartening to know we will be voting and debating on this issue in this Congress, if not this year, no matter what happens. I just pledge myself to the Senator from Connecticut to follow his leadership to continue those efforts because the issue of the right to vote, the ability to vote, the enfranchisement of all Americans, no matter how rich, poor, or of whatever race, there is no higher duty.

Mr. DODD. Mr. President, I thank our colleague for his remarks. I note again our staffs are working. I want these remarks to be seen as constructive and positive. We appreciate immensely the work being conducted by my friend from Kentucky and my friend from Missouri and their staffs who have spent a lot of time on this issue. It has not gone smoothly. It has had its ups and downs. It has been a roller coaster ride. I hope when the process is over, sooner rather than later, we will present the Senate a bill for which they can be proud.

The PRESIDING OFFICER. The Senator from Idaho.

## CHRISTMAS EVE IN THE SENATE

Mr. CRAIG. Senator BOND and Senator MCCONNELL are not in the Chamber. I know their work with the Senator from Connecticut is dedicated to the end we all want to see in reform because there is an obsolescence to the voting system that has to be addressed. I think that is without question. I guess my only frustration by the majority leader's comments was earlier this week he talked about bringing a farm bill to the Senate. We now have a railroad retirement bill. We still have appropriations to do, and several conference reports coming out of that, and we hope yet a stimulus package now

that we know America truly is in a recession. We have known that for some time, but it is now officially proclaimed.

Not in any way to lessen the importance of a debate over election reform, and that is important, I cannot yet quite understand how we get all of this done in time to get out for Christmas.

Before the Thanksgiving recess, I had offered Senator BOXER of California an opportunity to join with me—she from the Democratic side, I from the Republican side—to organize Christmas caroling for the Senate so we could join together in unity, as we have for the last several weeks, and sing Christmas carols on the eve of Christmas.

I suggest if we are going to do election reform, if we are going to do a stimulus package, if we are going to do a farm bill, and I add an energy bill because I think right now energy is every bit as important to the American consumer as election reform is to the American voter, and let us see what else is on that schedule—oh, yes, I forgot, railroad retirement reform—then it is going to be a merry little Christmas in Washington for all Senators who cannot make it out the night before to their home States. My State is about 2,500 miles further away than the Senator from Connecticut. So I say to Senator DODD, have yourself a very merry little Christmas.

## RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess subject to the call of the Chair.

There being no objection, the Senate at 4:48 p.m., recessed subject to the call of the Chair and reassembled at 5:30 p.m. when called to order by the Presiding Officer (Mr. REID).

## THE SENATE SCHEDULE

Mr. DASCHLE. Mr. President, we have just completed our caucus. I know the Republicans were caucusing. I am not sure whether they have completed or not. I want to report to the Senate about our current circumstances and what the schedule might be for the remainder of the week.

Senator LOTT and I have been discussing the current schedule and our circumstances involving the railroad retirement bill. My hope is that we can move to proceed to the bill sometime within the next hour. If that is the case, it is my intention to file cloture on the bill at some point this evening.

It is also my intention that we seek unanimous consent to vote on cloture on Monday. We will not be in session on Saturday, but we will be on Monday. We will also entertain amendments. It is my understanding that Senator LOTT may be recognized to offer an amendment, and we will have a debate on that amendment tomorrow and on Monday.

My expectation is that there will not be any votes tonight or tomorrow but that we will have votes on Monday at approximately 5 o'clock.

Senator MURRAY reports to me that the Transportation conference report has now been completed, and it is my hope that we can vote on the Transportation conference report perhaps as early as Monday. If not Monday, then on Tuesday. My hope is that if we can achieve cloture on the railroad retirement bill on Monday, we can bring debate on the bill to a close by Wednesday.

It is then my intention, as I have said on several occasions, to make a motion to proceed to the farm bill. That is a must-pass piece of legislation. It is my hope and expectation that we can complete our work on that, maybe even as early as the end of next week.

I also note that we have made the decision over the course of the last few hours, and in consultation with Senator LOTT as well as our caucus, that we will be in session and voting the week of December 10. That has been an open question until now. But we have now made that decision. Our expectation is we will be voting every day the week after next. Senators ought to be on hand and prepared to vote all week. Of course, it may be that we will have to vote and be in session the week after that. But clearly, for the next 2 weeks the Senate will be in session and Senators need to be prepared to be on the floor and voting, to accommodate the remaining schedule we have for the remainder of this session of Congress.

I also presented to the caucus what amounts to an informal agreement on how we will proceed on the economic stimulus bill. I am pleased to report that our caucus has agreed with the proposal that has been presented to me by the Speaker, as we consider how to proceed on the economic stimulus bill. If we can reach a procedural agreement tonight, it is my expectation we can move to substantive negotiations on the economic stimulus bill tomorrow morning. It is my hope we can work on it through the weekend, if that is possible, in order to try to expedite our work on that bill and our efforts to reach some final agreement early next week.

The procedural agreement would call for consideration of the Senate Finance Committee bill, the House-passed economic stimulus bill, and other issues relating to those two bills. We do not exclusively limit our consideration of economic stimulus to those two vehicles. There are a lot of other issues out there.

Senator DURBIN in particular has expressed to the caucus on numerous occasions, and here on the floor, how important it is that we consider a payroll tax holiday. That is an issue I have indicated I am particularly interested in and intrigued with. I don't know whether or not we have the ability to work it into the agreement. I know Senator DOMENICI has expressed an interest in the proposal, and Senator LOTT has noted his support for the proposal.

On our side, I don't think there has been any more ardent a supporter, any more articulate an advocate of the so-called payroll tax holiday than the distinguished senior Senator from Illinois. I applaud him and appreciate his tutorial to the caucus on the issue. He has been able to bring us to a better understanding of how it would work. I must say I am indebted to him for all of his work in advocating that particular issue.

But my point is that that, along with other vehicles, is going to be considered as we debate the issue in the hope that we can bring some resolution to our negotiations sometime early next week.

I see the Senator standing. I am happy to yield to him.

(Ms. STABENOW assumed the Chair.)

Mr. DURBIN. I thank the leader for his kind remarks.

I hope that in the course of this economic recovery or economic stimulus package we can still stick to our principles that what we do will help the economy, help the right people in the economy, and not do any long-term damage to the economy.

I think this proposed Federal payroll tax holiday, month-long holiday, meets the criteria. Frankly, it will go to workers across America who draw a paycheck. They will see it on payday. It will come as quickly as we can pass the bill and enact it into law. That is money that families can use for important purchases at the end of the year. It is money that will go right into the economy and spark some growth and some activity that we really do need. It is also money that is going to go to workers, to those making incomes up to $80,000—$80,400 is the limit on the Federal payroll tax. So that really gives it to working families.

In addition, it is focused to help small businesses because I think forgiving this tax for employers will say to small businesses, we are going to help you meet some of your expenses, whether they are health insurance premiums or security needs, for your business after September 11.

I have spoken to Senator DOMENICI. I thank my friend and the majority leader for his reference. I hope in the course of this conference, putting together the stimulus and recovery package, that this can be included.

Mr. DASCHLE. I thank the Senator from Illinois. His comments make my point. He is not only knowledgeable and articulate on the issue, but he has certainly persisted in ensuring that this piece of legislation be considered along with many others.

Madam President, there are several key areas the Democratic caucus—and it goes to the point raised by the Senator from Illinois—will be advocating.

First and foremost, I want to emphasize again because I feel the need every

time we talk about economic stimulus to ensure that people understand our real priority. Our priority, first and foremost, is to help the 7.5, now almost 8 million workers who are unemployed.

In the last recession, we extended employment benefits four times. We have to consider the fact that those weeks are running out now, for those who are eligible for unemployment assistance, and we have to extend it again this time.

But we also have to understand that 54 percent of those who are unemployed today are not entitled to unemployment benefits, so we have to broaden eligibility. That is certainly going to be a key area for us as we attempt to negotiate some successful solution.

I would say as well that none of them can afford health benefits.

When you are given a few hundred dollars a month in unemployment, it is almost impossible—after you have paid the rent, after you have paid for the groceries and the heating bills and other necessities of the family—to buy health insurance. We have to assist these unemployed workers to pay for their health care during the time they are unemployed as well. That would be a priority for us.

We also will try to ensure that the issue of rebates is addressed for those who pay a lot of payroll tax but were not entitled to an income-tax rebate last year. That ought to be on the table, and we will be talking about that.

Business tax relief is also something we care a lot about. The expensing for small business is something for which we are going to fight.

We are also going to try to assure additional depreciation for all businesses. The high-tech community said that is one of the most important issues for them. That will be a priority for us.

We have a number of very key issues we hope to present to our House colleagues. But I also remind all of my colleagues that whatever we do on the finance side—whatever we do on the revenue side—is only half of our interest. There is an economic stimulus involved here. It is our interest to pass homeland security as well—Senator BYRD and I have been meeting all day long—as we consider the Byrd amendment to ensure that homeland security is part of economic stimulus as we take up the Defense appropriations bill early next week.

Just as soon as that bill comes over to the Senate, we will take it up in committee. Senator BYRD will be offering his amendment on homeland security. It is my hope we can get a bipartisan vote on that as well.

Nothing will stimulate this economy faster than raising people's confidence about their own security. Nothing will help them more in that regard than if we increase law enforcement assistance and provide ways in which to ensure, on bioterrorism and all the other potential possibilities for attacks to our national security, we are more prepared than we are today.

That, too, is economic stimulus. That, too, is part of our plan. But that will be running on a separate track. I want to emphasize how critical we think that piece is, and how important it is to our long-term resolution. They have to go hand in glove. They are going to run in tandem. We are going to be taking both of these sequentially, and both are important to us.

I make that point, as we have made it before on the Senate floor.

I appreciate very much the interest of all Senators.

Mr. DORGAN. Mr. President, will the majority leader yield for a question?

Mr. DASCHLE. Yes. I yield the floor.

Mr. DORGAN. Mr. President, I would like to ask the majority leader if he would entertain a question. I would like to inquire further of the majority leader on this subject of the farm bill. I know it was the stated intent of the majority leader to attempt to offer a motion to proceed to the farm bill this week, perhaps midweek, late in the week, yesterday, or today. I know that was thwarted by the filibuster on the motion to proceed to the bill that the Senate was prepared to debate. The majority leader was unable to make the motion to proceed to the farm bill. The filibuster we have had and cloture vote that was required now puts us into next week.

The majority leader indicated it is still his intention to file a cloture motion to proceed following the disposition of the bill that is on the floor.

Is that correct?

Mr. DASCHLE. Mr. President, the Senator is absolutely correct. I have noted on several occasions my intention to move to the farm bill just as soon as we complete our work on the railroad retirement bill. It can be next Monday or Tuesday. It can be whenever we finish. But we will move to that bill next. We have to move to it.

These are must-pass pieces of legislation that have to be done. We can take them in any order. But it is my intention to follow through with the order that I have already announced, which is to complete our work on the farm bill next.

We will have the Defense appropriations bill, the stimulus bill, and the terrorist insurance bill. All of those have to be addressed.

But as I noted—I see the chairman of the Agriculture Committee in the Chamber—the farm bill will be the next bill after the railroad retirement bill.

Mr. DORGAN. Mr. President, if the Senator will yield for just another moment, that is a reassuring answer. I know how strongly the majority leader feels about the need to write a farm bill.

I observe that the House of Representatives has passed a farm bill. We have now passed one out of the committee under the leadership of Senator HARKIN. We need to get it to the floor of the Senate and then to conference.

The goal here is to get a bill on the President's desk for signature. This is about family farmers hanging on by their financial fingertips and struggling to survive. It is our obligation to get this done.

I know it is not the fault of the majority leader. It was his full intention to bring that to the floor. It would have been on the floor today had we not faced the filibuster.

I wanted to, once again, ask. And I received the answer that I expected I would. The majority leader is a strong advocate of family farms and the need for a better farm program. I am deeply reassured by that answer. I look forward to being here with the majority leader and with the chairman of the Agriculture Committee fighting hard for a farm bill that will give family farmers in this country a decent chance to survive.

I thank the majority leader for his answers.

Mr. DASCHLE. Mr. President, the Senator from North Dakota and I have been through a lot of legislative battles over the years on rural issues. As he has noted, nothing is more important to rural America than passage of this bill to allow us to go to conference first and to allow us to resolve the outstanding issues that remain between the House and the Senate membership on farm policy so we can get the bill to the President in time to provide all the assurance and confidence we can to farmers and ranchers all over this country. We understand their economic plight.

I note, as the Senator from North Dakota has on several occasions, that last month—the month of October—we saw the single biggest 1-month depression in prices that we have seen in all the time the Department of Agriculture has been keeping records. We have never seen the prices plummet as dramatically in 1 month as we saw them plummet last month.

If there is no other reason to move forward on farm legislation than that, it would be enough.

I am hopeful that people understand the urgency of the issue—the urgency of the issue of completing our work on the bill in time to go to conference, resolve our differences, and enact it into the law.

Mr. REID. Mr. President, will the Senator yield?

Mr. DASCHLE. I am happy to yield.

Mr. REID. Mr. President, I congratulate the majority leader for defining our schedule. It makes our lives more definite. I think we have the schedule outlined. As I heard the majority leader say, we are going to be in session starting Monday with votes, perhaps over the next weekend, and the next weekend until we finish.

Regarding the Agriculture bill—the farm bill—I think the Senator from Iowa has done an outstanding job not only in the product that came out of the committee but his willingness to take on issues that are so important. Everybody in America is affected by this farm bill. The conservation provisions in this bill are the best we have ever had, and they are getting better.

I think this farm bill is so important because of the problems the Dakotas, Nebraska, and Iowa have. The farm bill is so important. This bill affects the whole country. It is not just a farm bill.

I also say to the majority leader that I was given a statement by Senators as I walked into this Chamber indicating that Alamo and National car rental companies have filed for bankruptcy. This is really astounding. These two large rental car companies filed for bankruptcy.

I have had a number of conversations and meetings with the distinguished majority leader about companies and individuals who depend on tourism. For 30 States in the United States, their No. 1, No. 2, or No. 3 most important economic force is tourism.

I know the majority leader has stated publicly—and I appreciate it very much—that one of the items we are going to be looking at in an economic stimulus package is how the tourism industry can be helped. It is in such desperate shape—helping rental car companies and other entities that so depend on tourism.

I am very happy that there has been a framework developed. We can move forward. This is not inventing the wheel. In fact, we have done this before on very important issues since September 11. It will go down in history as remarkably good legislation. We have done it on four occasions. We did it with the appropriations for New York City, plus the $20 billion for added defense for the country. We did it with airport security and antiterrorism. There is one other that I can't remember.

That sets the framework for doing some good work on the stimulus package.

I hope the leader will do something about this. I believe we will be very successful in working it out.

Mr. DASCHLE. Mr. President, I thank the distinguished assistant Democratic leader for his comments. He is absolutely right. The tourism industry has been very hard hit. This is yet another indication of the difficult time they are having. I wasn't aware that these two companies declared bankruptcy. But it certainly illustrates yet another instance of just how difficult a time many of these companies are experiencing.

So I appreciate his comment and especially appreciate so much his sensitivity to the agricultural situation. He noted he does not have a lot of farmers, but he has been extremely supportive and understanding about the farm situation. I appreciate that very much.

Madam President, I yield the floor.

Mr. REID. I say to the majority leader, we don't have a lot of farmers; we have a lot of people who eat the food.

The PRESIDING OFFICER. The majority leader.

## COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001

Mr. DASCHLE. Madam President, I move to proceed to the railroad retirement bill.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, if the Senator will yield, I believe we have no further requests for time on the motion to proceed. We are ready to vote.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the motion to proceed.

The motion was agreed to.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 10) to provide for pension reform, and for other purposes.

The Senate proceeded to consider the bill.

Mr. DASCHLE. Madam 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. LOTT. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. LOTT. Madam President, I ask for the yeas and nays on the pending substitute amendment.

The PRESIDING OFFICER. There is no pending substitute. There is no pending amendment.

AMENDMENT NO. 2170

(Purpose: To modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.)

Mr. DASCHLE. Madam President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. HATCH, for himself and Mr. BAUCUS, proposes an amendment numbered 2170.

Mr. DASCHLE. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

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

(The text of the amendment is printed in the RECORD under ''Amendments Submitted.'')

Mr. LOTT. Madam President, I now ask for the yeas and nays on the pending substitute amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2171 TO AMENDMENT NO. 2170

(Purpose: To enhance energy conservation, research and development, and to provide for security and diversity in the energy supply for the American people, and for other purposes)

Mr. LOTT. Madam President, I send an amendment 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 Mississippi (Mr. LOTT), for himself, Mr. MURKOWSKI, and Mr. BROWNBACK, proposes an amendment numbered 2171 to amendment No. 2170.

Mr. LOTT. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

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

(The text of the amendment is printed in the RECORD under ''Amendments Submitted.'')

Mr. DASCHLE. Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

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

CLOTURE MOTION

Mr. LOTT. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending Lott amendment:

Trent Lott, Frank Murkowski, Robert Bennett, Phil Gramm, Sam Brownback, Don Nickles, Pat Roberts, Mike Crapo, Larry Craig, Jon Kyl, Chuck Grassley, Pete Domenici, Mitch McConnell, Judd Gregg, Conrad Burns, Craig Thomas.

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. DASCHLE. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Daschle for Hatch and Baucus substitute amendment

No. 2170 for Calendar No. 69, H.R. 10, an act to provide for pension reform and for other purposes:

Paul Wellstone, Richard Durbin, Byron Dorgan, Harry Reid, Jon Corzine, Hillary Clinton, Blanche Lincoln, Jack Reed, Jean Carnahan, Mark Dayton, Carl Levin, Tim Johnson, Bill Nelson, Charles Schumer, Ron Wyden, Debbie Stabenow, Barbara Mikulski, and Tom Daschle.

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

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

CLOTURE MOTION

Mr. DASCHLE. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 69, H.R. 10, an act to provide for pension reform and for other purposes.

Paul Wellstone, Richard J. Durbin, Byron L. Dorgan, Harry Reid, Jon Corzine, Hillary Clinton, Blanche L. Lincoln, Jack Reed, Tom Carper, Tim Johnson, Daniel Inouye, Christopher Dodd, Ron Wyden, Jeff Bingaman, Joseph Lieberman, John Breaux, Paul Sarbanes.

Mr. DASCHLE. Madam President, just for explanation to all Senators, we have now moved to proceed to the railroad retirement bill. The distinguished Republican leader has offered an amendment for which there will be a cloture vote at 5 o'clock on Monday. Following that vote on cloture, there will be a vote on cloture on the bill at approximately 5:30 on Monday as well. So under the current arrangement, there will be two votes on Monday at about 5 o'clock.

There will be, hopefully, a very good debate tomorrow on the Lott amendment. There can be debate tonight on the amendment or on the bill. But I hope Senators will use the time that is now allotted for the debate to express themselves and to participate in whatever debate may be required. But those cloture votes will occur at 5 o'clock. And there will be no other votes until that time.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, if the distinguished majority leader will yield to respond to an inquiry, I thought also we would have a vote on the Transportation appropriations conference report at some point in the sequence on Monday.

Mr. DASCHLE. That is correct. The Senator is right. I appreciate his reminding me. If the Senate has been presented with the papers on the Transportation conference report by Monday, it is our intention to have a vote on the Transportation conference report as well.

I am told the House is planning to act tomorrow. I know there has been a little bit of a debate. I don't know if that has been resolved. But if the papers arrive, it is our intent—and I had announced it earlier—to bring up the conference report on Transportation as well.

I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Madam President, if I could be heard with regard to the situation as it now exists for my colleagues on both sides of the aisle actually, what has transpired over the past few minutes procedurally is that Senator DASCHLE has offered the railroad retirement substitute to a House bill.

That had to be done to get us on the railroad retirement subject itself. Then, as is in order, I offered an amendment to the substitute. So that will be the issue that can be debated, along with the railroad retirement bill, if Senators so desire.

Let me talk about the content of the amendment that was filed on my behalf as well as Senator MURKOWSKI and Senator BROWNBACK and others.

Regardless of the merits of the railroad retirement bill, I had hoped that the Senate would stay focused on appropriations conference reports, the defense appropriations bill, and the stimulus package that would create economic growth and jobs creation in this country. I am pleased that now an effort is under way to get a conference negotiation going on the stimulus package. That movement yesterday afternoon affected the decision that was made earlier today not to fight the motion to proceed on the railroad retirement bill.

My question is, why we are moving to bills that are not an emergency, not related to appropriations and the stimulus package or even the reinsurance issue? It seems to me we should focus on those urgent and emergency issues that need to be addressed as a result of the events of September 11 and since then, before we go out for the holiday season, for the Christmas period.

That has not been the case. Now we are on the railroad retirement issue. There are other issues we believe urgent and need to be addressed and should be addressed. That is why this amendment is the Murkowski energy bill, basically H.R. 4, the House-passed bill, that we believe and have been believing since June needed to be brought up in the Senate. We need a national energy policy. That needs to be broad-based. It needs to address the need for additional production of oil and natural gas. Clean coal technology needs to be moved forward, the use of nuclear power, alternative fuels, transmission line problems, as well as conservation, which is a very important part of this package.

We see right now circumstances that really bother me. We are dependent on OPEC oil, Russian oil, and Iraqi oil, approaching now well over 50 percent of our energy needs. It is imported oil, and that is extremely dangerous. Just last week we saw where the OPEC countries were lobbying others, including Russia, to cut their production so that the prices could be driven back up. Unbelievably, or perhaps gratefully, we see that the Russians resisted that and said, no, we are going to continue with our production.

Apparently now they have come to some sort of agreement and I guess there will be some reduced production and prices will go up some. But we are on a yo-yo. This past June and the June before that, we saw prices shoot up on gasoline inexplicably and probably unjustifiably in some instances. So we don't have a national energy policy. We were told we would do it later. Then there were the September events and October had other things we were working on. Now we are told we will get to it in January or February.

Every day we lose puts us at risk one more day. We should have a full debate about a national energy policy. We are going to have it. This amendment is offered to the underlying bill because this is an issue that needs to be voted on by the Senate. We are going to see who believes energy is something we need to do or whether there is a potential threat there.

This is not only a national security issue; it is an economic issue. If you want to help the railroads with some of their problems, let's have a reliable energy policy. Let's reduce the cost of what they take to run the industry if you want to help farmers in America. Let's deal with the cost of the energy they need all the way from producing ammonia to diesel. So this is an economic issue.

Remember this: If the OPEC countries decided to cut us off, we would be on our knees economically in less than 30 days. America doesn't depend on anybody else in the world for anything else for our existence but energy. We can not have that. The simple solution, is to have the debate. Let's have the vote.

By the way, this doesn't displace the railroad retirement bill. It would be added to it, and so we would have an opportunity to pass a railroad retirement bill, presumably one that might be amended substantively as we go forward, with an energy package.

The second part of the amendment I offered also puts a 6-month moratorium on cloning. It doesn't say we won't have it for therapeutic research. It doesn't say what we will do. It says ''time out here.'' We have a lot of serious questions that we need to ask and have answered and think about what we want to do. So it is the energy bill and the 6-month moratorium on cloning. This should make for a good debate. It is long overdue.

In the case of energy, in the case of cloning, if we don't do it now, we won't be able to do anything until February or March, and this issue will march forward with uncertainty and concern. Senator BROWNBACK has been advancing the need for us to take some action to have the moratorium. The House acted months ago, overwhelmingly, in a bipartisan manner. We will have the opportunity to do the same here.

I urge my colleagues to take time tonight and tomorrow and Monday. Let's talk about these two issues. We should not invoke cloture on this amendment. We should have a vote. We should not stop the debate. We should have a vote on the substance itself, and then we could move to the underlying bill and could get it done.

Instead of taking shots at each other, we could actually address three big issues in one swoop. That is why I offered the amendment. It is also to serve notice that if we keep going off track on what we need to do to get out of here, other issues will be brought up.

This is the Senate. Wonderful place that it is, no one person and no one party dictates what we can do. Marvelously, any Senator can offer any amendment on any subject he or she wishes at any time. Lots of times it takes 60 votes, but that is the way it works. Therefore, we will have an opportunity now to have a full debate on energy and on cloning as well as railroad retirement.

I thank the Chair and my colleagues for the opportunity to briefly describe what we are doing. I am sure Senator MURKOWSKI and members of the Energy Committee will be here to describe what is in this energy package. Senator BROWNBACK is waiting to describe the details of his moratorium.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

## MORNING BUSINESS

Mr. REID. Madam President, I have spoken to the minority leader, and I now ask unanimous consent that we go into a period of morning business. We want to be as lenient as we can. I know the Senator from Alaska wants to speak for an extended period of time. Others also want to speak. Therefore, we will have the 10-minute limitation, with the understanding that people can ask unanimous consent to speak for any period of time they want.

Again, I ask unanimous consent that we proceed to a period of morning business with Senators permitted to speak therein for up to 10 minutes, and we divide the time, even though it appears that maybe there won't be the need to do that. I ask unanimous consent that we——

Ms. LANDRIEU. Reserving the right to object, would this be OK with the leader? I ask if I may have my 10 minutes starting now if it would be OK with the Senator from Alaska.

Mr. REID. If I may reclaim my time, I think we would be better off not having a 10-minute limitation. I ask unanimous consent that we now go into a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Madam President, as Senator LANDRIEU indicated that her children were getting hungry, I suggest the Chair recognize her first.

Mr. REID. Madam President, the request is that we go into a period for morning business with a 10-minute limitation—I will state it again. It is that we go into a period of morning business, that Senator LANDRIEU be recognized for 10 minutes to begin with, and Senators thereafter be limited to 10 minutes, with the understanding that there will be a number of Senators asking for more time.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Madam President, in order to accommodate Senators, let's be more realistic and make it 15 minutes.

Mr. REID. I have no problem with that.

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

### UNANIMOUS CONSENT AGREEMENT—H.R. 3090

Mr. DASCHLE. Madam President, I ask unanimous consent that the majority leader may turn to the consideration of H.R. 3090 with the consent of the Republican leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

## ENERGY SECURITY

Ms. LANDRIEU. Madam President, I know the Senator from Kansas is on the floor to speak on several important issues, and the Senator from Alaska will be addressing the Senate later this evening on the important issue of energy security for our Nation. I agree with so many of the points of the Senator from Alaska, as well as the Senator from Mississippi, who has been taking with us this evening on that subject.

I want to talk about a subject that is actually somewhat related. The subject I want to spend a few minutes on tonight is most certainly related to the issue of energy security for our Nation. It is related to the situation that we find ourselves in, combating this new war against terrorism in many different ways and in ways very different than our past conflicts would have us be engaged. Let me just try to bring this into focus.

We have troops in Afghanistan and, luckily and thankfully, and because we have the best equipped, best led, and bravest and most courageous fighting force in the world, we are making extraordinary progress on our front in Afghanistan. You can see the headlines in all of the newspapers that would attest to the great effort that is being made. But we all know, and we are all learning quickly, that this war on terrorism is something we are going to have to fight on many different fronts. One of those fronts is in our own homeland.

We hated to see what happened on September 11, and we were all heart broken and angry and justifiably angry at the devastation and the horrific attack on our Nation.

As I was saying, we now have to fight this war on many different fronts, not just the front in Afghanistan but the front here at home. We were all terribly horrified and righteously angry. We have to turn that righteous anger into concrete steps to protect ourselves in the future. Many of us in our various capacities and many different committees are about doing that. We are stepping up airport security. We are trying to step up the security of our cyberinfrastructure in the Nation. We are looking at ways to set up medical response teams on health care, our public health system. And all of these efforts, if we do them correctly and come up with good policies and funding streams, will most certainly help to protect our Nation against these attacks that, unfortunately, are going to certainly come. Even if we are successful—and we have been—in cornering bin Laden and taking down the Taliban regime and capturing or destroying that particular cell, it is likely, based on everything that we know—not to alarm people or frighten people, but we know that it is likely that there will be future attacks.

The point of my short presentation today is to simply say that we are not sure where these attacks will be aimed. We never imagined that a group of people, with three of our own airplanes filled with fuel, would take down some of the most important buildings in this Nation. So we have to think: What might the next attack be? What could possibly come at us?

There are so many things that could happen that we have to be smart and strategic about how we spend our resources.

One of the issues that I am going to argue for a few minutes on the floor today is some of the critical infrastructure in our Nation—some of it is rail, some transportation issues, such as highways and tunnels, some of it is critical infrastructure protecting our nuclear powerplants, our electric grid, our cyberinfrastructure that we now rely on to run so much of our communications, transportation, health care

systems, et cetera. We can't do all of it at once, but we can most certainly begin taking some steps.

I think we need to identify where we can—whether we do it in the supplemental bill or in the energy bill, or whether we do it in the stimulus package—some projects that are worth giving some attention to in the event that there would be some effort to cut our resources. One of those resources is energy.

Let me be very clear. In Louisiana, there are many critical highways, as there are in many States. There is a highway that is of critical importance not just to our State but to the whole Nation. It doesn't look like much because it is a small highway. Right now, it is a two-lane highway. I will show you a picture of it in a moment. It is Louisiana 1. I think it is called LA–1. It is rightfully named because it is the one highway in Louisiana, and perhaps in the Nation, that we rely on so heavily for our oil and gas production in this Nation.

Oil and gas production takes place, as you know, primarily off the southern shore of our Nation, off the coast of Texas and Mississippi and Louisiana and Alabama, primarily.

We get 18 percent of our imported oil off of the loop facility, which is right off the coast of Louisiana and down this highway, which I am going to show a picture of in a minute. One can see clearly from this picture there are a thousand trucks a day on this highway on a regular day. This is not a fancy highway. It is a small highway. It runs from Port Fourchon all the way up to the 90 loop. There are a thousand trucks a day that bring pipes, supplies, men, women, equipment, and engineering services to produce oil and gas in the Gulf of Mexico that help this Nation to be secure every day.

So when people walk into this Chamber or they walk into their building at Cisco or IBM or eBay or whether they walk into Shaw Enterprises or any number of the shipbuilders in Louisiana and they turn the lights on, lights come on. When they fire up those plants, that energy runs. This energy comes, in large measure, off the coasts of Louisiana, Mississippi, and Texas. This highway is the highway that is the bridge to Port Fourchon, where these trucks and this equipment are located.

Even in a slight rain this highway goes under water. Imagine if there was any kind of purposeful attack on the infrastructure with some minor effort. This highway in the shape that it is in and the condition that it is in could cause a major disruption in energy flows to the United States.

The Gulf of Mexico has 20,000 miles of the most extensive network of offshore oil and gas pipelines in the world. There is only 2,000 miles from the east coast to the west coast, approximately, as the crow flies, in the Nation. Ten times the amount of the length of our country are the miles of pipeline that come out of Louisiana to bring oil and gas to the rest of the Nation.

This highway is the only way one could basically get to the point where this oil and gas comes off of our shore. The loop facility is the only offshore oil terminal in the country. There are not three. There are not four. There is one. It is the loop facility, and it is just a few miles off the shore of Louisiana. The only way to get to the loop facility, other than helicopter or ship, is to come down this highway to Port Fourchon, at the end of Louisiana, and to get to the loop facility, where 18 percent of our imported oil comes into the Nation. It comes up through the pipes and again all the supplies for the coast come through this highway.

It is time that this highway be designated as a special highway for the Nation, a high priority corridor for this Nation. There are such designations in the Transportation bill for many of our highways, and I am sure every Senator could stand up and claim there are at least one or two highways in their States that are particularly important, whether it be for trade or for commerce. We could say that, too, about all of our highways, particularly for I–10, that is connecting Houston in the southern part of the State; I–49 that is now going to be a trade route hopefully to Canada and down through Louisiana; I–20 that connects our State, of course, east and west to other parts of the United States. But clearly LA–1, which is primarily responsible to help this Nation keep its oil and gas supply not only operating but in a vigorous, robust manner to supply the rest of the Nation, deserves to have a special designation.

I am requesting by the amendment I am offering to the Transportation bill to get Louisiana-1 designated as a high-impact corridor so we can be in line for appropriations to change this from a two-lane highway to a four-lane highway to give it some of the protections a highway of this magnitude deserves.

Let me show what happens when there is a turnover of an 18-wheeler, one of the thousands that are in this lane. The traffic is backed up for hours. There is no way around it. The services to the rigs out in the gulf are basically shut down for all practical purposes. If one cannot get to the port, they cannot basically get service to the rigs or the supplies or the pipes that are needed.

I hesitate to actually give this speech. Frankly, I hope no terrorist is watching because it would be so easy in some ways to disrupt the supply of the oil to this Nation, but one thing September 11 has to teach us is putting some of our resources into building up the critical infrastructure in this Nation so we are not so vulnerable. I wanted to give this speech because I would feel terrible if something happened and people said: Well, Mary, you did not tell anybody about this highway and, after all, it is not a major interstate and we did not know about it.

So I want to give my colleagues fair warning there is a little highway in Louisiana. It only has two lanes, but it has a thousand trucks a day that are bringing supplies and equipment to the offshore of this Nation that helps turn on lights in every schoolhouse and hospital and office building and run factories from Louisiana to Illinois and from Maine to California. If we cannot find a few million dollars in these trillions of dollars of budget to help us improve this highway so we can withstand a natural occurrence of a hurricane or a man-made attack that we would be better equipped to handle than what we have now, then I do not want to be held responsible for not bringing this into the light.

I have been in this Chamber many times talking about all the critical infrastructure around our Nation. I have several bills and amendments to try to direct some of our resources to fund those projects, but this one comes to mind as one of the most important we should address. I urge my colleagues to look carefully at our needs for LA–1 to help us to direct through any of the bills that are moving forward. I am prepared to stay in this Chamber and to come back many times until we can get some relief to get some funding for Highway 1. I should also mention I–49 and I–10 which handle the bulk of our domestic production.

Production in the United States of America is basically limited to this area of the country. There is virtually no production off the eastern shore, as the Senator from Alaska will say in his speech later tonight. There is virtually no production going off of the eastern shore. All of the offshore oil and gas production is coming off of this part of the gulf.

So the infrastructure, for the Port of New Orleans, for the Port of Mobile, for the Port of Galveston, for the I–10 corridor that links basically Houston and New Orleans into Florida, is critical for the development and the spreading of the gas and the oil that comes off of the gulf to the different parts of the Nation.

Finally, we are not complaining about producing the oil and gas. We recognize it brings jobs and wealth to our State. While others do not want production, we want production that is environmentally responsible. We are happy with the jobs and the wealth that it creates. I need to say, though, we are not creating the wealth and the jobs and the energy for our State. We are creating it for the entire Nation. So it is only right, it is only fitting, that some of the taxes that are paid by the oil companies from this exact production would come back to help us reinvest in Highway 1, in I–49, in I–10, in I–69, because it is those roads that support the oil and gas drilling.

I thank my colleague from Alaska for yielding to me. He knows this subject in many ways even better than I know the subject. He has been in the Senate longer than I have, but it is so obvious

to some of us that we have to dedicate some resources to protecting the critical infrastructure of this Nation. This is at least one highway that deserves to be No. 1, as its title would suggest.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I wish to enter a short colloquy with my good friend, the Senator from Louisiana, and ask her if the anticipated opening of ANWR would not require construction of 19 double hull tankers, some of which would be constructed in her State, from Mississippi or Alabama, costing about $4 billion? I think we have several of those ships underway now, creating 5,000 jobs each for 17 years. These are figures that have been released to me by the American Petroleum Institute, estimating that 19 new double hull tankers of a millennium class will be needed if ANWR is open. The assumption is that ANWR will produce 10.3 billion barrels of oil. That is about what has come out of Prudhoe Bay, for a 60-year production life, and the new tankers would be needed because the old North Slope tankers are being phased out in their entirety by the year 2015. That is when the double hull requirements come into effect.

There would be more jobs created because the Jones Act requires that the American oil be transported in U.S.-flagged vessels, built in U.S. shipyards, with U.S. crew, transported within the United States, which is from Alaska and the west coast, which he agreed, according to API's analysis, assuming ANWR passes, it will include any ban on ANWR oil being exported outside the United States. It also assumes that ANWR oil will be transported by tankers to refineries primarily in Washington, California, and Hawaii.

I would like the Senator's confirmation on the estimate it would pump almost $4 billion into the economy, create 2000 construction jobs in the U.S. shipbuilding industry, some perhaps in the State of Washington, and approximately 3,000 other jobs. They predict this will compute to approximately 90,000 job years by estimating it will take approximately 17 years to build all the 19 ships at almost 5,000 jobs each year. The prediction is one ship must be built each year in order to coincide with the schedule of retired existing tankers.

I wish we had the capacity to build the ships in our State of Alaska, but that is not the case and will not be the case. However, Louisiana has been prominent in its shipbuilding and supply of various resources for Alaska's oil development.

Ms. LANDRIEU. I thank the Senator for that inquiry. As he knows, and I completely agree, more production in the continental United States and Alaska is definitely a step we should take to reduce our dependence on foreign oil and to increase job opportunities here in our own country. Particularly at this critical time, not only is it part of our overall energy strategy but now it is part of our security strategy for homeland defense and homeland security to reduce our dependence on oil and gas, liquefied natural gas that may come from other sources.

We are very proud of the shipbuilding we do in Louisiana and the engineering and the construction of the landforms and infrastructure that make it possible to drill in extraordinary conditions, in very deep water, leaving a minimal footprint. In days past, there were terrible environmental consequences to drilling. We simply did not have the know-how or the technology to handle some of the negative environmental impacts. That has changed dramatically over the last few years. While there is risk associated with every human activity, we have minimized the risk to the environment in tremendous ways.

The Senator knows we build some tremendous ships and off- and onshore oil and gas equipment in Louisiana. We agree the production numbers need to get up.

For the record, the Senator from Alaska should know that one-fifth of the entire Nation's energy supply depends on LA–1 and its connection to Port Fourchon. The Department of Interior mineral management identifies Port Fourchon as the focal point of deep water activity in the gulf. There is perhaps a deep water or perhaps a focal point in Alaska. I am not familiar with that focal point, but in Louisiana it is Port Fourchon. Eighty-five percent of the deepwater drilling rigs, working in the gulf, are supported by Port Fourchon. We have a highway that is not worth skating down, let alone with the 1,000 18-wheelers a day trying to supply the Nation with the energy it needs to operate.

I look forward to working with the Senator as we try to improve and increase production. I see the Senator from Hawaii on the floor. He has been an outstanding spokesman of conserving where we can. It will be a combination of strong conservation measures and alternative energy and more production in Alaska and all the States, and in many places in the lower 48.

Mr. MURKOWSKI. I thank the Senator from Louisiana. I have appreciated the good relationship between our two States.

Madam President, this is a fairly significant moment from the standpoint of those interested in passing a comprehensive energy bill. We have that bill, finally, on the floor of the Senate this evening. Procedurally, Senator DASCHLE has offered a substitute amendment. Senator LOTT offered a second-degree that adds the provisions of energy, as well as cloning. At 5 p.m. Monday there will be a vote on cloture on the Lott amendment. The significance of this is clear to those who said we never bring up energy for a vote, are never able to resolve the merits of whether or not the President's request that we pass a comprehensive energy policy will become a reality.

I rise today to say that that time has come. Today it is a reality. I hope in the coming debate we can separate much of the fiction that has been associated with this issue.

I rise today in support of the amendment to the underlying legislation offered by Senator LOTT. Division A through G of the amendment will provide a balanced and comprehensive energy policy to guide this Nation into the future.

Where does the American public stand? I have the results of a poll recently done by the IPSOS-Reid Corporation, with offices in Washington, New York, Toronto, Minneapolis, Vancouver, San Francisco, Montreal, Ottowa, Winnipeg, and Calgary. It is a public opinion poll on energy issues. It was not done last year; it was done in November.

Let me share, with you the results of this poll. This independent and objective poll, conducted by a highly respected research firm, clearly shows that Americans place a high priority of passing an energy bill. The highlights are enlightening because 95 percent of Americans say Federal action on energy is important. That doesn't surprise me.

Continuing, 72 percent of Americans say passing an energy bill is a higher priority than any other action Congress might take. I hope that message is loud and clear. Again, 72 percent say energy is a higher priority than any other action Congress could take. That includes campaign finance reform, railroad retirement, stimulus.

Continuing, 73 percent of Americans say Congress should make the energy bill part of President Bush's stimulus plan. Surprisingly enough, 67 percent say exploration of new energy sources in the United States, including Alaska's Arctic National Wildlife Refuge, is a convincing reason to support passing an energy policy bill.

We have a significant portion of America's public saying we should go ahead and pass an energy bill. That is what is before the Senate, H.R. 4. That bill passed the House of Representatives. Clearly, the House has done its job. Now it is up to the Senate to do its job.

We have heard from our President many times, indicating that:

We need the energy, we need the jobs, we need a comprehensive energy bill from the Senate. This plan increases our energy independence and therefore our national security.

The Secretary of Energy:

We need an energy-security policy and we need it soon.

Secretary of Veterans Affairs, Anthony Principi:

We are engaged in mortal combat with an enemy who wants to see us fail in securing an energy policy.

The Secretary of Labor, Elaine Chao:

The President's plan will create literally thousands of new jobs that will be needed to

dramatically expand America's capacity for energy production.

Let's look at those who have gone overseas and fought wars over oil—the American Legion:

The development of America's domestic energy resources is vital to our national security.

That is what they wrote to Senator DASCHLE.

The Veterans of Foreign Wars:

Keeping in mind the horrific event of September 11 and mindful of the threats we are facing, we strongly believe that the development of America's domestic energy resources is a vital national security priority.

That is in a letter to Senator DASCHLE.

The American Veterans Association:

As you know, our current reliance on foreign oil leaves the United States vulnerable to the whim of individual oil-exporting companies, many existing in the unpredictable and highly dangerous Persian Gulf. . . . [We] firmly believe that we cannot wait for the next crisis before we act.

A letter to Senator DASCHLE.

The Vietnam Veterans Institute:

War and international terrorism have again brought into sharp focus the heavy reliance of the U.S. on imported oil. During these times of crises, such reliance threatens our national security and economic well being. . . . It is important that we develop domestic sources of oil.

Another letter to Senator DASCHLE.

The Catholic War Veterans of America participated.

How about organized labor? This issue, our energy security, is expressed first by the Seafarers International Union, from Terry Turner, the executive director:

At a time when the economy is faltering, working men and women all over the country would clearly benefit from the much-needed investment in energy development, storage, and transmission.

The International Brotherhood of Teamsters, Jerry Hood:

America has gone too long without a solid energy plan. When energy costs rise, working families are the first to feel the pinch. The Senate should follow the example passed by the House and ease their burden by sending the President supply-based energy legislation to sign.

The Maritime Laborers Union participated in numerous press conferences; the Operating Engineers, Plumbers and Pipefitters Union; the Carpenters and Joiners Union.

We have a significant group of America's organized labor in support of this because this is truly a jobs bill, much of which could be done without any cost to the taxpayer.

We are talking about stimulus. Let me just indicate what opening ANWR would do as a stimulus to the economy. It would create about 250,000 jobs. Those are direct jobs. The number of secondary jobs—making pipe, making valves—is anybody's guess. Some have come up with as high as 700,000 jobs associated with developing it.

What is the other stimulus? This is Federal land. As a consequence, the Federal Government would lease the land under a bidding process. It is estimated to generate about $3 billion in Federal funding coming into the general fund.

If one considers the number of jobs, the revenue, and the reality that it will not cost the taxpayer one red cent, it is pretty hard to find a better stimulus. If you or anyone else in this body can identify a single more beneficial stimulus than opening ANWR, I would like to know what it is.

The Hispanic community, the Latin American Management Association, has written:

As we head into the winter season in a time of war, these worries multiply. The possibility of terrorist attacks on oil fields or transportation in the Mideast are very real. This would force energy prices to skyrocket and immediately impact the most vulnerable families across the country.

That is by the Latin American Management Association. They fear bin Laden will disrupt, perhaps, the refining or pipelines either in Saudi Arabia or initiate some terrorist action in the Straits of Hormuz, which would cut off our supply.

We have the Latino Coalition:

The Senate must act on comprehensive energy legislation before adjourning. Not addressing this issue immediately is both irresponsible and dangerous to America as a nation and particularly to Hispanics as a community. America must increase the level of domestic production so we can reduce our dependency on foreign oil.

It is signed by Robert Despoda, the president of the Latino Coalition.

The U.S. Mexico Chamber of Commerce:

We urge the Senate leadership, both Democrats and Republicans, to pass comprehensive energy legislation before adjourning. This is not a partisan issue. Millions of needy Hispanic families need your support now. History would not treat inaction kindly, and neither would Hispanic voters next year around.

It is signed by Mario Rodriguez, Hispanic Business Roundtable President.

The seniors organizations have spoken out. The group 60 Plus, which I might add I have joined at some time:

It's time the Senate leadership quit demagoguing and come to grips with the energy legislation they bottled up. Our economy depends in no minor way on the passage of an energy plan. Much more important, our security depends on it.

It is signed by Roger Zion, chairman, 60 Plus.

The Seniors Coalition participated in support—the United Seniors Association.

I ask unanimous consent for another 5 minutes and I am going to yield to some of my colleagues.

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

Mr. MURKOWSKI. The Jewish organizations have come aboard. I ask unanimous consent that their letter be printed in the RECORD.

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

CONFERENCE OF PRESIDENTS OF MAJOR AMERICAN JEWISH ORGANIZATIONS,
*New York, NY, November 16, 2001*

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

DEAR SENATOR: The conference of Presidents of Major American Jewish Organizations at its general meeting on November 14th unanimously supported a resolution calling on Congress to act expeditiously to pass the energy bill that will serve to lessen our dependence on foreign sources of oil. We believe that this important legislation has, in addition, to the economic impact, significant security implications. We hope that Congress will move quickly to pass this vital measure.

We look forward to continuing to work with you and your colleagues on this and other matters of importance to our country.

MORTIMER B. ZUCKERMAN,
*Chairman.*

MALCOLM HOENLEIN,
*Executive Vice Chairman.*

Mr. MURKOWSKI. The Conference of Presidents of Major American Jewish Organizations, in their conference, at a general meeting of November 14:

. . .unanimously supported a resolution calling on Congress to act expeditiously to pass the energy bill that will serve to lessen our dependence on foreign sources of oil.

That was in a letter to Senator DASCHLE.

The Zionist Organizations of America say in their letter:

At a time when our Nation is at war against international terrorism, it is more important than ever that we work quickly to free ourselves of dependence on oil produced by extremist dictators.

Further, they say on behalf of that organization, which is the oldest and one of the largest Zionist movements in the State:

We are writing to express our strong support for your efforts to make our country less dependent on foreign oil sources by developing the oil resources in Alaska's national wildlife refuge.

So there you have a fair segment of Americans represented through these organizations.

Then we go to American business, the National Black Chamber of Commerce:

Our growing membership reflects the opinion of more and more Americans all across the political spectrum that we must act now to lessen our dependence on foreign energy sources by addressing the nation's long-neglected energy needs.

It is signed by Harry Alford, president and CEO.

U.S. Chamber of Commerce—Bruce Josten, executive vice president, U.S. Chamber:

The events of the last month lend a new urgency to our efforts to increase domestic energy supplies and modernize our nation's energy infrastructure.

And the National Association of Manufacturers:

The House of Representatives has answered the President's call. It has taken our obvious energy needs into account—along with concerns of many interest groups—and produced reasonable and comprehensive legislation that will help provide stable energy prices and long-term confidence in our economy.

But the Senate is dragging its feet. Some seem willing to let politics stop the will of the majority that wants to move forward with comprehensive energy legislation this year. In light of current economic conditions and on behalf of NAM's 14,000 members, I strongly urge Sen. Daschle to move an energy bill to the floor without further delay. It is high time to put the national interest ahead of parochial political interests.

It is signed by Michael Baroody, National Association of Manufacturers.

Last, the Alliance for Energy and Economic Growth.

They indicate, representing 1,100 businesses, large and small, and over 1 million employees:

All of the members of the Alliance enthusiastically welcome the President's strong appeal for action on a national energy policy. We are also committed to work with Senate Majority Leader Daschle to move forward in a spirit of bipartisanship with comprehensive, national energy legislation.

The Alliance spokesman is Bruce Josten.

That completes my comments to some extent. I will not tax the Presiding Officer further at this time. I will take a little break.

But I think it is important that we all listen carefully to these groups. They are sending a message to the Senate to get on with its obligation to move an energy bill. We have that energy bill here in the Chamber. It is the pending business for the first time in several years.

I think it is very important that we look at the political ramifications associated. We have elections coming up. We have a great deal of unknown exposures relative to the instability in the Mideast.

I remind my colleagues that in about 1973 we had the Arab oil embargo, and the gas lines were around the block. The public was blaming everybody. They were outraged and inconvenienced. Just one terrorist act could bring that situation back.

Some say it will take time. In 1995, this body passed a bill. It included ANWR. The President vetoed it. Had he not vetoed it, we would very possibly have oil flowing from ANWR today and oil coming down in new U.S. ships. But that was the loss of yesterday which is reflected in the vulnerability of our country today.

I urge my colleagues to think seriously before voting Monday about what you are voting for. Are you voting to be responsive to America's somewhat extreme environmental community that has used their ANWR issue as a cash cow to generate revenue and funding for their organizations? When this passes, they will move on to something else. You might say I am perhaps being overly critical. I have seen their actions. I know what this issue means to them. It gives them a cause.

Members are going to have to determine whether it will be a responsive vote for the environmental groups that oppose this effort or a responsive vote to do what is right for America at a time when we are not only at war but we are having a recession in this country.

Indeed, this energy bill would be a significant economic stimulus and would dramatically help remove our dependence on imported oil—particularly at a time when we are contemplating moves in the Mideast, and our dependence on Saddam Hussein's oil is over a million barrels a day. Yet at the same time we are enforcing a no-fly zone. In enforcing that no-fly zone, we are probably using his oil in our aircraft to take out his targets, and he is using our money to pay his Republican Guards and to develop weapons capability. We already lost two U.S. seamen the other day when that tanker sunk.

My time has expired. I defer to the next Senator seeking recognition.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I rise to speak in favor of the pending business, which is the amendment put forward by Senator LOTT containing the energy bill of Senator MURKOWSKI and a number of other Members in a bipartisan fashion.

It also contains a 6-month moratorium on the issue of human cloning. That is the pending business. We are in morning business. I want to speak to that particular issue, the pending business itself.

I think the Senator from Alaska has adequately and very well described the need for an energy bill and what is in that energy package. He has been very aggressive in expressing the need to do that. I wholeheartedly agree with what he is saying. We need an energy bill. We need an energy package, and we need less energy dependence.

If we move soon to address the issue of mass destruction in Iraq, we are going to be in far worse shape if Iraq starts cutting down their oil and not making it available to the United States. If some other countries follow suit, then that means we are going to feel a great pinch. Even though we are doing the right things to address the weapons of mass destruction, we are going to feel a real pinch if they cut down on oil supplies when we have such an international dependence on oil from the Middle East in particularly.

I think what the Senator is putting forward for reducing our energy dependence abroad—particularly from the Persian Gulf—and having our energy sources here is a valuable thing, a necessary thing, and something we need to do today. We need to get it addressed today. I applaud the Senator from Alaska. That is why I am a cosponsor of the amendment which is the pending business on the floor.

CLONING

The issue I wish to address specifically is another issue of great concern and immediacy. It needs to be addressed. I think the world was shocked when they read the papers Sunday about the first human clone. It is something that was theoretical and something that was talked about. It was something in the movies. Now there is a ''Star Wars'' movie coming out this year called ''The Clone Wars.'' It has been something everybody has been discussing.

I think people were shocked when they read this headline about the first human clone. It isn't something that happened in Europe or South Africa. It was in the United States of America.

People were looking at this and saying: I thought this was in a theoretical mode. I didn't realize we were actually at a point of cloning humans.

The House of Representatives passed a bill to address this issue, saying we should not be cloning humans. The President addressed this issue and said: Send me a bill to ban human cloning; I don't think this is something we should be doing.

The Senate is the only body of the three that has not addressed the issue yet.

In the underlying amendment today on the issue of cloning is a 6-month moratorium. It is not a complete ban. It is a 6-month moratorium on all cloning to say time out. Let's hold up just a little bit while we start catching up philosophically and thoughtfully in this body on what is taking place on human cloning in the United States of America today—not tomorrow, not next month—that we need to address this before we get more stories such as this or we start seeing the face of a child appearing before this body takes its position on addressing the issue of human cloning. Presently, this country has not addressed it.

You can clone in this country, if you choose to do so, even though I have a list of other countries that have acted on this issue. Twenty-eight other countries or bodies such as the European Parliament have already acted on the issue of human cloning. We have not. The Senate has not yet acted on this. Twenty-eight other mostly developed countries have already acted on this issue in some way or another.

What does the public say about it? I want to read from today's Roll Call magazine on page 10 about the issue of cloning. There was a poll of the American public. This is in today's Roll Call magazine, November 29. It says:

The majority of Americans clearly remain opposed to cloning, with 87 percent telling ABC News interviewers in early August that cloning humans should be illegal. Respondents were told the following about therapeutic cloning:

There is a debate going on about that. I am opposed to reproductive cloning. Some people are saying they want to try to do therapeutic cloning, which I think is a misnomer of the highest order. Therapeutic cloning is where you create a human clone. You grow it for a period to two weeks. You kill it. It is certainly not therapeutic to clone. You harvest the cells out of that for some supposed research or other benefit for another individual. That is so-called therapeutic cloning. I call it destructive cloning. Some call it therapeutic.

Let's see what the respondents said. This is how the question was put forth:

Some scientists want to use human cloning for medical treatments. They would produce a fertilized egg, or human embryo, that's an exact genetic copy of a person, and then take cells from this embryo to provide medical treatments for that person. Supporters say this could lead to medical breakthroughs. Opponents say it could lead to the creation of a cloned person because someone could take an embryo that was cloned for medical treatments and use it to produce a child.

That was the question. That is the way it was phrased on therapeutic cloning. It might produce medical breakthroughs but also a reproductive clone.

How did the people respond to the question?

Sixty-three percent said therapeutic cloning should be illegal and 33 percent held the opposing view.

Even framed on just the issue of therapeutic cloning, 63 percent say: No, I don't want to do that. I don't want us to go there. Yet we continued to dawdle in this body. We did not take up the issue. We would not hear it or bring it up on the floor until now. It is the pending business with a 6-month moratorium. It is not a complete ban. It is a complete ban for the 6 months. But after that, this would sunset.

I think this is a very prudent move that this body should take in addressing this highly controversial, highly problematic and monumental bioethical issue. Our Nation is currently wrestling with monumental bioethical issues. As I mentioned, the House of Representatives has dealt with this issue. They have passed a ban on human cloning with a 100-vote margin. The President keeps calling for it. This body has not acted.

On these bioethical issues, many of which I have raised on the floor previously—and I am going to keep raising in the future—we need to debate all these issues, but we need to act now to have a moratorium on human cloning so the Senate can properly debate the issue and hopefully resolve it in the coming 2 or 3 months. That is what we are asking for in the underlying amendment.

I would like to take this opportunity to address some of the profound moral issues that this Nation is going to need to wrestle with and the Senate is going to need to wrestle with for us to deal with the issue of human cloning.

Human cloning demands the public's attention, in part, because it implicitly revolves around the meaning of human dignity, around the meaning of human life, and the inalienable rights that belong to every person. Should a clone belong to someone or should a clone not belong to someone? I think we ought to resolve that issue before it starts being forced upon us by private companies creating clones.

Some will argue that the issue simply needs to be studied before any research begins, a notion which does not respect the rights of the clone. Some people say: Let's just create a group of clones out there, and let's see and let's research and let it evolve.

Shouldn't we fundamentally deal with the issue first about what is a clone? Is it the property of somebody who created it? Is it a person? It is genetically identical to the person from whom it was created. It is physically identical. Is this a person or is this a piece of property?

We should be debating that ahead of them being out there in the public. Should we allow people to create clones of themselves for spare body parts? That would be down the road a longways, but people are thinking about those sorts of things now. We now have the creation of the first human clone.

I think clearly we should err on the side of caution at this point in time. We should call a timeout. We should have a 6-month moratorium so we can all sit down and think about this.

This is not going to kill the research into helpful areas of research. Some people looking at this are saying: OK. They are confusing it with embryonic stem cell research, which I personally have a deep problem with because you are destroying an embryo to create that research. But this moratorium does not apply to embryonic stem cell research. That is going on. There is even Federal funding for some embryonic stem cell research, as the President outlined in an August speech with the NIH, much with which I continue to disagree.

I think we ought to focus on the adult stem cell. Be that as it may, the embryonic stem cell work is going on and would not be affected by this moratorium.

What this moratorium goes at is saying: Do not create human clones for any purposes. Do not create that. After a period of 6 months it expires.

So for those purposes, I think this is an entirely appropriate issue for us to push the pause button. The alternative of this is for us to do nothing. But if we do nothing, if we do not put a pause on this, you are going to see a lot more headlines such as the one shown on this magazine. You are going to see a lot more human clones or you are going to hear about them being implanted in women once they get to the point where the technology is such that that can take place. You are going to see all that taking place and this body will not have even spoken. We will not have said, yes, we agree or we disagree. The President has spoken and the House has spoken, but we will not have even said, OK, we agree we should or we disagree. We will not have done anything.

That is why I plead with the sponsors of the bill that we should take up this particular issue. We would allow this amendment that has the important energy language in it for energy security that contains the important moratorium on human cloning. And that would be allowed to be voted on by this body. We would not have a cloture vote that rules out the vote on these two imminently important issues that need to come before this body at this particular time.

So I plead with my colleagues, do not vote on a procedure that knocks off these two very important issues. Let us have a vote on these two issues.

We are going to be in town. We should take up these very important issues that are of immediate importance and need to be considered. I look forward to discussing this further with my colleagues as we get a chance to bring this amendment up for a vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Ohio.

## AN ENERGY POLICY AS STIMULUS

Mr. VOINOVICH. Mr. President, I rise to speak on the amendment to the underlying bill before the Senate.

I think the Senator from Kansas has spoken eloquently on the need to pass a moratorium on human cloning. It is interesting to note that about 80 percent of the people in this great Nation agree with that. It is also interesting to note that the other portion of the amendment calling for an energy policy for this country is also supported by about 80 percent of the people in this country. Although I do not ordinarily pay that much attention to polls, I say, in this case, the polls reflect good public policy for the United States of America.

Mr. President, with all the debate that has been going on in this body and throughout the Nation as to whether or not we actually need a stimulus bill, I reiterate my view that, yes, we do need a stimulus bill.

It is important that we pass a bill from several points of view.

Psychologically, the American people need a stimulus bill. For all the talk over the last couple of months about how much we need a stimulus bill, the public has now grown to expect we will pass a stimulus bill. I think that has been taken into consideration in the decisions the American public has been making. They see it as a positive measure, one that will bring us out of our economic doldrums and put things back on track.

As my colleagues know, the National Bureau of Economic Research reported earlier this week what many of us knew; and that is, our country is in recession. The people in my State of Ohio have known that since last year.

We need to spark our economy by getting businesses to boost investment. We need a stimulus package to help raise consumer confidence and get the American people spending again. As you know, consumer spending makes up two-thirds of our economy. We have to get buying. That is what we need to do: We have to get buying.

We need an economic stimulus bill that will put money in people's pockets, one that will restore consumer confidence, give businesses the money

they need to survive by letting them recapture taxes they paid in the past.

We need a bill that will lower people's tax rates by expanding the amount of earnings that are taxed at the 10-percent marginal rate. We need a stimulus package that provides a ''life preserver'' to the unemployed by giving them 13 additional weeks of unemployment benefits and one that responds to their health care needs.

One proposal that responds to what Americans want is the Centrist Coalition package that the Presiding Officer is completely familiar with and that has been sponsored, on a bipartisan basis, by the Presiding Officer, Senators JOHN BREAUX, OLYMPIA SNOWE, ZELL MILLER, and SUSAN COLLINS.

Regardless of what we do involving a stimulus bill, the American people expect us to work together in a bipartisan fashion. They see President Bush doing that. He is more worried about protecting the Nation's interests than in partisan politics.

Indeed, some of my colleagues on this side of the aisle have been critical of the President because he has not been partisan enough. In fact, he has gone the extra mile, I believe, to be nonpartisan.

The American people believe that Congress' motives are the same as the President's. If they become convinced otherwise, that we are working for special interests or succumbing to our past bad habits of playing politics, the consequences are going to be devastating.

It will lower their confidence in us and in the economic future of our Nation. Things changed on the 11th of September. Those of us in Congress should never forget it.

There is one other action we need to take to stimulate our economy, improve and enhance public health and the environment, secure our competitive position in the global marketplace, and secure our homeland and national security. That action is the adoption of an energy policy for this Nation.

That is why I am so enthusiastic about the amendment to the underlying bill. Given the tragedy of September 11 and the actions that have occurred in the aftermath, enacting an energy plan is much more relevant than ever before.

As far as I am concerned, and many others, our adoption of an energy package is, in the long term, more important to this country than the economic stimulus package.

Because of the situation in the Middle East and the Persian Gulf and Southwest and Central Asia, we are more vulnerable today than ever before.

You can see from this chart that one-fourth of our crude oil imports, 27.18 percent, come from the Middle East. Consider the following numbers: Iraq, 6.83 percent; Kuwait, 2.9 percent; Saudi Arabia, 16.79 percent; the United Arab Emirates, about three one-hundreths of 1 percent; Oman, less than three one-hundreths of 1 percent; Yemen, three-tenths of 1 percent. Given the near constant instability in the region, it should give my colleagues little comfort to know that we are so reliant on that part of the world.

OPEC, which produces approximately 40 percent of the world's oil supply, has threatened to cut oil production 4 separate times this year, and they cut oil production a total of 3.5 million barrels per day or 13 percent this year. I know this is a figure that can be difficult for people to comprehend, but every day, the United States receives 750,000 barrels of oil from Iraq. If we look at the chart, over 6.8 percent of the oil we import every day comes from Iraq.

In December, the United Nations will be conducting a periodic review of Iraq's oil-for-food program. In the past Iraq has suspended exports during the review in order to press their case that the program be allowed to continue uninhibited by the United Nations. This could happen again.

As many of you know, Iraq could be next on the list of nations that we go after because of their threat to world peace. It would be surreal if we were importing oil from Iraq at the same time we were engaging in antiterrorist activities against that nation.

It was strange enough that when we had the last oil crunch last year, we were providing them with technology to increase their oil production while at the same time we were conducting air sorties over their no-fly zone. We were bombing them on one hand and providing them technology so they could increase their oil production at the same time. It doesn't make sense.

The attack on Washington and New York could make things even more unpredictable as support for the United States by oil-producing Arab nations could bring Osama bin Laden and al-Qaida attacks on them. It is important to make it clear that Osama bin Laden would dearly like to bring down the Saudi government because of its Western influence and the alleged exploitation by the United States of Saudi oil. Remember, the Saudis provide 16.8 percent of our oil imports.

On the domestic front, we are also in trouble. The refinery fire in Illinois this past August decreased the available supply of gasoline while our inventory was already low. That caused prices to jump in my State of Ohio and other Midwest States. The price of gasoline jumped up 30 cents per gallon in Ohio over a 2-week period because of a fire at a refinery.

We have had no new refineries built in almost 26 years, while the number of refineries has dropped from 231 in 1983 to 155 today. While the refineries today are more efficient, they are not getting the job done. When a refinery shuts down for repairs or accidents such as fires, it creates price spikes that can be felt across the Nation.

We should not be lulled into complacency because of the temporary low cost of gasoline. If you travel the country, the price is down. We must do more to increase domestic production of oil in the United States.

Our transmission system also needs to be improved and opened up. We don't have the infrastructure in place to transmit natural gas and the pipelines to transmit oil. Last year one of the reasons we had the large increase in gasoline prices in the Midwest was because of a break in an oil pipeline coming up from Texas and another one coming from Wolverine, MI. Those two events skyrocketed the price of oil in Ohio and many other States in the Midwest.

Because of this, last month I introduced the Environmental Streamlining of Energy Facilities Act with Senator LANDRIEU. Our bill will streamline the siting process for pipelines and transmission lines.

Utility costs are another major factor in our Nation's competitive position in the global marketplace. Long before the events of September 11, utility costs were exacerbating the recession in Ohio and the Midwest. We need to assure Americans that they can count on reasonable, consistent energy costs if we expect to get their confidence back in terms of the economy.

As a major manufacturing State, energy is the backbone of my State, and Ohio and the Midwest are the backbone of this Nation's economy. Twenty-three percent of our Nation's gross State product for manufacturing is concentrated in five States which comprise the Midwest; Ohio, Indiana, Michigan, Illinois, and Wisconsin. For example, when you compare Ohio's manufacturing production with the New England States, Ohio's gross State product for manufacturing is higher than all six of the New England States combined. Energy is the backbone of the U.S. economy. And without a reliable supply, we are not competitive in the world marketplace.

Congress needs to act on an energy bill as soon as possible. It needs to be done on a bipartisan basis.

This chart is really very illuminating. It looks at projected demand for energy in this country between now and 2020. The green line is what we are going to need. The red line is based on current production and shows what we will have available to meet the demands for energy in this country. As my colleagues can see, there is a large canyon between the lines that needs to be filled. That means that we are going to have to produce more oil, more gas, use more coal, produce more nuclear energy, if we are going to take care of this large gap.

Many of my colleagues would argue that the solution to our need for energy is the issue of renewables and other alternatives. The fact is, today, renewables, that includes hydro- and non-hydropower, take care of only a fraction of our energy needs in the United States of America. That is surprising, because I have had some colleagues come to the floor and argue

that all we need are acres and acres of windmills and acres and acres of solar panels and that will take care of our energy problem. The fact is, solar and wind power make up only one-tenth of one percent of our energy needs. There is no way that we are going to be able to deal with our energy problem with renewables because if you look at the bottom line, this purple line, going out to 2020, you can see that it is going to represent a very small part of the production we have in America.

There is no question, we need more energy. We need more oil. We need more gas. We need more nuclear. We need more coal. While conservation helps, it is not going to meet our estimated consumption without drastically changing America's standard of living. We cannot kid ourselves and think otherwise.

Although it won't get the entire job done, a good beginning in our goal of achieving a solid energy policy is a bill that is currently on the Senate calendar, H.R. 4, and which is part of the amendment to the underlying bill before the Senate that was submitted today by Senator LOTT.

It is a good beginning. Those of us who have been on this issue for a long time would like to see amendments dealing with an ethanol component which will help decrease our dependence on foreign oil. We need to use more ethanol. We need to have an electricity title to improve nationwide delivery. We need more funding for clean coal technologies and a nuclear title, including Price-Anderson reauthorization.

It is a beginning, a big beginning, a bill that passed the House of Representatives and one that should be passed in the Senate.

I hope when Monday comes and this body has an opportunity to vote on the issue of cloture dealing with the amendments to the underlying bill that we will vote to allow those amendments to be debated by the Senate. It is important not only to the economic well-being of our country, but it is important to our national security.

We cannot allow ourselves to be lulled into a false sense of complacency simply because energy prices have stabilized. People say, ''Natural gas prices are down, GEORGE,'' and, ''Oil prices are down, GEORGE.'' The fact is that they have been down before and we have seen them go up. These prices are like a yo-yo, up and down and I am worried that one day, we are going to end up hanging at the end of the string.

It is time for us to act. As sure as the Sun will rise, so too will prices. OPEC will make sure it happens. The longer we wait to pass an energy bill, the more vulnerable this Nation will be to supply disruptions, which will, in turn, have a dramatic impact on our economy, our environment, our health and, yes, our national security.

The time has come for the Senate to act and adopt an energy policy for the United States of America.

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 that the order for the quorum call be rescinded.

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

## ENERGY POLICY

Mr. MURKOWSKI. Mr. President, let me thank my colleague from Ohio for outlining his position on the legislation we are discussing, the energy bill, H.R. 4. His presentation certainly summarized the fact that this indeed is in the national security interest of our Nation. He pointed out that our continued dependence on such unreliable sources as Iraq, at a time when we are not sure what our next move will be, puts us in a rather embarrassing position. He has certainly highlighted the vulnerability of this country, which is growing; there is absolutely no question about that.

The question we have—legitimate question—is just whether or not H.R. 4, which has passed the House of Representatives and is before us, does the job as a comprehensive energy bill. I am going to spend a little time on that because I think the public deserves to know what is in H.R. 4.

I will again ask my colleagues to reflect on the vote that is going to take place on Monday. This is not a vote on the issue of ANWR; this is a vote on the entire bill that passed the House of Representatives. A vote will be seen and read strictly as a vote on passing an energy bill. I think that is significant. It is a vote for or against passing an energy bill that has passed the House of Representatives.

With that, of course, is the cloning ban. I support that. The Senator from Kansas made an excellent presentation on the merits of that. It is rather unusual to see such devoid issues brought together, but that sometimes happens in this body. It is important to point that out and highlight that Senator BROWNBACK's presentation is simply a 6-month ban. What we are seeing here on cloning is the scientific and medical movement is so fast that we are not sure where the ethical evaluation should come down. Therefore, a 6-month moratorium on cloning is certainly in order. I certainly support that.

Here is what H.R. 4 does for the Nation. The amendment is the legislative portion of the President's comprehensive energy policy. It aims to secure America's energy future with a new national energy strategy that is designed to reduce energy demand, increase energy efficiency and supply, and enhance our energy infrastructure and our energy security.

I think that should address the issue some have raised that this is nothing but a very narrow bill containing ANWR. Let me tell you what we have in here in the sense of reducing demand. This bill reauthorizes Federal energy conservation programs and directs the Federal Government to take leadership in energy conservation with new energy-saving goals.

Secondly, it expands Federal energy savings performance contracting authority. It increases the Low Income Home Energy Assistance Program, LIHEAP. It provides weatherization and State energy program authorization levels to meet the needs of low-income Americans. It expands the EPA and the Department of Energy's so-called energy star program. It directs the EPA and the Department of Energy to determine whether energy star labels should be extended to additional products. We used to see seals of the Underwriters Laboratories. This is much like that, but these stars are awarded for reduction in energy use. In other words, you can get a better, more efficient refrigerator, but you probably won't because your other one is working just fine. But these new ones deserve a particular rating and some identification. That is what the energy star program is all about. It highlights that this is indeed an energy-saving device and technology that has been put on your iron, refrigerator, or dishwasher.

We need to encourage Americans to go out and buy these. But, obviously, some are reluctant because theirs is working fine. But they can reduce energy consumption and therefore their energy bill. It directs the DOE to set standards for appliance standby mode energy use. It reduces light truck fuel consumption by 5 billion gallons over 6 years. Now this is the CAFE—people are saying, ''Where are your CAFE savings?'' It directs the DOE, in the sense of light truck fuel consumption, to reduce it by 5 billion gallons over 6 years. It also improves Federal fleet fuel economy and expands the use of hybrid vehicles.

What do we mean by Federal fleet? We say before we put mandates on the general public, let's put it on the Government fleet and see how it works. That is kind of the old saying that charity begins at home. So it will improve the Federal fleet economy. It increases funding for the DOE's energy conservation and efficiency R&D programs designed to reduce consumption of energy. It expands HUD programs to promote energy-efficient single and multifamily housing. That should answer pretty much the concern some have raised, well, you don't have anything in your bill to reduce demand. I think we do.

On the issue of increased supply, we have provisions for environmentally sensitive oil and gas exploration on the Arctic Coastal Plain. That is ANWR. I will talk about ANWR later. Clearly, the reserves are there. It is estimated to be between 5 and 16 billion barrels. We have an average somewhere in between 5 and 16. It will be as big as

Prudhoe Bay, now producing the 13 billionth barrel. We can get 10 out in the field—the largest field ever found before. I have a chart here that shows a comparison with our good neighbors from Texas, and I am sure my staff can find it in a moment or two. As they look, I will move into the other areas of increased supply.

I think we all assimilate in our minds domestic oil reserves coming from the great State of Texas, and the great State of Texas has been producing a lot of oil for a long time. This says: ANWR, More Oil Than Texas. This is from the Energy Information Administration which reports that Texas proven crude oil reserves are 5.3 billion barrels.

In 1998, the USGS estimated there is a 95-percent chance of more than 5.7 billion barrels from ANWR, a 50/50 chance of more than 10 billion barrels of oil and a 5-percent chance of more than 16 billion barrels of oil. So if we want to use the average, ANWR has more potential than Texas.

I have heard my friend, the junior Senator from Massachusetts, speak in generalities about why this should not be open. I have never heard a good explanation as to whether or not he believes there is evidence to suggest it cannot be opened safely, but he does generalize that it is insignificant.

If the oil in ANWR were to be the average of 10 billion barrels, ANWR would supply 321,428 barrels per day to the State of Massachusetts. That would last the State of Massachusetts 85.2 years. The State of Connecticut uses 216,000 barrels per day. It would last Connecticut 126 years. South Dakota uses 59,000 barrels a day. It would provide South Dakota with 460.3 years for their petroleum needs. I throw that out simply as a matter of comparison when individuals say the increased supply is insignificant. It is not insignificant.

Further, increased supply authorizes new oil and gas R&D for unconventional and ultra-deep-water production. We are seeing that in the Gulf of Mexico. That is where our new finds are, in deep water. The industry has done an extraordinary job of advanced technology, and they have been very fortunate. They have had very few accidents. It provides royalty relief incentives for deepwater leases in the central and western Gulf of Mexico. It streamlines the administration of oil and gas leases on Federal land. It authorizes the Department of Energy to develop accelerated clean coal power initiatives. So it recognizes the significant role of coal, which makes up nearly 50 percent of our power generation in this country.

It establishes alternative fuel vehicles and green school bus demonstration programs. That should appeal to many Members. It reduces the royalty rate for development of biothermal energy and expedites leases. It provides for regular assessment of renewable energy resources and impediments to their use. It streamlines the licensing process for hydroelectric dams and encourages increased output. It provides new authorization for fossil, nuclear, hydrogen, biomass, and renewable R&D.

These things are included to increase the supply, but they are not only in ANWR. There is authorization for new technology, hydrogen, biomass, renewable R&D, because we want to remove our dependence even greater on imported oil. The difficulty many people fail to recognize is America and the world move on oil because we do not have any other alternative. We wish we did. We can generate electricity from coal, from gas, from nuclear, from wind, but we cannot move America and we cannot move the world. That is why we are becoming so dependent on Mideast sources.

If this bill passes this House and this Senate, two things are going to happen. We are going to send a message to OPEC. The message is going to be loud and clear that the United States is committed to reduce its dependence on OPEC. OPEC, I think, will read that and decide, all things being equal, they had better be careful how they operate that cartel because if they move it up too high, why, obviously it is not going to be in their interest. So I think it will be a curb on prices because the more we produce domestically, the less we will import. As we know, those countries need those gas fuels, particularly the Saudis.

Finally, in the area of enhanced infrastructure and energy security, it sets goals for reduction of United States dependence on foreign oil and Iraqi imports. It initiates the review of existing rights of way on Federal lands for energy potential. It directs the Department of Energy to implement R&D and demonstrate use of distributed energy resources. It invests in a new transmission infrastructure R&D program to ensure reliable electricity.

It requires a study of boutique fuels and issues to minimize refinery bottlenecks and supply shortages because, as we remember, it was not so very long ago under the previous administration, when we had a shortage of heating oil in the Northeast in the wintertime, the decision was made to open up SPR. We took 30 million barrels out of SPR. Suddenly we found we did not have the refining capacity because we had not built new refineries in this country in 20, 25 years, so all we did was displace what we were importing. That is kind of the situation. So this does provide some relief.

It initiates supply potential for renewable transportation of fuels to displaced oil imports, it offers scholarships to train the next generation of energy workers, and it prohibits pipelines from being placed on national registers of historic places. That is what the bill does.

Last night the majority whip, Senator REID, my good friend, came to the Chamber, and I do not know whether he was ill informed or not, but in any event I will comment a little bit on his statement. I assume it was an attempt to support the majority leader's priorities from the standpoint of the remaining time we have in this session and what those priorities should be. I know many of my friends on both sides of the aisle feel very strongly about the railroad retirement legislation, but the majority leader stated he thinks it is more important this body consider the railroad retirement legislation than comprehensive energy legislation. That is contrary to polling information I just presented. That polling information, as I said, indicated that 95 percent of Americans say Federal action on an energy bill is important. That is not enough because 72 percent of the Americans say passing an energy bill is a higher priority than other actions Congress might take.

We have seen polls from time to time. We take them or leave them, but this was an IPSOS-Reid poll done in November. So clearly there is a little bit of difference expressed by the polling information on what the priorities should be.

Now, evidently, the leader thinks it is more important that we consider a farm bill. It is kind of interesting about how we set priorities because the farm bill does not expire until the end of next year. Does it have the same prioritization as the exposure we are seeing in the Persian Gulf, the danger of terrorism to Saudi Arabia in bringing down the Royal Family, a couple of tankers colliding in a terrorist attack in the Straits of Hormuz, terrorizing oil fields? These are the crises that would come about, and clearly with our increased dependence on Iraqi oil and the fact we are looking to finalize things over there against those who sponsor terrorism, it is beyond me how the leader would consider the farm bill as being more important, particularly when it is not due to expire until the end of next year.

I know what good soldiers are about. I have been in the majority and I have been in the minority, and sometimes we are asked to defend the indefensible. That is politics. I think the whip is doing a good job as we have come to understand he always does in the Senate. However, I really cannot stand by and watch the facts simply evaporate. As I indicated, we simply cannot stand by and watch the facts simply evaporate. I emphasize ''facts.''

During his comments, the majority whip stated that the overall benefits to the country for developing a small area of the Arctic Coastal Plain were ''nonexistent.'' I find it rather ironic that he would make that blatant statement. Nonexistent? Did the majority whip really say the overall benefit to the country would be nonexistent when we have seen the Teamsters, the unions, the veterans, the minority groups in this country say they think this is the most important thing for the Senate to take up, and the fact that the House has passed it sends a strong message. We have some work to do.

When he said that would be nonexistent, I asked myself, can he really believe that? Does he really think the facts support his assertion? Knowing that the majority whip would never deliberately mislead other Senators, I only conclude he doesn't know all the facts. He, as well as the majority leader, have never taken the time to visit the area. We have made repeated offers. I have taken many Members there.

It is ironic we only have to justify on the side of the proponents the merits of the issue based on our personal experience, the experience of my senior colleague, Senator STEVENS, and Representative DON YOUNG. The administration has seen the area, physically gone up there. The Secretary of Interior has been up there twice. I took her up last February. We took off with a wind chill factor of 72 degrees below zero. It is tough country.

One chart shows the bleakness of the Arctic in the wintertime. I am also convinced the only way the Senator might learn those facts, if he doesn't visit the area, would be if I were to share more and more facts with him in the hopes he will understand. I am here to make the Nation aware of the significance of what this could mean to our energy security. I will also make the Nation aware of the benefits to the country in opening a small sliver of the Arctic Coastal Plain for development.

Today, I will share with the Senate what the Clinton administration said about ANWR. I think my colleagues should know what the previous administration said about ANWR, as related by the Energy Information Agency in May of 2000, an agency created by Congress to give unbiased energy information. I will come back to this in a moment.

ANWR is the area on this chart to the right on the map of Alaska. Also shown is the State of South Carolina for a size comparison. There are 19 million acres in ANWR. We have 365 in the whole State. ANWR, on the big chart, the 19 million acres, is already predestined by Congress for specific designation. The darker yellow is part of the refuge. The lighter yellow is in a wilderness in perpetuity. That is about 8 million acres. The green at the top is the 1002 area, or the ANWR coastal plain. The geologists say this is a very productive area. It is 60 miles from Prudhoe Bay. Prudhoe Bay, of course, is the field that has been producing for some 27 years.

The TAPS pipeline is an 800-mile pipeline traversing the length of Alaska. Interestingly enough, when that was built 27 years ago, we had arguments in the Senate whether that could be built safely. What would happen to the animals? What would happen to a hot pipeline in permafrost. Would it break? All the same arguments are being used today. There was a tie in the Senate, and the Vice President came in and broke the tie. I cannot recall how many hundreds of billions of barrels we have received, but for an extended period of time that was flowing at 2 million barrels a day. It is a little over 1 million barrels at this time.

This map shows another area worthy of some consideration. That is the red dot. That is the footprint associated with the development. In the House bill that is 2,000 acres. I know the occupant of the chair knows what 2,000 acres is. Robert Redford has a farm in Utah of 5,000 acres. Keep in mind this authorization is for 2,000 acres, a permanent footprint, out of 19 million acres. Is that unreasonable? I don't think it is.

Some are under the impression this is a pristine area that has not been subject to any development or any population. Of course, a village is at the top of the map. Real people live there. They have hopes and aspirations for a better lifestyle and better working conditions, jobs, health conditions, schools. There is a picture of some of the Eskimo kids going to school and nobody there to shovel the walks. There is also a picture of the public buildings, in front of the community hall, with pictures of the Eskimo's two modes of transportation: One is a snow machine and the other is a bicycle. That should take care of the myth that nobody is up there. Real people live there.

The Coastal Plain comprises approximately 8 percent of the 19 million acres. ANWR is along the geological trend that is productive in the sense that the oil flows in the same general area. This is the largest unexplored potential production onshore base in the entire United States, according to the Energy Information Agency.

I return now to the statement of the Clinton administration: This is the largest unexplored potential onshore base in the United States. The Energy Information Agency, under the Clinton administration, did not think the benefits of ANWR would be nonexistent on our Nation's energy supplies. That is why I am amused that the majority whip would use the term ''nonexistent.''

The Department of Interior says if the Energy Information Administration isn't good enough, how about the Department of the Interior under Bruce Babbitt?

I am wondering if that argument isn't enough to convince the majority whip that the benefits of ANWR are not nonexistent on energy supplies.

According to a 1998 Department of the Interior study under the previous administration, there is a 95-percent probability—that is 19 in 20 chances—that at least 5.7 billion barrels of oil in ANWR is recoverable. That is about half what we would recover initially from Prudhoe Bay. There is a 50–50 chance that there is 10.3 billion barrels of recoverable oil. And there is a 5-percent chance at least 16 billion barrels are recoverable.

These are not my numbers. These are not coming from FRANK MURKOWSKI or DON YOUNG or TED STEVENS. These aren't the environmental fundraiser groups' numbers. These are Interior Secretary Bruce Babbitt's scientific numbers.

I fail to recognize how the majority whip can add these up and suggest that it is nonexistent, as was stated by the whip. How much oil is there reason to believe is there? We don't know. We won't know until we get in there. Senators might wonder how much these numbers add up to. How much impact would oil from ANWR have on our Nation's energy security, our economy, our jobs?

Let me try to put that in perspective. According to the Independent Energy Information Administration, at the end of 2000, Texas had 5.27 billion barrels of proven reserves. That means there is a 95-percent chance that ANWR has more oil than all of Texas. Think of the jobs associated with the oil industry in Texas.

California has 3.8 billion barrels of proven reserves. There is a 95-percent chance that ANWR has more oil than all of California.

New Mexico has 718 million barrels of proven reserve. There is a 95-percent chance that ANWR can recover almost 8 times as much oil as is proven to exist in New Mexico.

Louisiana has 529 million barrels of proven reserves. Oklahoma, 610 million; Michigan, 56 million; Pennsylvania, 15 million; Nevada, Massachusetts, and Connecticut had no proven reserves.

In fact, the Energy Information Agency states that the lower 48 States have total proven reserves of 17,184,000,000 barrels of oil. That's it, 17 billion. This could come in at the high end. If we are lucky enough to hit Secretary Babbitt's high number of 16 billion barrels, ANWR would almost double U.S. reserves.

These are not my figures. They are figures of the previous Secretary of the Interior. Are these benefits nonexistent, as the whip has indicated last evening?

I hope this will clarify the issue for the majority whip, and any other Senators who might wonder whether ANWR would have an impact on our energy security, economy, or our jobs. To repeat, ANWR could potentially double our reserves overnight. Do I know it will? No. Does anyone else? No. But I will certainly take the word of the Clinton administration scientists over the word of the environmental fundraising groups. They have never wanted this issue resolved because they would no longer have their best fundraising issue to lie their way into well-intentioned American wallets. It is easy to understand how people might be misled. These groups have simply not been telling the truth, period.

I am happy to debate any and all, at any time, on the merits of this issue. If there are those who do not believe me, or the Clinton administration, how about organized labor? Teamsters, maritime, construction trade unions,

the AFL/CIO, operating engineers, and many other unions have joined us in support of this legislation. They think it will have a great impact on the economy, on our national security, on our jobs. They estimate between 250,000 and 750,000 jobs will be created here at home by opening ANWR.

They do not believe the benefits to our Nation are nonexistent, as the majority whip has indicated.

The PRESIDING OFFICER. The Senator has used 15 minutes.

Mr. MURKOWSKI. I ask unanimous consent I may have another 10 minutes.

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

Mr. MURKOWSKI. Mr. President, I would like to take a note here, relative to the number of ships that would have to be built if, indeed, ANWR were opened. A lot of people overlook the reality that Alaskan oil is unique. It has to move in U.S.-flagged vessels because the Jones Act requires that. Any movement of goods and material between two U.S. ports has to be moved in a U.S.-flagged vessel. So all the oil from Alaska moves down in ships built in U.S. yards, with U.S. crews, and flying the American flag.

This is the largest concentration of U.S.-flagged tankers in existence in our country, in this particular trade. They would require, if ANWR opens, 19 double-hulled tankers which would add about $4 billion to the economy and create 5,000 jobs each for 17 years because these new ships will come on as replacements for others.

I do not know if those benefits are nonexistent, but to the States—Maine, where they are likely to build some of these ships; Alabama, Mississippi, Texas, Washington, California—these are jobs. These are good jobs, good jobs in U.S. shipyards.

What about these other ships that bring in oil, the 56 percent that are coming from overseas? They bring their oil in foreign-flagged vessels. They don't have the deep pockets of an Exxon.

I will conclude because I see other Senators are here waiting for recognition. But I want to ask again, the benefits are nonexistent? I hope this will clarify the issue for the majority whip and any other Senators who might wonder whether ANWR would have any impact on our energy security, the economy, and jobs.

To repeat, ANWR could almost double our reserves overnight. Do I know it will? Does anyone? No. But I, again, would take the word of the Clinton administration scientists over the word of the environmental fundraising groups. They have never wanted this issue resolved because, as I indicated, they would no longer have the best fundraising issue to lie their way into well-intentioned American wallets.

It would be easy to understand how they might be misled but, as I have indicated, they pulled the wool over the public's eyes. This is an issue that involves our national energy security. It is a very fundamental issue.

I will conclude by, again, referring to the other organizations—the Veterans of Foreign Wars, the American Legion, Vietnam Veterans Institute—which think it is good for the national security. They do not believe the benefits to our Nation are nonexistent, and they ought to know. They fought the wars.

The House acted on national energy security legislation before September 11. Frankly, they have shown up the Senate. In that body, committees were allowed to advance energy legislation, debate it, and pass it to the floor for further consideration.

Here, the majority leader seized the bill from the committee of jurisdiction, the Energy and Natural Resources Committee, of which I am a ranking member. I used to be chairman. He has seized the bill from the committee of jurisdiction and has substituted his will for the will of the committee. He has bypassed the committee process entirely.

I am very disappointed that we were not able to bring around the majority to recognize this matter should go to the committee of authorization and not be taken away from it, but I am not chairman of that committee anymore.

Finally, I offer up this question to the Senate: If, indeed, the benefits to this country were nonexistent, there was so little oil there, then why is there such a huge campaign to deny Americans that oil? We can all ask ourselves why—16 billion barrels of oil, times $30 a barrel, is almost one-half trillion dollars.

It is about $480 billion; $480 billion is nonexistent? If that is the price about the time ANWR comes on line, that means $480 billion stays at home rather than being spent abroad for oil. With that kind of money, we can better provide for our schools, our security, our health care system, our elderly.

Here we are today rising before this body at last to take up an energy bill. The amendment offered by Senator LOTT is the underlying legislation. Divisions A through G of the amendment will provide us with the remainder of a comprehensive energy policy to guide this Nation into the future.

As I have indicated specifically, these provisions provide ways to do the following: Reduce our demand for energy, increase our domestic supply of energy, invest in our energy infrastructure, and enhance energy security.

I will go into more detail at a later time.

But for the past decade, America has lacked a comprehensive energy strategy. We are aware of that. Without such a guidebook, our record of economic expansion and resulting growth in demand has outpaced our energy production. We saw a similar situation last year in the sense of a perfect storm, if you will. All the parts of our energy supply were stretched, and there were limits on output. We actually saw that occur.

As we know, when supply doesn't meet demand, prices go up. When you have a cartel such as OPEC, they are able to do things that antitrust laws in the United States simply prohibit. They are able to set prices by reducing supply. As we all know, when supply doesn't meet demand, the price rises.

Rising energy prices have already been blamed by many economists for putting us into the recession we now face. It is a matter of particular importance that we develop a comprehensive national energy strategy for our economic and our national security.

Under previous control of this body by the Republicans, the Senate had a very aggressive timetable. That timetable was to get a comprehensive energy bill passed by the Fourth of July. We were working on this bill and introduced it shortly after we came in last year in late January. We had a change. And the GOP left a legacy to the other side. We have done our part.

When I was chairman, our committee had 24 hearings. We heard from 160 witnesses, and we introduced the Murkowski-Breaux bipartisan bill and were ready to move. The President's national energy policy framed the debate.

I can see no reason why the Democrats should not have kept this schedule. But since they took control, we have had a few hearings and heard from some of the same witnesses. We started a markup on the bill of the new chairman in August. We engaged in goodfaith discussions to come to a consensus only to find our committee stripped of its jurisdiction by the majority leader because he pulled the plug on the Energy Committee's deliberations and simply took over the process bypassing the authorizing committee and bypassing Senator BINGAMAN, who is the chairman. I can only guess why.

We had the votes in committee to pass out an energy bill. We asked the majority leader, Senator DASCHLE, for a date certain. We asked the chairman of the committee, Senator BINGAMAN, for a date certain. The statement from our Senate leadership is there will be no new energy bill this year. That statement has been made.

At least we are in the Chamber tonight. We have an energy bill up for consideration. I thank all my colleagues who played a role in assuring this would come about, because I made a commitment that we were going to bring this matter up before we go out on recess. Now we are in it.

In recent weeks, there has been considerable talk of the need to address the Nation's problems in the old spirit in a bipartisan manner. I wish we could. We have seen this with respect to an antiterrorist package, the airline security measure, and several other pieces of legislation. Sadly, this air of ''bipartisanship'' has broken down with respect to energy policy. We now find ourselves in a partisan standoff.

I think, though, we all agree we need an energy policy. We have one which

passed the House. That is before us. It is up to us to address whether we are going to simply walk out of here without an energy policy or take this up seriously, vote it out, get it to conference, and respond to the request of our President.

We have seen threats of filibusters, suspension of committee activities, and a failure to give the American people a fair, open, and honest debate on this issue.

I do not think, and I refuse to accept, that meeting the energy needs of this Nation is a partisan issue.

At the beginning of the session, I sought out my colleagues on the other side of the aisle for their ideas and suggestions. And as committee chairman, I delayed introducing any legislation until a measure could be developed that reflected their interests. We worked hard on that.

S. 389, while not perfect, met that requirement and remains the only bipartisan comprehensive energy measure introduced in the Senate.

At a time when the country is seeking unity and bipartisanship, we should be moving forward with a bipartisan energy bill. Just as we did last year with respect to electricity, we should put the contentious issues to a fair and open debate, and vote on them.

Repeatedly, the President has called on Congress to pass energy legislation as a part of our efforts to enhance national security.

With H.R. 4, the bill now sitting on the Senate calendar, the House of Representatives has done its job. Now it's the Senate's turn. The best thing we can do to ensure this Nation's energy security is to act now: take up the House bill, amend it, and go to conference.

Make no mistake about it. That is what we should do. This energy policy proposal will create new jobs in domestic production and new energy technologies. This will be a significant economic stimulus that couldn't come any sooner—when the economy needs thousands of new jobs.

At stake are billions of dollars in construction spending, hundreds of thousands of jobs, and billions of dollars that won't go overseas in future energy spending.

Our increasing dependence on foreign oil helps to support the very terrorists we now fight in the Middle East and elsewhere. We import nearly a million barrels per day of oil from Iraq, and some of our oil payments to Saudi Arabia may have been used against us in the events of September 11.

As a matter of national importance, we cannot allow our energy security to get bogged down in partisanship and procedural maneuvers. One of the purposes of committees is to test various proposals and to provide the Senate with a considered recommendation. A majority of the members of the Energy Committee have been willing to provide this advice—and report out a bill. Yet the majority leader and the committee chairman have seen fit to ''short-circuit'' the regular order to avoid votes on certain issues. These votes would prevail if we could get the matter up in the committee.

The American people deserve better than this. They deserve more than just partisan sniping on energy issues. We certainly need to provide for the security of our energy supply. We need to deal with our infrastructure and our domestic capacity for development, refining and transportation and transmission. And we should take those steps that we can all agree on to promote the energy technologies of the next decade and beyond.

Our Nation deserves a fair, honest, and open debate on all aspects of the important energy issues, including ANWR. This is a debate that a majority of members were ready to have in committee, but that opportunity was denied us. We are ready to have that debate and let the votes fall where they may on all the contentious issues that remain.

So let us now finally—since we are on the bill—have this debate so we can look the American people—our constituents—in the eye when we go home for the holidays and say that, yes, we have passed, in the national interest, an energy bill, H.R. 4, which passed the House overwhelmingly; and then tell them we are going to do our part to provide safe, secure, and affordable energy supplies now and into the future.

At this critical point in our Nation's history, we clearly need a national energy strategy to ensure a stable, reliable, and affordable energy supply.

While many choices have been forced upon us in the aftermath of September 11, we now have the chance to choose our energy future. The other alternative is simply to dodge the issue. Will we have the courage to act? Will we have the courage to make the difficult decisions we avoided some 10 years ago?

In 1995, ANWR was in the omnibus bill. It was an energy bill. It passed this body. It was vetoed by the President. Had he signed that order, we would know what was in ANWR. We could be producing from ANWR. The question is, When are we going to start?

As the President said, there was a good bill passed out of the House of Representatives. Now it is the job of the Senate. The Senate can and must act.

I hope my colleagues will join me in voting for this amendment to ensure the security of our energy supply, our economy, and our Nation for years to come.

I thank the Chair for being patient. We are going to be back on this tomorrow. I thank the majority whip for his indulgence as well.

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

Mr. REID. Before my friend, the distinguished Senator from Alaska, leaves the Chamber, I did want to say that I was a little disappointed, when he went over the reserves in various States, that he said Nevada had nothing.

Mr. MURKOWSKI. I think the terminology is ''inexistent.''

Mr. REID. Inexistent? The reason I mention that is for 6 years Nevada had the largest single producing oil well in the United States in a place called Railroad Valley. The well went dry about 8 or 9 years ago. But for 6 years it was the best in the country.

Mr. MURKOWSKI. I was talking about current reserves, so there very well may have been a well in Nevada, but there isn't anymore.

Mr. REID. That we have found yet.

Mr. ENZI. Mr. President, I rise today in support of the Railroad Retirement and Survivor's Improvement Act of 2001. As a Senator from Wyoming, I represent a State that bears the undeniable mark of the railroads. Many of the towns across the southern corridor of my State were established on the sites of old railroad shanty towns. These shanty towns were constructed to house the workers that built the railroads. The railroad workers brought diversity to Wyoming. Many of my constituents with Chinese, Irish and Italian heritages call Wyoming home because their ancestors moved there with the railroad.

The railroad is still an integral part of Wyoming today. It transports one of our greatest energy resources, low-sulfur coal, to States that lack our power supply. And today's railroad workers are still an important part of the Wyoming population. I support this bill because I support providing the survivors of railroad employees with the benefits they require to live out their days in my State and other States. I support this bill for another reason; it is a viable option to provide solvency to the railroad retirement fund and increase retirement benefits and while lowering employer taxes.

These two results may sound mutually exclusive, but I assure you that they are not. The bill authorizes the newly created Railroad Retirement Trust Fund to invest the current Railroad Retirement Account in securities, including stocks and bonds. Even a conservative estimate places the rate of return on these investments as greater than the current rate of return in government accounts. This is the mechanism that allows retirement benefits to increase while taxes decrease.

As an accountant, I refrained from sponsoring the bill until I reviewed the actuarial report. After examining the report, I determined that the Railroad Retirement Trust Fund would remain well-capitalized and able to pay benefits under this legislation far into the future. The actuarial report indicated that this would occur even during mediocre economic conditions.

This bill would directly benefit Wyoming railroaders and their spouses by allowing 100 percent benefits for survivors of eligible retirees. It would lower the retirement age from 62 to 60

years for employees that have worked at least 30 years for the railroad. Some of my colleagues have asked why we should lower the railroad retirement age when the Social Security retirement age is increasing from 65 to 67. It is important to make a distinction between Tier I and Tier II benefits in this plan. Tier I benefits are comparable to Social Security benefits, and they do not start paying until the equivalent Social Security benefits are payed. Currently, that is at age 65. Tier II benefits, which are funded by taxes to the railroad employers and employees, pay the early retirement benefits for eligible workers. This is very similar to the ''bridge plan'' offered by private pension plans. This is important because railroading is a physically rigorous profession that ages a body prematurely and is still considered hazardous.

This legislation includes an automatic tax trigger that initiates an increase or decrease of the employer's taxes if the trust fund's amount moves outside of preset barriers. The barriers would ensure that a cushion of 4 to 6 years' worth of benefits payable remain in the account. A number of my colleagues have been presenting graphs that show benefit levels falling and employer taxes increasing 20 years after the program is initiated. I do not dispute this. In fact, it shows the fund's ability to manage itself and respond to decreases in its cushion.

As a Wyoming Senator and an accountant, I support the Railroad Retirement and Survivor's Improvement Act. I support it as a responsible way to manage the funds entrusted to us by the railroad workers. I support it as a way to fully care for the individuals that have contributed so much to our nation's infrastructure. I ask that my colleagues do the same and pass this bill.

## SERVICE MEMBERS OPPORTUNITY COLLEGES

Mr. THURMOND. Mr. President, it is with great pleasure that I rise to bring to the attention of the Senate a true national asset, the Service Members Opportunity Colleges, (SOC). The SOC is a consortium of over 1500 Colleges and Universities across the Nation that have taken on the privilege of educating our Nation's men and women in uniform.

Founded in 1972 the SOC was created to ''provide educational opportunities to service members, who, because they frequently moved from place to place, had trouble completing college degrees.''

In fulfilling this primary role the SOC and their member institutions currently serve hundreds of thousands of service members. They work very hard to provide opportunities for our brave young men and women to educate themselves while serving our Nation. Consequently the SOC is helping prepare the future leaders of our military and our country. For this I salute them.

However, in addition to their stated mission the SOC, and their director Dr. Steven Kime, have dedicated themselves to ensuring that our men and women in the Guard and Reserve are taken care of when our Nation calls upon them and they are forced to leave school. The SOC does this by using their extensive network to ensure that students called to service are either refunded their tuition or receive credits for later education. Through their hard work SOC has helped create a sense of duty among their member institutions who regularly prove their devotion to this Nation by providing help and assistance to their students called upon to serve.

Consequently SOC has ensured that our brave young men and women called to active duty have one less worry on their already heavy shoulders. In these trying times it is this type of duty and leadership that proves our Nation and the American people are without equal.

Again, I would like to offer my thanks and admiration to the Servicemembers Opportunity Colleges and their men and women working so hard to make life better for our men and women in uniform.

## ANOTHER REASON TO CLOSE THE GUN SHOW LOOPHOLE

Mr. LEVIN. Mr. President, I would like to enter into the RECORD some important information about guns and terrorists. Currently, shoppers at gun shows may choose to buy firearms from federally licensed firearms dealers—or from unlicensed dealers. Since unlicensed sellers are not required to run Brady background checks, which involves an instant background check for among other things, criminal history, outstanding warrants and illegal immigration status, gun shows are an important source of guns for criminals and terrorists who would not be able to buy weapons in a store. In fact, several cases have linked the purchase of guns at gun shows to terrorists. For example, in Florida, a man accused of having ties to the Irish Republican Army testified that he purchased thousands of dollars worth of machine guns, rifles, and high-powered ammunition at gun shows and proceeded to smuggle them to Ireland. Now more than ever, we must close the gun show loophole. I urge my fellow Senators to support bringing to the floor legislation that will close the gun show loophole.

## MAJOR GENERAL PAUL A. WEAVER, JR.

Mr. STEVENS. Mr. President, I would like to take a moment to recognize one of the finest officers in our Armed Forces, Major General Paul A. Weaver, Jr., the Director of the Air National Guard. Well known and respected by many Members in this chamber, General Weaver will soon retire after almost 35 years of selfless service to our country. Today, I am honored to acknowledge some of General Weaver's distinguished accomplishments and to commend the superb service he has provided to the Air National Guard, the Air Force, and our great Nation.

After completing his Bachelor of Science degree in Communicative Arts at Ithaca College, New York, Paul Weaver entered the Air Force in 1967 and was commissioned through Officer Training School. After earning his pilot wings, he had flying assignments in the F–4E and O–2A, and completed overseas tours in Germany and Korea. In 1975, he joined the New York Air National Guard with which he served in increasing levels of responsibility. This culminated when he took command of the 105th Airlift Group at Stewart Air National Guard Base, New York, in 1985. Following his nine years as commander, General Weaver served as the Air National Guard's Deputy Director for four years and was appointed the Director of the Air Guard in 1998.

General Weaver is a command pilot with more than 2,800 flying hours in five different aircraft. He is a veteran of Operations Desert Shield, Desert Storm, and Just Cause. General Weaver's decorations include the Distinguished Service Medal, the Legion of Merit, Meritorious Service Medal, Aerial Achievement Medal, Air Force Commendation Medal with two oak leaf clusters, Combat Readiness Medal with Service Star, and Southwest Asia Service Medal with two oak leaf clusters.

While serving as Commander of the 105th Airlift Wing, Paul Weaver was responsible for the largest conversion in the history of the Air National Guard. Under his command, the wing converted from the Air Force's smallest aircraft, the O–2 Skymaster, to its largest, the C–5 Galaxy. During this conversion, he oversaw the largest military construction program in the history of the reserve forces as he literally rebuilt Stewart Air National Guard Base.

As the Air National Guard's Director, General Weaver's accomplishments are also noteworthy. He had dedicated each year of his term to a different theme—transition, the enlisted force, the family, and employers, thereby providing focus and enhancements to these four crucial areas. In addition, Paul Weaver's modernization, readiness, people, and infrastructure initiatives have enabled a fuller partnership role in the Air Force's Expeditionary Aerospace Force. The Air Guard achieved all its domestic and global takings and requirements with a force that is also smaller in size. Under General Weaver's leadership, the Air National Guard is even more relevant, ready, responsive, and accessible than it has ever been.

I would be remiss if I also did not mention that the Air National Guard is also fortunate to have another Weaver contributing to its success. Besides

fully supporting his chosen profession, Paul's wife, Cathylee Weaver has had a major impact on the Air Guard's Family Enrichment programs. With dignity and grace, she dedicated time and attention to Air National Guard families, which led to her recently being voted as Volunteer of the Year of Family Programs. Clearly, the Air National Guard will lose not one, but two, exceptional people.

Let me close by saying that as both its Deputy and Director, General Weaver has made the Air National Guard a stronger and more capable partner for the Air Force. His distinguished and faithful service has provided significant and lasting contributions to our Nation's security. I know the members of the Senate will join me in paying tribute to this outstanding citizen-airmen and true patriot upon his retirement from the Air National Guard. We thank General Weaver, and wish him, Cathylee, and the entire Weaver family much health, happiness, and Godspeed.

## KIDS TO KIDS: WARM CLOTHING FOR AFGHAN CHILDREN

Mr. JEFFORDS. Mr. President, I would like to draw my Colleagues' attention to an important initiative that is taking shape in Vermont. On Monday of this week, I attended a very special ceremony at Lawrence Barnes School in Burlington to kick off a program called Kids to Kids. The event was organized by Vermont Boy and Girl Scouts and its goal is simple—a drive to collect and send warm clothing to Afghan children. My wife, Liz, and I wholeheartedly agreed to be honorary co-chairs of this program and we are pleased to be part of a mission that involves the Boy Scouts and Girl Scouts, the Islamic Society of Vermont, the National Guard and the business community.

We in Vermont know the importance of being well-prepared for the frigid winter months, and we are fortunate to be in a position to help. But I am particularly pleased that the impetus for this clothing drive has come from the children. Vermonters have always stood eager and ready to lend a hand to those in need, and it fascinates me to see how this tradition passes from one generation to the next. It is the Boy Scouts, Girl Scouts, and school children of Vermont who will make this campaign a success, and the importance of their role cannot be stressed enough.

This campaign is so much more than simply a gesture of good will. It is a matter of saving lives. Thousands of children have fled Afghanistan with nothing more than the clothing on their backs. The flood of Afghan refugees started many years ago, and now there are many thousands of displaced children living in refugee camps.

Many of these children are suffering under conditions that no child should have to bear. They are hungry and they are cold. With winter setting in, something like a warm winter sweater, which so many of us take for granted, is a luxury item that is far beyond their reach.

From our small State to Afghan refugee camps, the boys and girls of Vermont are proving that they can make a difference. I am certain their ''good turn'' will be as rewarding for them as it is for the children of Afghanistan.

## NATIVE AMERICAN BREAST AND CERVICAL CANCER TREATMENT TECHNICAL AMENDMENT ACT OF 2001

Mr. BINGAMAN. Mr. President, last evening, the Senate passed by unanimous consent S. 1741, the Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2001, which I had introduced with Senator MCCAIN and 23 other bipartisan cosponsors.

S. 1741 is identical to S. 535 and was introduced as a freestanding bill to address a jurisdictional concern raised with the committee referral of the initial bill. Due to the importance of the legislation, I am pleased that the entire Senate saw fit to allow this bill to be reintroduced and passed by unanimous consent yesterday.

The legislation makes a simple, yet important, technical change to the Breast and Cervical Cancer Treatment and Prevention Act of 2000 by clarifying that American Indian and Alaska Native women should not be excluded from receiving coverage through Medicaid for breast and cervical cancer treatment.

The Breast and Cervical Cancer Prevention and Treatment Act of 2000 gives States the option to extend coverage for the treatment of breast and cervical cancer through the Medicaid program to certain women who have been screened through the National Breast and Cervical Cancer Early Detection Program, or Title XV of the Public Health Service Act, and who do not have what is called ''creditable coverage,'' as defined by the Health Insurance Portability and Accountability Act of 1996, or HIPPA.

In referencing the HIPPA definition of ''creditable coverage,'' the bill language inadvertently precludes coverage to Native American women who have access to medical care under the Indian Health Service, or IHS. HIPPA included a reference to IHS or tribal care as ''creditable coverage'' so that members of Indian Tribes eligible for IHS would not be treated as having a break in coverage, and thus subject to pre-existing exclusions and waiting periods when seeking health insurance, simply because they had received care through Indian health programs, rather than through a conventional health insurance program. Thus, in HIPPA, the inclusion of the IHS or tribal provision was intended to benefit American Indians and Alaska Natives, not penalize them.

However, use of the HIPPA definition in the recent Breast and Cervical Cancer Treatment and Prevention Act has the exact opposite effect. In fact, the many Indian women, who rely on IHS or tribal programs for basic health care, are specifically excluded from the law's new eligibility under Medicaid. Clearly it was not the intent of Congress to specifically discriminate against low-income Native American women and to deny them much needed health treatment to combat breast or cervical cancer.

The legislation resolves these problems by clarifying that, for purposes of the Breast and Cervical Cancer Prevention and Treatment Act, the term ''creditable coverage'' shall not include IHS-funded care so that American Indian and Alaska Native women can be covered by Medicaid for breast and cervical cancer treatment, as they are for all other Medicaid services. Since a number of States are currently moving forward to provide Medicaid coverage under the State option, the need for this legislation is immediate to ensure that some American Indian and Alaska Native women are not denied received life-saving breast and cervical cancer treatment due to a Congressional drafting error.

In addition, this bill would also reduce the administrative burdens this language places on states. Under administrative guidance, some Native American women can be enrolled on the program depending on a determination of their ''access'' to IHS services, which depends on certain documentation obtained by Native American women seeking breast and cervical cancer treatment from IHS. In order to determine the Medicaid eligibility of Native American women who are screened as having breast or cervical cancer through the Title XV program each year, states are having to put together a whole set of regulations and rules to make these special ''access'' determinations.

During this year, almost 50,000 women are expected to die from breast or cervical cancer in the United States despite the fact that early detection and treatment of these diseases could substantially decrease this mortality. While passage of last year's bill makes significant strides to address this problem, it fails to do so for certain Native American women and that must be changed as soon as possible.

In support of Native American women across this country that are being diagnosed through CDC screening activities as having breast or cervical cancer, this legislation will assure that they can also access much needed treatment through the Medicaid program while also reducing the unnecessary paperwork and administrative burdens on states.

I would like to thank all Senators for their support and specifically thank

Chairman INOUYE and Senator CAMPBELL of the Committee on Indian Affairs and Chairman BAUCUS and Senator GRASSLEY of the Finance Committee for agreeing to move the bill. In addition, I would like to thank the bill's cosponsors, which include Senators MCCAIN, DASCHLE, BAUCUS, CLINTON, DOMENICI, FEINGOLD, KENNEDY, JOHNSON, MURRAY, STABENOW, WELLSTONE, HARKIN, MILLER, SNOWE, INOUYE, SMITH of Oregon, CANTWELL, INHOFE, LANDRIEU, COCHRAN, BOXER, MURKOWSKI, MIKULSKI, and GRASSLEY for their help in getting the bill passed.

I would also like to thank Sara Rosenbaum at George Washington University for bringing this problem to our attention and for her vast knowledge on this issue and Andy Schneider for his technical advice and counsel on correcting the problem.

In addition, this bill would never have passed without the outstanding support and efforts by Fran Visco, Jennifer Katz, Wendy Arends, Alana Wexler, Joanne Huff, and Vicki Tosher at the National Breast Cancer Coalition, Wendy Selig, Licy Docanto, Brian Lee, and Janet Thomas of the American Cancer Society, Dawn McKinney and Laura Hessburg of the American College of Obstetricians and Gynecologists, Leigh Ann McGee of the Cherokee Nation, Jacqueline Johnson of the National Congress of American Indians, and the many Indian health organizations that have helped with the passage of this legislation as well.

I urge the House to immediately take up and pass this legislation and for the President to sign it into law to ensure that Native American women are not inappropriately denied treatment for their breast and cervical cancer. As states proceed with the implementation of last year's bill, any further delay and failure to act could unnecessarily threaten the lives of Native American women across this country.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 16, 1994 in Salt Lake City, UT. Two women, one lesbian and one bisexual, allegedly were beaten by a man who yelled antigay slurs. The assailant, Gilberto Arrendondo, 44, was charged with four counts of violating the State hate crime law and four counts of assault.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

## ART THERAPY

Mrs. CLINTON. Mr. President, since the terrible tragedies of September 11, many Americans, both adults and children, have been forced to deal with a level of pain and anxiety that most people have never had to endure before. Art therapy—the process of using art therapeutically to treat victims of trauma, illness, physical disability or other personal challenges—has historically been under recognized as a treatment. However, since September 11, many of us have witnessed its enormous benefits in helping both children and adults alike express their emotions in a very personal, touching way.

While nearly every person in our country has been irrevocably changed by that day's events, we know that children are particularly vulnerable to the long-term emotional consequences that often accompany exposure to trauma. One of the ways in which children have coped with the aftermath of September 11 is by reaching for their crayons, pencils, and paintbrushes to express some of what they are feeling. Children all over the country have created images of World Trade Center towers and the Pentagon decorated with hearts, tears, rainbows, and angels. These simple, yet heartfelt, drawings, which do such a wonderful job of expressing the complex emotional terrain that these children are navigating, have moved us all.

Adults, too, have used creativity to help cope with the difficult emotions that so many are experiencing. I heard the story of a woman who was one of the last people to be rescued from the World Trade Center rubble after being trapped for more than a day. She drew a picture while in intensive care of herself under the rubble with angels and God hovering above her. Another victim of the disaster drew pictures of flowers and spoke about how grateful she was to be alive.

Last June, I had the pleasure of viewing an art exhibit here on Capitol Hill in which all of the art was created by patients who were being treated by art therapists. It was a remarkable feat for people coping with such immense personal pain to be able to produce such works of passion and beauty. Although sometimes the healing qualities of art may be less tangible or obvious than its aesthetic qualities, they may be even more important.

I want to thank art therapists, in New York and every community in America, who are assisting survivors, rescuers, and the bereaved. Throughout the country, there are almost 5,000 trained and credentialed art therapists working in hospitals, nursing homes, schools and shelters. They are among the army of mental health professionals who support those suffering from psychological trauma from the attacks, and undoubtedly will continue to serve the needs of individuals coping with subsequent stress disorders.

And that is why I rise today to encourage my colleagues in Congress to support the field of art therapy and expand awareness about this creative form of treatment. At this time of heightened awareness about the importance of maintaining mental health, we should recognize art therapy as a way to treat those among us who have experienced trauma.

## RAILROAD RETIREMENT

Mr. CRAPO. Mr. President. I am pleased that we are proceeding on the Railroad Retirement and Survivors' Improvement Act. This important legislation will modernize the retirement system by giving rail employers and employees more responsibility and accountability for a private pension plan. Moreover, the bill permits the reduction of payroll taxes and improves benefits for widows and widowers.

The overwhelmingly success of today's vote, which transcended party lines and ideological persuasions, shows what can be accomplished when all parties work together. This was a victory for the workers in the yard, all the railroads and especially for the survivors of retirees.

I am hopeful that we can build on today's momentum. This is a smart bill with bipartisan support. The consensus is that it makes sense to modernize the railroad retirement system in a way that increases benefits for railroad retirees and their families.

## ADDITIONAL STATEMENTS

### TRIBUTE TO HAROLD R. ''TUBBY'' RAYMOND, HEAD COACH OF THE UNIVERSITY OF DELAWARE FOOTBALL TEAM

• Mr. BIDEN. Mr. President, we in Delaware, and especially those of us associated with the University of Delaware, engaged in a very proud celebration this fall, when on November 10, Harold ''Tubby'' Raymond won his 300th game as head coach of the University's Fightin' Blue Hens football team.

The win put Coach Raymond into some very elite company, as he became the ninth ranked college coach in all-time wins, fifth among active coaches, second among division I–AA coaches, and one of only four coaches in the 300-wins club to have won all of his games at one school.

Coach Raymond came to the University of Delaware in 1954; to put that in perspective, it means that he had already been coaching at Delaware, as an assistant in football and head coach in baseball, for six years when I arrived on campus as a college freshman. With apologies to my New England colleagues, we stole Tubby from the University of Maine, where he had coached

with his fellow University of Michigan alumnus and later College Football Hall of Famer, Dave Nelson. If you've ever seen the University of Delaware football helmets, you know that Coaches Nelson and Raymond never forgot their Michigan roots.

After serving as Dave Nelson's backfield coach for 12 years, Tubby Raymond took over the head coaching job in 1966, leading that first team to a 6–3 record and the first of three Middle Atlantic Conference University Division championships. In his 36-year career as Delaware's head coach, Tubby has gone on to win three national championships, including back-to-back titles in 1971 and '72, and has led Delaware to the national playoffs a total of 16 times, five in Division II and 11 in Division I–AA. His teams have earned 14 Lambert Cup eastern college championships, and have won six Atlantic 10/Yankee Conference titles, five Boardwalk Bowls and nine ECAC ''Team of the Year'' Awards.

Tubby Raymond's career record stands at 300–119–3, a winning percentage of .714. He is one of only two college division coaches ever to win consecutive American Coaches Association Coach of the Year Awards. He was named NCAA Division II Coach of the Year by ABC Sports and Chevrolet in 1979, following his third national championship season. He is all told, a seven-time honoree as AFCA College Division District II, now I–AA Region I, Coach of the Year; and he has been twice named as the New York Writers Association ECAC I–AA Coach of the Year. In 1998, Coach Raymond received the Vince Lombardi Foundation Lifetime Achievement Award, and in 2000, he was recognized by Sports Illustrated as one of Delaware's top 10 sports figures of the 20th Century.

Most incredibly of all, all the records and championships and statistics, as phenomenal as they are, don't tell the full story of Tubby Raymond's stature and influence on his players, the University, his sport or our State as a whole. Coach Raymond is a leader far beyond the walls of Delaware Stadium; he is respected, admired and beloved by his fellow Delawareans, even those who like to call their own plays from the stands, and even by rival coaches and opposing players. He is an institution, in a word, a legend; in fact, I would say that Tubby Raymond defines the standard of ''living legend'' in my State.

To top it off, Tubby is a good golfer, though like most of us not as good as he would like to be, and he is also an artist of considerable renown. One of the many ways Tubby expresses his bond to his players has been by painting a portrait of a senior member of the team each week of the season through most of his career. Other Raymond originals have benefited charity auctions and decorated Delaware football media guides. In fact, Tubby's artistic talents have attracted only slightly less national attention than his coaching skills; his paintings have been featured on Good Morning America, NBC Nightly News, Sports Illustrated, CNN and Fox Sports.

To save the best for last, Tubby Raymond is a family man. He lives with his wife, Diane, and daughter, Michelle, and is also the proud father of three grown children from his first marriage to Sue Raymond, who died in 1990. His son, Chris, is a former coach made good as an officer with J.P. Morgan; his daughter, Debbie, is a psychologist; and his son, David, became well known himself to sports fans as the Phillie Phanatic, mascot of the Philadelphia Phillies, and now owns Raymond Entertainment.

It is my privilege to share Delaware's pride in Harold ''Tubby'' Raymond with the Senate and with the Nation today. He is a legendary coach, an inspiring leader, a good friend and a remarkable human being, and to put it simply, we love him.●

## HONORING POLICE OFFICER DANNY FAULKNER

● Mr. SPECTER. Mr. President, on Sunday, December 9, 2001, at 12 Noon, a commemorative plaque will be cemented into the sidewalk at the southeast corner of 13th and Locust Streets in Philadelphia, PA to mark the 20th anniversary of the murder of Police Officer Danny Faulkner at that site.

Officer Faulkner lost his life protecting the people of Philadelphia from the scourge of violent crime. Our society owes a great debt of gratitude to the Thin Blue Line, the police officers of America who fight criminal violence on the streets of our Nation 24 hours a day, 7 days a week and 52 weeks of the year.

From my experience as District Attorney of Philadelphia, I know the extraordinary risks faced by law enforcement officers. One of the most difficult aspects of my District Attorney's duties was the attendance at the funerals of police officers who were killed in the line of duty.

Following the terrorist attack on September 11, America has been focused on the courage and bravery of the police and firefighters. There is now a better understanding of the risks and performance of firefighters and police for their heroic efforts on September 11.

The commemoration of the 20th anniversary of Officer Faulkner's murder should inspire us to redouble our efforts to fight all forms of criminal violence, including terrorism, and to pay tribute to the memory of Officer Faulkner and all the police and firefighters of America.●

## TRIBUTE TO LIEUTENANT SUZANNE R. DePRIZIO

● Mr. INOUYE. Mr. President, in my years in the Senate, I have had the opportunity to meet and get to know many of our men and women in uniform. I have always been struck by their enthusiasm, determination, patriotism, and professionalism. Yet sometimes, even in such impressive company, you run across an individual who stands out above the rest. Lt. Suzy DePrizio is one of those standouts.

Lt. DePrizio serves today as the legislative affairs officer for the United States Pacific Command, located in my home State of Hawaii. I've gotten to know Lt. DePrizio on my many trips to visit the command. Lt. DePrizio has constantly provided my staff and me timely, valuable and accurate information on the critical issues of the day. Her energetic determination and competence inspire all those who work with her. I know first hand from my discussions with Admiral Blair, the commander of the Pacific Command, what a high regard the entire staff of PACOM has for this tremendously talented young officer. No matter how difficult the challenge, Suzy was always up to the task. Her behind-the-scenes efforts to prepare for congressional testimony were recognized by those of us in this business as exemplary. The CINC was always well prepared because of her efforts.

I also know from many of my colleagues that traveled into the Pacific region how smoothly their travel went because of her coordination and attention to detail. I would always tell them, ''ask for Suzy, she'll get the job done right.'' Of course, she always did.

As Lt. Deprizio prepares to leave active duty in the Navy for a civilian career, I salute her for a job well done. On behalf of the entire U.S. Congress, I want to thank America for sending us proud and patriotic professionals such as Lt. Deprizio. She is certainly among our Nations's finest, and she gave tenfold compared to what she received.

In Hawaii, we have many traditions and blessings, one of which is the spirit of Aloha,—not just hello or goodbye or love, but the spirit of giving. When you put it together with the word 'aina, it becomes the Hawaiian phrase for patriotism. And, if there ever was an officer who had the spirit of aloha' aina for the Congress, the Armed forces and for America, it is Lt. Suzy DePrizio. In that spirit, we send her on her way, wishing her fair winds and following seas in everything she does.●

## 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.)

## MESSAGES FROM THE HOUSE

At 3:33 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. 3338. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes.

H.R. 2722. An act to implement a system of requirements on the importation of diamonds, 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. 77. Concurrent resolution expressing the sense of the Congress regarding the efforts of people of the United States of Korean ancestry to reunite with their family members in North Korea.

## MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3338. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 2002, and for other purposes; to the Committee on Appropriations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 77. Concurrent resolution expressing the sense of the Congress regarding the efforts of people of the United States of Korean ancestry to reunite with their family members in North Korea; to the Committee on Foreign Relations.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 2983. An act to extend indemnification authority under section 170 of the Atomic Energy Act of 1954, and for other purposes.

## MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 2722. An act to implement a system of requirements on the importation of diamonds, and for other purposes.

H.R. 3189. An act to extend the Export Administration Act until April 20, 2002.

## 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–4597. A communication from the Acting Director of the Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report on the Accounting of Drug Control Funds for Fiscal Year 2000; to the Committee on the Judiciary.

EC–4598. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, the semiannual report of the Office of the Inspector General for the period beginning April 1 through September 30, 2001; to the Committee on Governmental Affairs.

EC–4599. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–167, ''Chesapeake Regional Olympic Games Authority Act of 2001''; to the Committee on Governmental Affairs.

EC–4600. A communication from the Under Secretary of Defense, Acquisition, Technology and Logistics, transmitting, pursuant to law, twenty-nine quarterly exception Selected Acquisition Reports for the period ending September 30, 2001; to the Committee on Armed Services.

EC–4601. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report relative to the LPD 17 Program Life Cycle Cost Estimate; to the Committee on Armed Services.

EC–4602. A communication from the President of the United States, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–4603. A communication from the Board of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, transmitting jointly, pursuant to law, a report on Review of Regulations Affecting Online Delivery of Financial Products and Services; to the Committee on Banking, Housing, and Urban Affairs.

EC–4604. A communication from the Assistant to the Federal Reserve Board, transmitting, pursuant to law, the report of a rule entitled ''Regulations H and Y—Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Treatment of Recourse, Direct Credit Substitutes and Residual Interests in Asset Securitizations'' (Doc. No. R–1055) received on November 27, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–4605. A communication from the President of the United States (received and referred on November 29, 2001), transmitting, consistent with the War Powers Act, a report relative to NATO-led international security force in Kosovo (KFOR); to the Committee on Foreign Relations.

EC–4606. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed license for the export of defense articles to India; to the Committee on Foreign Relations.

EC–4607. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–4608. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed manufacturing license agreement with Japan; to the Committee on Foreign Relations.

EC–4609. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed manufacturing license agreement with the United Kingdom; to the Committee on Foreign Relations.

EC–4610. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–4611. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to France; to the Committee on Foreign Relations.

EC–4612. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Methoxyfenozide: Pesticide Tolerances for Emergency Exemptions'' (FRL6806–4) received on November 16, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4613. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Imidacloprid; Pesticide Tolerances for Emergency Exemptions'' (FRL6806–9) received on November 16, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4614. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Chlororthalonil; Pesticide Tolerances for Emergency Exemptions'' (FRL6807–1) received on November 16, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4615. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''NESHAP: for Pesticide Active Ingredient Production'' (FRL7106–6) received on November 20, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4616. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''NESHAP: Pesticide Active Ingredient Production'' (FRL7106–1) received on November 20, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4617. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Azoxystrobin: Pesticide Tolerances for Emergency Exemptions'' (FRL6809–3) received on November 20, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4618. A communication from the Acting Assistant Director of Communications, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Supplementary Rules on Bureau of Land Management Public Lands within the Imperial Sand Dunes Recreation Area'' received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4619. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Civil Penalty Adjustments'' (RIN1029–AC00) received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4620. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Illinois Regulatory Program'' (IL–100–FOR) received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4621. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Montana Regulatory Program'' (MT–022–FOR) received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4622. A communication from the Assistant Secretary of the Interior, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Mineral Materials Disposal'' (RIN1044–AD29) received on November 19, 2001; to the Committee on Energy and Natural Resources.

EC–4623. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Management of Report Deliverables'' (FAL 2001–04) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4624. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Conservation Program for Consumer Products: Amendment to the Definition of 'Electric Refrigerator''' (RIN1902–AB03) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4625. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Efficiency Program for Certain Commercial and Industrial Equipment: Extension of Time for Electric Motor Manufacturers To Certify Compliance With Energy Efficiency Standards'' (RIN1904–AB11) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4626. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Security Requirements for Protected Disclosures Under Section 3164 of the National Defense Authorization Act for Fiscal Year 2000'' (RIN1992–AA26) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4627. A communication from the Assistant General Counsel for Regulatory Law, Office of Procurement and Assistance Policy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories; Yucca Mountain Site Suitability Guidelines'' (RIN1901–AA72) received on November 20, 2001; to the Committee on Energy and Natural Resources.

EC–4628. A communication from the Attorney-Advisor of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Insurer Reporting Requirements; List of Insurers Required to File Reports'' (RIN2127–AI07) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4629. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Compensation of Air Carriers'' (RIN2105–AD06) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4630. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: New Rochelle Harbor, NY'' ((RIN2115–AE47)(2001–0118)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4631. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Areas; New York Marine Inspection Zone and Captain of the Port Zone'' ((RIN2115–AE84)(2001–0002)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4632. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Prince Williams Sound Captain of the Port Zone, Alaska'' ((RIN2115–AA97)(2001–0142)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4633. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Inner Harbor Navigation Canal, LA'' ((RIN2115–AE47)(2001–0115)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4634. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Newton Creek, Dutch Kills, English Kills and their Tributaries, NY'' ((RIN2115–AE47)(2001–0116)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4635. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Dorchester Bay, MA'' ((RIN2115–AE47)(2001–0113)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4636. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Bayou Lafourche, LA'' ((RIN2115–AE47)(2001–0117)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4637. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Harlem River, NY'' ((RIN2115–AE47)(2001–0114)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4638. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Areas; Boston Marine Inspection Zone and Captain of the Port Zone'' ((RIN2115–AE84)(2001–0004)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4639. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area; Savannah River, Georgia'' ((RIN2115–AE84)(2001–0005)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4640. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Areas; New York Marine Inspection Zone and Captain of the Port Zone'' ((RIN2115–AE84)(2001–0003)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4641. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Route 1 Bascule Bridge, Mystic River, Mystic, CT'' ((RIN2115–AA97)(2001–0140)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4642. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Gulf of Alaska, Southeast of Narrow Cape, Kodiak Island, AK'' ((RIN2115–AA97)(2001–0141)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4643. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Port Valdez, Alaska'' ((RIN2115–AA97)(2001–0143)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4644. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Trans-Alaska Pipeline Valdez terminal complex, Valdez, Alaska'' ((RIN2115–AA97)(2001–0144)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4645. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake Michigan, Chicago, IL'' ((RIN2115–AA97)(2001–0138)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4646. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Los Angeles Harbor, Los Angeles, CA and Avila Beach, CA'' ((RIN2115–AA97)(2001–0139)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4647. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta

Regulations: SLR; Charleston Christmas Boat Parade and Fireworks Display, Charleston Harbor, Charleston, SC'' ((RIN2115–AE46)(2001–0034)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4648. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; Waverly Hotel Fireworks Display, Biscayne Bay, Miami, FL'' ((RIN2115–AE46)(2001–0035)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4649. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Harlem River, Newtown Creek, NY'' ((RIN2115–AE47)(2001–0112)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4650. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; SR 84 Bridge, South Fork of the New River, mile 4.4, Ft. Lauderdale, Broward County, Florida'' ((RIN2115–AE47)(2001–0111)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4651. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Verrazano Narrows Bridge, New York'' ((RIN2115–AA97)(2001–0135)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4652. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; San Francisco Bay, San Francisco, CA and Oakland, CA'' ((RIN2115–AA97)(2001–0136)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4653. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Sault Locks, St. Mary's River, Sault Ste. Marie, MI'' ((RIN2115–AA97)(2001–0137)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4654. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Certification of Navigation Lights for Uninspected Commercial Vessels and Recreational Vessels'' (RIN2115–AF70) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4655. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; The Icebreaker Youth Rowing Championship—Boston Harbor, Boston, Massachusetts'' ((RIN2115–AA97)(2001–0145)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4656. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; San Diego Bay'' ((RIN2115–AA97)(2001–0119)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4657. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Old Lyme Fireworks Display, Old Lyme, CT'' ((RIN2115–AA97)(2001–0098)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4658. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Coast Guard Force Protection for Station Jonesport, Jonesport, Maine; Coast Guard Group Southwest Harbor, Maine; and Station Rockland, Rockland Harbor, Maine'' ((RIN2115–AA97)(2001–0122)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4659. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Ouachita River, LA'' ((RIN2115–AE47)(2001–0108)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4660. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: New Jersey Intracoastal Waterway, Cape Mary Canal'' ((RIN2115–AE47)(2001–0107)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4661. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Shaw Cove, CT'' ((RIN2115–AE47)(2001–0105)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4662. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Lake Washington, WA'' ((RIN2115–AE47)(2001–01069)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4663. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Port of Jacksonville and Port Canaveral, FL'' ((RIN2115–AA97)(2001–0117)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4664. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Selfridge Army National Guard Base, MI'' ((RIN2115–AA97)(2001–0116)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4665. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Hampton River, NH'' ((RIN2115–AE47)(2001–0102)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4666. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Chehalis River, WA'' ((RIN2115–AE47)(2001–0103)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4667. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; DOD Barge Flotilla, Cumberland City, TN to Alexandria, LA'' ((RIN2115–AA97)(2001–0121)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4668. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Delaware Bay and River'' ((RIN2115–AA97)(2001–0123)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4669. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Naval Force Protection, Bath Iron Works, Kennebec River, Bath, Maine'' ((RIN2115–AA97)(2001–0120)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4670. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Gulf of Alaska, Southeast of Narrow Cape, Kodiak Island, Alaska'' ((RIN2115–AA97)(2001–0118)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4671. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Duwamish Waterway, WA'' ((RIN2115–AE47)(2001–0101)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4672. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: San Francisco, CA'' ((RIN2115–AA97)(2001–0133)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4673. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Newport Naval Station, Newport, RI'' ((RIN2115–AA97)(2001–0124)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4674. A communication from the Chief of Regulations and Administrative Law,

United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Port of New York/New Jersey'' ((RIN2115–AA97)(2001–0125)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4675. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Various Areas on the Island of Oahu, Maui, Hawaii, and Kauai, HI'' ((RIN2115–AA97)(2001–0134)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4676. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; New York Marine Inspection Zone and Captain of the Port Zone'' ((RIN2115–AA97)(2001–0132)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4677. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Hutchinson River, Eastchester Creek, NY'' ((RIN2115–AE47)(2001–0110)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4678. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Southern Branch of the Elizabeth River, Atlantic Intracoastal Waterway, Chesapeake, Virginia'' ((RIN2115–AE47)(2001–0109)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4679. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake Erie, Monroe, Michigan'' ((RIN2115–AA97)(2001–0128)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4680. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake St. Clair, Grosse Pointe Yacht Club, Grosse, Point Shores, MI'' ((RIN2115–AA97)(2001–0127)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4681. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake Erie, Toledo, Ohio'' ((RIN2115–AA97)(2001–0126)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4682. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake Michigan, Kewaunee, Wisconsin'' ((RIN2115–AA97)(2001–0131)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4683. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake Michigan, Point Beach Nuclear Power, Plant WI'' ((RIN2115–AA97)(2001–0130)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4684. A communication from the Chief of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake Erie, Perry, Ohio'' ((RIN2115–AA97)(2001–0129)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4685. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727 Series Airplanes'' ((RIN2120–AA64)(2001–0544)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4686. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Model Beech 400A Series Airplanes'' ((RIN2120–AA64)(2001–0543)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4687. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney PW4000 Series Turbofan Engines'' ((RIN2120–AA64)(2001–0542)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4688. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fairchild Aircraft, Inc. Models SA226 and SA227 Series Airplanes'' ((RIN2120–AA64)(2001–0541)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4689. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker Model F28 Mark 1000, 2000, 3000, and 4000 Series Airplanes'' ((RIN2120–AA64)(2001–0540)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4690. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 757 Series Airplanes'' ((RIN2120–AA64)(2001–0545)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4691. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Robinson Helicopter Company Model R44 Helicopters'' ((RIN2120–AA64)(2001–0550)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4692. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileira de Aeronautica SA EMB 120 Series Airplanes'' ((RIN2120–AA64)(2001–0549)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4693. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 9 Series Airplanes and MD 88 Airplanes'' ((RIN2120–AA64)(2001–0548)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4694. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A319 and A320 Series Airplanes'' ((RIN2120–AA64)(2001–0546)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4695. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company Model 99, 99A, 99A (FACH), A99, A99A, B99 and C99 Airplanes'' ((RIN2120–AA64)(2001–0507)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4696. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes'' ((RIN2120–AA64)(2001–0511)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4697. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bell Helicopter Textron Canada Model 222, 222B, 222U, 230, and 430 Helicopters'' ((RIN2120–AA64)(2001–0510)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4698. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company Beech Models F33A, A36, B36TC, 58/58A, C90A, B200, and 1900D Airplanes'' ((RIN2120–AA64)(2001–0505)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4699. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pilatus Aircraft LTD Models PC 12 and PC 12–45 Airplanes'' ((RIN2120–AA64)(2001–0506)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4700. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: BMW Rolls Royce GmbH Models BR700, 710A1–10 and BR700 710A2–20 Turbofan Engines'' ((RIN2120–AA64)(2001–0512)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4701. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dowty Aerospace Propellers Model R381/6–123 F/5 Propellers'' ((RIN2120–AA64)(2001–0513)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4702. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC 8–100, 200, and 300 Series Airplanes'' ((RIN2120–AA64)(2001–0514)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4703. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777–200 Series Airplanes'' ((RIN2120–AA64)(2001–0515)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4704. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes'' ((RIN2120–AA64)(2001–0508)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4705. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (55); Amdt. No. 2073'' ((RIN2120–AA65)(2001–0054)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4706. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS 365N3 Helicopters'' ((RIN2120–AA64)(2001–0516)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4707. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Israel Aircraft Industries, Ltd., Model 1125 Westwind Astra Series Airplanes'' ((RIN2120–AA64)(2001–0517)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4708. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establish Class E Airspace; Charlottesville, VA'' ((RIN2120–AA66)(2001–0156)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4709. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 9 81, 82, 83, and 87 Series Airplanes, and Model MD 88 Airplanes'' ((RIN2120–AA64)(2001–0509)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4710. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitudes; Miscellaneous Amendments (32); Amdt. No. 431'' ((RIN2120–AA63)(2001–0006)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4711. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (14); Amdt. No. 2071'' ((RIN2120–AA65)(2001–0005)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4712. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (28); Amdt. No. 2072'' ((RIN2120–AA65)(2001–0057)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4713. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model SA315B, SA316C, SA318B, SA318C, SA319B, SE3160, and SA316B Helicopters'' ((RIN2120–AA64)(2001–0539)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4714. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Sikorsky Aircraft Corporation Model S–76B and S–76C Helicopters; request for comments'' ((RIN2120–AA64)(2001–0538)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4715. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; Greenwood, MS; correction'' ((RIN2120–AA66)(2001–0171)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4716. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727 Series Airplanes'' ((RIN2120–AA64)(2001–0556)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

EC–4717. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes'' ((RIN2120–AA64)(2001–0553)) received on November 16, 2001; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JEFFORDS, from the Committee on Environment and Public Works:

Special Report entitled ''Report to the Senate on Activities of the Committee on Environment and Public Works for the One Hundred Sixth Congress'' (Rept. No. 107–100).

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1499: A bill to amend the District of Columbia College Access Act of 1999 to permit individuals who graduated from a secondary school prior to 1998 and individuals who enroll in an institution of higher education more than 3 years after graduating from a secondary school to participate in the tuition assistance programs under such Act, and for other purposes. (Rept. No. 107–101).

By Mr. LIEBERMAN, from the Committee on Governmental Affairs, without amendment:

H.R. 2061: A bill to amend the charter of Southeastern University of the District of Columbia. (Rept. No. 107–102).

H.R. 2199: A bill to amend the National Capital Revitalization and Self-Government Improvement Act of 1997 to permit any Federal law enforcement agency to enter into a cooperative agreement with the Metropolitan Police Department of the District of Columbia to assist the Department in carrying out crime prevention and law enforcement activities in the District of Columbia if deemed appropriate by the Chief of the Department and the United States Attorney for the District of Columbia, and for other purposes. (Rept. No. 107–103).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

H. CON. RES. 88: A concurrent resolution expressing the sense of the Congress that the President should issue a proclamation recognizing a National Lao-Hmong Recognition Day.

S. RES. 140: A resolution designating the week beginning September 15, 2002, as ''National Civic Participation Week''.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 304: A bill to reduce illegal drug use and trafficking and to help provide appropriate drug education, prevention, and treatment programs.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 986: A bill to allow media coverage of court proceedings.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEVIN for the Committee on Armed Services.

Army nominations beginning Col. Elder Granger and ending Col. George W. Weightman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 4, 2001.

Army nominations beginning Colonel Byron S. Bagby and ending Colonel Howard W. Yellen, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 5, 2001.

Army nomination of Brig. Gen. Lester Martinez-Lopez.

Army nomination of Maj. Gen. Dennis D. Cavin.

Air Force nomination of Maj. Gen. Bruce A. Wright.

Air Force nomination of Lt. Gen. Donald G. Cook.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Army nominations beginning ROBERT A. JOHNSON and ending JOHN T. WASHINGTON III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 25, 2001.

Air Force nominations beginning CESARIO F. FERRER JR. and ending RAYMOND Y. HOWELL, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

Army nominations beginning SAMUEL CALDERON and ending FRANK E. WISMER III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

Navy nominations beginning BRADFORD W. BAKER and ending DAVID J. WICKERSHAM, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

Army nomination of Carol E. Pilat.

Army nomination of Iluminada S. Calicdan.

Army nomination of *James W. Ware.

Army nomination of Mee S. Paek.

Army nominations beginning MARION S. CORNWELL and ending GARY L. WHITE, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning CHERYL A. ADAMS and ending DEBBIE T. WINTERS, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning WILLIE J. ATKINSON and ending WILLEM P. VANDEMERWE, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning DAVID S. ALLEMAN and ending WILLIAM P. YEOMANS, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning LYNN F. ABRAMS and ending BURKHARDT H. ZORN, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

Army nominations beginning CHARLES B. COLISON and ending ARLENE SPIRER, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 15, 2001.

By Mr. HOLLINGS for the Committee on Commerce, Science, and Transportation.

*R. David Paulison, of Florida, to be Administrator of the United States Fire Administration, Federal Emergency Management Agency.

*Conrad Lautenbacher, Jr., of Virginia, to be Under Secretary of Commerce for Oceans and Atmosphere.

*William Schubert, of Texas, to be Administrator of the Maritime Administration.

*Arden Bement, Jr., of Indiana, to be Director of the National Institute of Standards and Technology.

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Coast Guard nominations beginning Anita K. Abbott and ending Steven G. Wood, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

Coast Guard nominations beginning Albert R. Agnich and ending Jose M. Zuniga, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 30, 2001.

By Mr. LEAHY for the Committee on the Judiciary.

Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit.

Danny C. Reeves, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

John D. Bates, of Maryland, to be United States District Judge for the District of Columbia.

Kurt D. Engelhardt, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Joe L. Heaton, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

William P. Johnson, of New Mexico, to be United States District Judge for the District of New Mexico.

Thomas L. Sansonetti, of Wyoming, to be an Assistant Attorney General.

James Edward Rogan, of California, to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

Edward Hachiro Kubo, Jr., of Hawaii, to be United States Attorney for the District of Hawaii for the term of four years.

Sheldon J. Sperling, of Oklahoma, to be United States Attorney for the Eastern District of Oklahoma for the term of four years.

Frederick J. Martone, of Arizona, to be United States District Judge for the District of Arizona.

Julie A. Robinson, of Kansas, to be United States District Judge for the District of Kansas.

Clay D. Land, of Georgia, to be United States District Judge for the Middle District of Georgia.

David E. O'Meilia, of Oklahoma, to be United States Attorney for the Northern District of Oklahoma for the term of four years.

David R. Dugas, of Louisiana, to be United States Attorney for the Middle District of Louisiana for the term of four years.

James A. McDevitt, of Washington, to be United States Attorney for the Eastern District of Washington, for the term of four years.

Johnny Keane Sutton, of Texas, to be United States Attorney for the Western District of Texas, for the term of four years.

Richard S. Thompson, of Georgia, to be United States Attorney for the Southern District of Georgia, for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## 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 Ms. CANTWELL:

S. 1742. A bill to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself, Mrs. BOXER, and Mr. WYDEN):

S. 1743. A bill to create a temporary reinsurance mechanism to enhance the availability of terrorism insurance; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN:

S. 1744. A bill to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; to the Committee on Commerce, Science, and Transportation.

By Mrs. LINCOLN (for herself and Mr. COCHRAN):

S. 1745. A bill to delay until at least January 1, 2003, any changes in medicaid regulations that modify the medicaid upper payment limit for non-State Government-owned or operated hospitals; to the Committee on Finance.

By Mr. REID (for himself, Mrs. CLINTON, Mr. LIEBERMAN, and Mr. JEFFORDS):

S. 1746. A bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself and Mr. SPECTER):

S. 1747. A bill to provide funding to improve the security of the American people by protecting against the threat of bioterrorism; to the Committee on Health, Education, Labor, and Pensions.

## ADDITIONAL COSPONSORS

S. 281

At the request of Mr. HAGEL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 281, a bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial.

S. 611

At the request of Ms. MIKULSKI, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 683

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 683, a bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

S. 948

At the request of Mr. LOTT, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 948, a bill to amend title 23, United States Code, to require the Secretary

of Transportation to carry out a grant program for providing financial assistance for local rail line relocation projects, and for other purposes.

S. 1042

At the request of Mr. INOUYE, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1042, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 1142

At the request of Mr. LIEBERMAN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1142, a bill to amend the Internal Revenue Code of 1986 to repeal the minimum tax preference for exclusion for incentive stock options.

S. 1478

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 1478, a bill to amend the Animal Welfare Act to improve the treatment of certain animals, and for other purposes.

S. 1643

At the request of Mrs. MURRAY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1643, a bill to provide Federal reimbursement to State and local governments for a limited sales, use and retailers' occupation tax holiday.

S. 1646

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1646, a bill to identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System.

S. 1678

At the request of Mr. MCCAIN, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alabama (Mr. SHELBY), the Senator from Massachusetts (Mr. KERRY), the Senator from Nebraska (Mr. HAGEL), the Senator from Nevada (Mr. REID), the Senator from Indiana (Mr. LUGAR), the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. WARNER), the Senator from Maine (Ms . COLLINS), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Virginia (Mr. ALLEN), the Senator from Illinois (Mr. FITZGERALD), the Senator from Alaska (Mr. STEVENS), the Senator from Kansas (Mr. ROBERTS), the Senator from Nevada (Mr. ENSIGN), the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. MILLER), and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1707

At the request of Mr. JEFFORDS, the names of the Senator from New Jersey (Mr. TORRICELLI), the Senator from Washington (Ms. CANTWELL), the Senator from South Dakota (Mr. JOHNSON), the Senator from Vermont (Mr. LEAHY), the Senator from Nevada (Mr. ENSIGN), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1707, a bill to amend title XVIII of the Social Security Act to specify the update for payments under the medicare physician fee schedule for 2002 and to direct the Medicare Payment Advisory Commission to conduct a study on replacing the use of the sustainable growth rate as a factor in determining such update in subsequent years.

S. CON. RES. 66

At the request of Mr. STEVENS, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. Con. Res. 66, a concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public safety officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001.

AMENDMENT NO. 2157

At the request of Mr. MCCAIN, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alabama (Mr. SHELBY), the Senator from Massachusetts (Mr. KERRY), the Senator from Nebraska (Mr. HAGEL), the Senator from Nevada (Mr. REID), the Senator from Indiana (Mr. LUGAR), the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. WARNER), the Senator from Maine (Ms. COLLINS), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Virginia (Mr. ALLEN), the Senator from Illinois (Mr. FITZGERALD), the Senator from Alaska (Mr. STEVENS), the Senator from Kansas (Mr. ROBERTS), the Senator from Nevada (Mr. ENSIGN), the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. MILLER), and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of amendment No. 2157 intended to be proposed to H.R. 3090, a bill to provide tax incentives for economic recovery.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. CANTWELL:

S. 1742. A bill to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes; to the Committee on the Judiciary.

Ms. CANTWELL. Mr. President I rise today to introduce legislation that will help victims of identity theft recover from the injuries to their good name and good credit, the Reclaim Your Identity Act of 2001. Earlier this year, Washington State enacted a law to provide needed help to victims of identity theft that I believe serves as a good model for federal legislation. It gives victims of identity theft the tools they need to restore their good credit rating, requires businesses to make available records relevant to a victim's ability to restore his or her credit, and enables a victim to have fraudulent charges blocked from reporting in their consumer credit report. Currently, Federal law addresses the crime of identity theft, providing penalties for the perpetrator, but no specific assistance to the victim trying to recover their identity. Today I am introducing legislation modeled on the state of Washington law that will do just that, help the victim restore their credit rating and their good name.

We need to do more to fight identity theft, a crime the Federal Trade Commission has described as the Nation's fastest growing. Last year there were over 500,000 new victims of identity theft and, according to the Department of Treasury, reports of identity theft to perpetrate fraud against financial institutions grew by 50 percent from 1999 to 2000. From March 2001 to June 2001, the number of ID theft victims contacting the FTC jumped from 45,500 to 69,400—a 50 percent increase in just three months. One in five Americans or a member of their families has been a victim of identity theft. Those numbers underscore why I am introducing this legislation today. The problem is particularly apparent in my State of Washington, which ranks in the top 10 for identity theft per capita.

Identity theft is not a violent crime, but its victims suffer real harm and need help to recover their good credit and good name. On average, it takes 12 months for a victim to learn that he or she has been a victim of identity theft. It takes another 175 hours and $808 of out-of-pocket expenses to clear their names. Today, victims of identity theft are forced to become their own sleuths to clear their names, and all too often they do so without the help or support of the businesses that allowed the identity theft to take place. Believe it or not, when your identity is stolen, many businesses won't give you the records you need to reclaim your identity. My bill puts people first by requiring businesses to cooperate with victims.

We already require this in Washington State, thanks to the hard work of Attorney General Chris Gregoire and others. Now we need to take this good idea to the national level and make it work on behalf of many others. When your TV is stolen, you know it was taken from your living room. But when your identity is stolen, it could be stolen from anywhere, and businesses from every State could be involved. That's why we need a Federal solution to this problem.

The Reclaim Your Identity Act empowers consumers by establishing a transparent process victims can use to

reclaim their identity. Under this bill, a victim of identity theft will have the right to request records related to a fraud based on an identity theft from businesses after proving their identity with a copy of the police report or the Federal Trade Commission standardized Identity Theft Affidavit or any other affidavit of fact of the business' choosing. The business must then provide, at no charge, copies of those business records to the victim or a law enforcement agency or officer designated by the victim within 10 days of the victim's request. This will make sure that the victims, or law enforcement investigating an identity theft on behalf of a victim, will be able to obtain the credit applications and other records a business may have that is evidence of the fraud. As a protective measure, the bill gives businesses the option to decline to disclose records where it believes the request is based on a misrepresentation of facts. Further, a business is exempt from liability for any disclosure undertaken in good faith to further a prosecution of identity theft or assist the victim.

In addition, this bill reinstates consumers' right to sue credit-reporting agencies that allow identity theft to harm their good name. On November 12, the Supreme Court ruled that a California woman couldn't sue a credit reporting agency because she filed her claim more than two years after her identity had been stolen and that the two-year statute of limitations ran from the time of the crime. The woman didn't even know her identity had been stolen until two years after the crime had been committed. In the wake of the court decision, Congress must revise the statute of limitations so that common sense prevails and that the clock doesn't begin ticking until victims know that they have been harmed.

The Reclaim Your Identity Act also amends the Internet False Identification Prevention Act to expand the jurisdiction and membership of the coordinating committee currently studying enforcement of Federal identity theft law to examine State and local enforcement problems and identify ways the federal government can assist state and local law enforcement in addressing identity theft and related crimes. In the wake of the September 11 attacks we are painfully aware that identity theft can threaten more than our pocket books. This legislation also requires the Federal coordinating committee to look at how the Federal Government can improve the sharing of information on terrorists and terrorist activity as it relates to identity theft. Further, by giving consumers and law enforcement additional tools to fight identity theft, this bill will make it harder for terrorists to steal identities to hide their true identity.

Importantly, this bill also requires credit-reporting agencies to protect a consumers' good name from bad credit generated by fraud. The Reclaim Your Identity Act amends the Fair Credit Reporting Act to require consumer credit reporting agencies to block information that appears on a victim's credit report as a result of identity theft provided the victim did not knowingly obtain goods, services or money as a result of the blocked transaction.

Businesses too are victims of the fraud perpetrated in conjunction with identity theft. This legislation also provides businesses with new tools to pursue identity thieves by amending Title 18 to make identity theft under State law a predicate for federal RICO violation. This will allow individuals and businesses pursuing a perpetrator of identity theft to seek treble damages and help prosecutors recover stolen assets for businesses victimized by identity theft.

The Reclaim Your Identity Act also gives States additional legal tools by providing that State Attorneys General may bring a suit in Federal court on behalf of State citizens for violation of the Act.

Identity theft and the fraud that can result is on the rise. We have the laws to discourage identity theft, but it is difficult behavior to attack. We have to give the tools to the victims to regain control of their financial life. The Consumers Union, Identity Theft Resource Center, and Privacy Rights Clearinghouse all support this legislation. The Reclaim Your Identity Act of 2001 will help victims of identity theft recover their identity and restore their good credit. I look forward to working with my colleagues to promptly enact this bill into law.

---

By Mr. HOLLINGS (for himself, Mrs. BOXER, and Mr. WYDEN):

S. 1743. A bill to create a temporary reinsurance mechanism to enhance the availability of terrorism insurance; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, in light of the need to provide additional capacity and reassurance to the insurance industry for terrorism risks without burdening the taxpayer, balanced with the need to protect consumers from excessive increased in commercial insurance rates, I rise today to introduce the National Terrorism Reinsurance Fund Act.

This legislation will create a fund from assessments on the commercial insurance industry as a whole to for the purpose of providing a temporary backstop for terrorism losses for primary insurance companies doing business in the U.S. The Fund and assessment mechanisms would provide the first $50 billion of protection for the insurance industry. In addition to this fund, the bill provides a program to provide direct Federal aid on a temporary basis for losses over $50 billion, in order to increase insurance market capacity and ensure the availability of reinsurance in relation to acts of terrorism. The overall program is to last for 3 years only and is to be administered by the Secretary of Commerce.

All terrorism-related events causing losses beyond $50 billion will be governed by a direct Federal grant program. Once a company has incurred losses of more than 10 percent of its premiums from the previous year, it can apply for assistance from the Fund and the Federal Government. For the first year, the government will cover up to 90 percent of a company's losses. For the second and third years, the government will cover up to 80 percent of that company's losses. This aid will be applicable up to losses of $100 billion. For events casing losses beyond this amount, the Secretary is required to seek guidance from Congress. Additionally, provisions have been included to ensure the industry shoulders the appropriate financial responsibility and to prevent unreasonable increases in insurance rates.

Simply put the legislation accomplishes the following goals: 1. it provides insurance companies the assistance they need to continue writing terrorism coverage; 2. it ensures the availability of insurance coverage for American businesses and consumers; 3. it avoids an unnecessary and potentially massive bailout of an insurance industry by forcing them to use their own resources to ensure the availability of terrorism reinsurance while setting direct Federal aid at levels sufficient to account for the industry's current positive capitalization; and 4. it strikes the right balance regarding the interests of industry, taxpayers and the consumers of insurance and the marketplace in general.

I look forward to working with other Senators to obtain swift passage of this important legislation.

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. 1743

*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 ''National Terrorism Reinsurance Fund Act''.

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



**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The terrorist attacks on the World Trade Center and Pentagon on September 11, 2001, have inflicted possibly the largest loss ever incurred by insurers and reinsurers.

(2) The magnitude of the loss, and its impact on the current capacity of the reinsurance market, threaten the ability of the property and casualty insurance market to provide coverage to building owners, businesses, and American citizens.

(3) It is necessary to create a temporary reinsurance mechanism to augment the capacity of private insurers to provide insurance for terrorism related risks.

**SEC. 3. PURPOSE.**

The purpose of this Act is to facilitate the coverage by property and casualty insurers of the peril for losses due to acts of terrorism by providing additional reinsurance capacity for loss or damage due to acts of terrorism occurring within the United States, its territories, and possessions.

**SEC. 4. NATIONAL TERRORISM REINSURANCE PROGRAM.**

(a) IN GENERAL.—The Secretary of Commerce shall establish and administer a program to provide reinsurance to participating insurers for losses due to acts of terrorism.

(b) ADVISORY COMMITTEE; MEMBERSHIP.—There is established an advisory committee to provide advice and counsel to the Secretary in carrying out the program of reinsurance established by the Secretary. The advisory committee shall consist of 10 members, as follows:

(1) 3 representatives of the property and casualty insurance industry, appointed by the Secretary.

(2) A representative of property and casualty insurance agents, appointed by the Secretary.

(3) A representative of consumers of property-casualty insurance, appointed by the Secretary.

(4) A representative of a recognized national credit rating agency, appointed by the Secretary.

(5) A representative of the banking or real estate industry, appointed by the Secretary.

(6) 2 representatives of the National Association of Insurance Commissioners, designated by that organization.

(7) A representative of the Department of the Treasury, designated by the Secretary of the Treasury.

(c) NATIONAL TERRORISM REINSURANCE FUND.—

(1) ESTABLISHMENT.—To carry out the reinsurance program, the Secretary shall establish a National Terrorism Reinsurance Fund which shall be available, without fiscal year limitations—

(A) to make such payments as may, from time to time, be required under reinsurance contracts under this Act;

(B) to pay such administrative expenses as may be necessary or appropriate to carry out the purposes of this Act, but such expenses may not exceed $5,000,000 for each of fiscal years 2002, 2003, and 2004; and

(C) to repay to the Secretary of the Treasury such sums, including interest thereon, as may be borrowed from the Treasury for purposes of this Act.

(2) CREDITS TO FUND.—The Fund shall be credited with—

(A) reinsurance premiums, fees, and other charges which may be paid or collected in connection with reinsurance provided under this Act;

(B) interest which may be earned on investments of the Fund;

(C) receipts from any other source which may, from time to time, be credited to the Fund; and

(D) Funds borrowed by the Secretary from the Treasury.

(3) INVESTMENT IN OBLIGATIONS ISSUED OR GUARANTEED BY UNITED STATES.—If the Secretary determines that the moneys of the Fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(4) LOANS TO FUND.—The Secretary of the Treasury shall grant loans to the Fund in the manner and to the extent provided in this Act.

(d) UNDERWRITING STANDARDS.—In order to carry out the responsibilities of the Secretary under this Act and protect the Fund, the Secretary shall establish minimum underwriting standards for participating insurers.

(e) MONITORING OF TERRORISM INSURANCE RATES.—

(1) SECRETARY TO ESTABLISH SPECIAL COMMITTEE ON RATES.—The Secretary shall establish a special committee on rates, the size and membership of which shall be determined by the Secretary, except that the committee shall, at a minimum, include—

(A) representatives of providers of insurance for losses due to acts of terrorism;

(B) representatives of purchasers of such insurance;

(C) at least 2 representatives of NAIC; and

(D) at least 2 independent insurance actuaries.

(2) DUTIES.—The special committee on rates shall meet at the call of the Secretary and shall—

(A) review reports filed with the Secretary by State insurance regulatory authorities;

(B) collect data on rate disclosure practices of participating insurers for insurance for covered lines and for losses due to acts of terrorism; and

(C) provide such advice and counsel to the Secretary as the Secretary may require.

**SEC. 5. FUND OPERATIONS.**

(a) FUNDING BY PREMIUM.—

(1) IN GENERAL.—For the year beginning January 1, 2002, and each subsequent year of operation, participating insurers shall pay into the Fund an annual reinsurance contract premium of not less than 3 percent of their respective gross direct written premiums for covered lines for the calendar year. The annual premium shall be paid in installments at the end of each calendar quarter. The reinsurance contract premium and any annual assessment may be recovered by a participating insurer from its covered lines policyholders as a direct surcharge calculated as a uniform percentage of premium.

(2) ADDITIONAL CREDIT RISK PREMIUM.—If the Secretary determines that a participating insurer has a credit rating that is lower than the second from highest credit rating awarded by nationally recognized credit rating agencies, the Secretary may charge an additional credit risk premium, of up to 0.5 percent of gross direct written premiums for covered lines received by that insurer, to compensate the Fund for credit risk associated with providing reinsurance to that insurer.

(b) INITIAL CAPITAL.—

(1) LOAN.—The Fund shall have an initial capital of $2,000,000,000, which the Secretary shall borrow from the Treasury of the United States. Upon application by the Secretary, the Secretary of the Treasury shall transfer that amount to the Fund, out of amounts in the Treasury not otherwise appropriated, at standard market rates.

(2) REPAYMENT OF START-UP LOAN.—The Secretary shall use premiums received from assessments in calendar year 2002 to repay the loan provided to the Fund under paragraph (1).

(c) SHORTFALL LOANS.—

(1) IN GENERAL.—If the Secretary determines that the balance in the accounts of the Fund is insufficient to cover anticipated claims, administrative expenses, and maintain adequate reserves for any other reason, after taking into account premiums assessed under subsection (a) and any other amounts receivable, the Secretary shall borrow from the Treasury an amount sufficient to satisfy the obligations of the Fund and to maintain a positive balance of $2,000,000,000 in the accounts of the Fund. Upon application by the Secretary, the Secretary of the Treasury shall transfer to the Fund, out of amounts in the Treasury not otherwise appropriated, the requested amount as an interest-bearing loan.

(2) INTEREST RATE.—The rate of interest on any loan made to the Fund under paragraph (1) shall be established by the Secretary of the Treasury and based on the weighted average credit rating of the Fund before the loss that made the loan necessary.

(3) $50 BILLION LOAN LIMIT.—Notwithstanding any other provision of this Act, the total amount of loans outstanding at any time from the Treasury to the Fund may not exceed the amount by which $50,000,000,000 exceeds the Fund's assets.

(4) REPAYMENT OF LOANS BY ASSESSMENT.—Any loan under paragraph (1) shall be repaid from reserves of the Fund, assessments of participating insurers, or a combination thereof. If an assessment is necessary, the maximum annual assessment under this subsection shall be not more than 3 percent of the direct written premium for covered lines. The reinsurance contract premium and any annual assessment may be recovered by a participating insurer from its covered lines policyholders as a direct surcharge calculated as a uniform percentage of premium.

**SEC. 6. COVERAGE PROVIDED.**

(a) IN GENERAL.—The Fund shall provide reinsurance for losses resulting from acts of terrorism covered by reinsurance contracts entered into between the Fund and participating insurers that write covered lines of insurance within the meaning of section 14(5)(A) or that have elected, under section 14(5)(C), to voluntarily include another line of insurance.

(b) RETENTION.—The Fund shall reimburse participating insurers for losses resulting from acts of terrorism on direct losses in any calendar year in excess of 10 percent of a participating insurer's average gross direct written premiums and policyholders' surplus for covered lines for the most recently ended calendar year for which data are available, based on each participating insurer's annual statement for that calendar year as reported to NAIC.

(c) REIMBURSEMENT AMOUNT.—If a participating insurer demonstrates to the satisfaction of the Secretary that it has paid claims for losses resulting from acts of terrorism equal to or in excess of the amount of retention required by subsection (b), then the Fund shall reimburse the participating insurer for—

(1) 90 percent of its covered losses in calendar year 2002; and

(2) a percentage of its covered losses in calendar years beginning after calendar year 2002 equal to—

(A) 90 percent if the insurer pays an assessment equal to 4 percent of the insurer's average gross direct written premiums and policyholders' surplus for the most recently ended calendar year;

(B) 80 percent if the insurer pays an assessment equal to 3 percent of the insurer's average gross direct written premiums and policyholders' surplus for the most recently ended calendar year; and

(C) 70 percent if the insurer pays an assessment equal to 2 percent of the insurer's average gross direct written premiums and policyholders' surplus for the most recently ended calendar year.

(d) $50,000,000,000 LIMIT.—Except as provided in subsection (e), the Fund may not reimburse participating insurers for covered losses in excess of a total Fund reimbursement amount for all participating insurers of $50,000,000,000.

(e) LOSSES EXCEEDING $50,000,000,000 LIMIT.—If the Secretary determines that reimbursable losses in a calendar year from an event exceed $50,000,000,000, the Secretary—

(1) shall pay, out of amounts in the Treasury not otherwise appropriated—

(A) 90 percent of the covered losses occurring in calendar year 2002 in excess, in the aggregate, of $50,000,000,000 but not in excess of $100,000,000; and

(B) 80 percent of the covered losses occurring in calendar year 2003 or 2004 in excess, in the aggregate, of $50,000,000,000 but not in excess of $100,000,000; and

(2) shall notify the Congress of that determination and transmit to the Congress recommendations for responding to the insufficiency of available amounts to cover reimbursable losses.

(f) REPORTS TO STATE REGULATOR; CERTIFICATION.—

(1) REPORTING TERRORISM COVERAGE.—A participating insurer shall—

(A) report the amount of its terrorism insurance coverage to the insurance regulatory authority for each State in which it does business; and

(B) obtain a certification from the State that it is not providing terrorism insurance coverage in excess of its capacity under State solvency requirements.

(2) REPORTS TO SECRETARY.—The State regulator shall furnish a copy of the certification received under paragraph (1) to the Secretary.

**SEC. 7. SECRETARY TO DETERMINE IF LOSS IS ATTRIBUTABLE TO TERRORISM.**

(a) INITIAL DETERMINATION.—If a participating insurer files a claim for reimbursement from the Fund, the Secretary shall make an initial determination as to whether the losses or expected losses were caused by an act of terrorism.

(b) NOTICE AND HEARING.—The Secretary shall give public notice of the initial determination and afford all interested parties an opportunity to be heard on the question of whether the losses or expected losses were caused by an act of terrorism.

(c) FINAL DETERMINATION.—Within 30 days after the Secretary's initial determination, the Secretary shall make a final determination as to whether the losses or expected losses were caused by an act of terrorism.

(d) STANDARD OF REVIEW.—The Secretary's determination shall be upheld upon judicial review if based upon substantial evidence.

**SEC. 8. MANDATORY COVERAGE BY PROPERTY AND CASUALTY INSURERS FOR ACTS OF TERRORISM.**

(a) IN GENERAL.—An insurer that provides lines of coverage described in section 14(5)(A) or 14(5)(B) may not—

(1) exclude or limit coverage in those lines for losses from acts of terrorism in the United States, its territories, and possessions in property and casualty insurance policy forms; or

(2) deny or cancel coverage solely due to the risk of losses from acts of terrorism in the United States.

(b) TERMS AND CONDITIONS.—Insurance against losses from acts of terrorism in the United States shall be covered with the same deductibles, limits, terms, and conditions as the standard provisions of the policy for noncatastrophic perils.

**SEC. 9. PASS-THROUGHS AND OTHER RATE INCREASES.**

(a) LIMITATION ON RATE INCREASES FOR COVERED RISKS.—Except as provided in subsection (b), a participating insurer that provides lines of coverage described in section 14(5)(A) or 14(5)(B) may not increase annual rates on covered risks during any period in which the insurer participates in the Fund by a percent in excess of the sum of—

(1) the percent used to determine the insurer's assessment under section 5(a)(1); and

(2) if there is an assessment against the insurer under section 5(c)(4), a percent equivalent to the percent assessment of the insurer's gross direct written premium for covered lines.

(b) TERRORISM-RELATED INCREASES IN EXCESS OF PASS-THROUGHS.—

(1) REPORTS BY INSURERS.—Not less than 30 days before the date on which a participating insurer increases the premium rate for insurance on any covered line of insurance described in section 14(5) based, in whole or in part, on risk associated with insurance against losses due to acts of terrorism, the insurer shall file a report with the State insurance regulatory authority for the State in which the premium increase is effective that—

(A) explains the need for the increased premium; and

(B) identifies the portion of the increase properly attributable to risk associated with insurance offered by that insurer against losses due to acts of terrorism; and

(C) demonstrates, by substantial evidence, why that portion of the increase is warranted.

(2) REPORTS BY STATE REGULATORS.—Within 15 days after a State insurance regulatory authority receives a report from an insurer required by paragraph (1), the authority—

(A) shall transmit a copy of the report to the Secretary;

(B) may include a determination with respect to whether an insurer has met the requirement of paragraph (1)C); and

(C) may include with the report any commentary or analysis it deems appropriate.

**SEC. 10. CREDIT FOR REINSURANCE.**

Each State shall afford an insurer obtaining reinsurance from the Fund credit for such reinsurance on the same basis and to the same extent that credit for reinsurance would be available to that insurer under applicable State law when reinsurance is obtained from an assuming insurer licensed or accredited in that State.

**SEC. 11. ADMINISTRATIVE PROVISIONS; REPORTS AND ANALYSIS.**

(a) IN GENERAL.—In carrying out this Act, the Secretary may—

(1) issue such rules and regulations as may be necessary to administer this Act;

(2) enter into reinsurance contracts, adjust and pay claims as provided in this Act, and carry out the activities necessary to implement this Act;

(3) set forth the coverage provided by the Fund to accomplish the purposes of this Act;

(4) provide for an audit of the books and records of the Fund by the General Accounting Office;

(5) take appropriate action to collect premiums or assessments under this Act; and

(6) audit the reports, claims, books, and records of participating insurers.

(b) REPORTS FROM INSURERS.—Participating insurers shall submit reports on a quarterly or other basis (as required by the Secretary) to the Secretary, the Federal Trade Commission, and the General Accounting Office setting forth rates, premiums, risk analysis, coverage, reserves, claims made for reimbursement from the Fund, and such additional financial and actuarial information as the Secretary may require regarding lines of coverage described in section 14(5)(A) or 14(5)(B).

(c) FTC ANALYSIS AND ENFORCEMENT.—The Federal Trade Commission shall review the reports submitted under subsection (b), treating the information contained in the reports as privileged and confidential, for the purpose of determining whether any insurer is engaged in unfair methods of competition or unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5 of the Federal Trade Commission Act (15 U.S.C. 45)).

(d) GAO REVIEW.—The Comptroller General shall provide for review and analysis of the reports submitted under subsection (b), and, if necessary, provide of audit of reimbursement claims filed by insurers with the Fund.

(e) REPORTS BY SECRETARY.—No later than March 31st of each calendar year, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Technology and the House of Representatives Committee on Commerce an annual report on insurance rate increases for the preceding calendar year in the United States based upon the reports received by the Secretary under this Act. The Secretary may include in the report a recommendation for legislation to impose Federal regulation of insurance rates on covered lines of insurance if the Secretary determines that premium rates for insurance on covered lines of insurance are—

(A) unreasonable; and

(B) attributable to insurance for losses from acts of terrorism.

**SEC. 12. INAPPLICABILITY OF CERTAIN LAWS.**

(a) IN GENERAL.—State laws relating to insurance rates, insurance policy forms, insurance rates on any covered lines of insurance described in section 14(5)(A) or 14(5)(B), insurer financial requirements, and insurer licensing do not apply to contracts entered into by the Fund. The Fund is not subject to State tax and is exempt from Federal income tax. The reinsurance contract premium paid and assessments collected by insurers shall not be subject to local, State, or Federal tax. The reinsurance contract premium and assessments recovered from policyholders shall not be subject to local, State, or Federal tax.

(b) EXCEPTION FOR UNFAIR TRADE PRACTICE LAWS.—Notwithstanding subsection (a), nothing in this Act supersedes or preempts a State law that prohibits unfair methods of competition in commerce, unfair or deceptive acts or practices in commerce, or unfair insurance claims practices.

**SEC. 13. SUNSET PROVISION.**

(a) ASSESSMENT AND COLLECTION OF PREMIUMS.—The Secretary shall continue the premium assessment and collection operations of the Fund under this Act as long as loans due from the Fund to the United States Treasury are outstanding.

(b) PROVISION OF REINSURANCE.—The Secretary shall suspend other operations of the Fund for new contract years on the close of business on December 31, 2004, and may suspend the offering of reinsurance contracts for new contract years at any time before that date if the Secretary determines that the reinsurance provided by the Fund is no longer needed for covered lines due to market conditions.

(c) REVIEW OF PRIVATE REINSURANCE AVAILABILITY.—The Secretary shall review the cost and availability of private reinsurance for acts of terrorism at least annually and shall report the findings and any recommendations to Congress by June 1 of each year the Fund is in operation.

(d) DISSOLUTION OF FUND.—

(1) DISTRIBUTION FOR RESERVES.—When the Secretary determines that all Fund operations have been terminated, the Secretary

shall dissolve the Fund. Any unencumbered Fund assets remaining after the satisfaction of all outstanding claims, loans from the Treasury, and other liabilities of the Fund shall be distributed, on a pro rata basis based on premiums paid, to any insurer that—

(A) participated in the Fund during its operation; and

(B) demonstrates, to the satisfaction of the Secretary, that any amount received as a distribution from the Fund will be permanently credited to a reserve account maintained by that insurer against claims for industrywide aggregate losses of $2,000,000,000 from—

(i) acts of terrorism in the United States; or

(ii) the effects of earthquakes, volcanic eruptions, tsunamis, or hurricanes.

(2) RETENTION REQUIREMENT FOR TAPPING RESERVE.—Amounts credited to a reserve under paragraph (a) may not be used by an insurer to pay claims until the insurer has paid claims for losses resulting from acts or events described in paragraph (1)(B) in excess of 10 percent of that insurer's average gross direct written premiums and policyholders' surplus for covered lines for the most recently ended calendar year for which data are available.

(3) OFFICER AND DIRECTOR PENALTIES FOR MISUSE OF RESERVES.—Any officer or director of an insurer who knowingly authorizes or directs the use of any amount received from the Fund under paragraph (1) for any purpose other than an appropriate use of amounts in the reserve to which the amount is credited shall be guilty of a Class E felony and sentenced in accordance with the provisions of section 3551 of title 18, United States Code.

(4) RESIDUAL DISTRIBUTION TO TREASURY.—Any unencumbered Fund assets remaining after the distribution under paragraph (1) shall be covered into the Treasury of the United States as miscellaneous receipts.

**SEC. 14. DEFINITIONS.**

In this Act:

(1) SECRETARY.—Except where otherwise specifically provided, the term ''Secretary'' means the Secretary of Commerce.

(2) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners.

(3) FUND.—The term ''Fund'' means the National Terrorism Reinsurance Fund established under section 4.

(4) PARTICIPATING INSURER.—The term ''participating insurer'' means every property and casualty insurer writing on a direct basis a covered line or lines of insurance in any jurisdiction of the United States, its territories, or possessions, including residual market insurers.

(5) COVERED LINE.—

(A) IN GENERAL.—The term ''covered line'' means any one or a combination of the following, written on a direct basis, as reported by property and casualty insurers in required financial reports on Statutory Page 14 of the NAIC Annual Statement Blank:

(i) Fire.

(ii) Allied lines.

(iii) Commercial multiple peril.

(iv) Ocean marine.

(v) Inland marine.

(vi) Workers compensation.

(vii) Products liability.

(viii) Commercial auto no-fault (personal injury protection), other commercial auto liability, or commercial auto physical damage.

(ix) Aircraft (all peril).

(x) Fidelity and surety.

(xi) Burglary and theft.

(xii) Boiler and machinery.

(xiii) Any other line of insurance that is reported by property and casualty insurers in required financial reports on Statutory Page 14 of the NAIC Annual Statement Blank which is voluntarily elected by an participating insurer to be included in its reinsurance contract with the Fund.

(B) OTHER LINES.—For purposes of clause (xiii), the lines of business that may be voluntarily selected are the following:

(i) Farmowners multiple peril.

(ii) Homeowners multiple peril.

(iii) Mortgage guaranty.

(iv) Financial guaranty.

(v) Private passenger automobile insurance.

(C) ELECTION.—The election to voluntarily include another line of insurance, if made, must apply to all affiliated insurers that are members of an insurer group. Any voluntary election is on a one-time basis and is irrevocable.

(6) LOSSES.—The term ''losses'' means direct incurred losses from an act of terrorism for covered lines, plus defense and cost containment expenses. Notwithstanding the preceding sentence, a loss shall not be recognized as a loss for the purpose of determining the amount of an insurer's retention or reimbursement under this Act unless the claim for the loss has been paid within 12 months after the terrorism event occurs and other loss adjustments.

(7) COVERED LOSSES.—The term ''covered losses'' means direct losses in excess of the participating insurer's retention.

(8) TERRORISM; ACT OF TERRORISM.—

(A) IN GENERAL.—The terms ''terrorism'' and ''act of terrorism'' mean any act, certified by the Secretary in concurrence with the Secretary of State and the Attorney General, as a violent act or act dangerous to human life, property or infrastructure, within the United States, its territories and possessions, that is committed by an individual or individuals acting on behalf of foreign agents or foreign interests (other than a foreign government) as part of an effort to coerce or intimidate the civilian population of the United States or to influence the policy or affect the conduct of the United States government.

(B) ACTS OF WAR.—No act shall be certified as an act of terrorism if the act is committed in the course of a war declared by the Congress of the United States or by a foreign government.

(C) FINALITY OF CERTIFICATION.—Any certification, or determination not to certify, by the Secretary under subparagraph (A) is final and not subject to judicial review.

(9) INSURER.—

(A) IN GENERAL.—The term ''insurer'' means an entity writing covered lines on a direct basis and licensed as a property and casualty insurer, risk retention group, or other entity authorized by law as a residual market mechanism providing property or casualty coverage in at least one jurisdiction of the United States, its territories, or possessions.

(B) VOLUNTARY PARTICIPATION.—A State workers' compensation, auto, or property insurance Fund may voluntarily participate as an insurer.

(10) CONTRACT YEAR.—The term ''contract year'' means the period of time that obligations exist between a participating insurer and the Fund for a given annual reinsurance contract.

(11) RETENTION.—The term ''retention'' means the level of direct losses retained by a participating insurer for which the insurer is not entitled to reimbursement by the Fund.

---

By Mr. MCCAIN:

S. 1744. A bill to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, while there are few people in the Senate more skeptical than I of providing Federal assistance to corporations or involving the Federal Government in private industry, the proposed wholesale cancellation of terrorism insurance coverage following the devastating events of September 11, dictates that Congress act before the end of this session to ensure that this coverage continues to be available and affordable. Since 1945 when Congress delegated the responsibility of regulating insurance to the States, the Federal Government has honored this delegation and, with the encouragement of state regulators, kept out of the business of insurance.

In a recent letter to Treasury Secretary O'Neill, however, the National Association of Insurance Commissioners, NAIC, implored the Federal Government for help. ''What has not been widely reported is that insurers are now issuing notices of non-renewal and filing across-the-board property and casualty exclusions for terrorist risk with state insurance regulators,'' the NAIC wrote. ''[W]e need the Federal Government to act soon to give certainty to this situation * * * further delay inadvertently could cause greater market disruption, thus making the need for quick action imperative.'' I agree.

The bill I am introducing today draws from the many good ideas proposed by members of Congress and by the Administration to deal with the imminent cancellation of terrorism insurance coverage, and attempts also to address concerns raised with each of these proposals. It is by no means a perfect bill and I look forward to working with the Administration, my colleagues, state insurance commissioners, and other interested parties to improve it. While rough, the bill does reflect, however, what I believe to be the core principles that should be included in any legislation designed to keep terrorism insurance affordable and available. These principles include making Federal intervention short-term; deferring to states on questions of rate regulation; requiring insurance companies and the insurance industry to bear enough risk to promote responsible claims handling and to ensure that incentives to protect against acts of terrorism are in place; fairly allocating the costs of a terrorist event among insurance companies, and between policy holders and taxpayers; and generally prohibiting the award of punitive damages in claims arising from acts of terrorism.

There has been much debate about whether the taxpayers should bear the cost in the short-term of another terrorist event, or whether this cost should be borne by policy holders. The answer, perhaps, is that the cost should be shared. I propose in this bill that federal assistance up to $50 billion be paid back by commercial property and

casualty policy holders through a capped surcharge on their premiums. For Federal assistance between $50 billion and $100 billion, which would be required only in the case of a truly catastrophic, perhaps cataclysmic event, however, the bill does not require repayment.

The following is a summary of the major provision of this bill. I look forward to working to improve it and to passage of needed legislation on terrorism insurance before the end of this session.

The bill provides a Federal backstop for certain insured losses due to acts of terrorism up to $100 billion per year in 2002 and 2003. The Federal Government would get involved, however, only if there is an act of terrorism during these years that exceeded individual company retentions. If a commercial insurer reaches these retention levels, the federal government would provide assistance for 80 percent of the companies' losses above the retention.

To provide uniformity, the bill preempts state definitions of ''terrorism'' and delegates to the Secretary of Commerce the responsibility of determining whether or not an act of terrorism has occurred.

Federal assistance is available only to companies whose annual terrorism-related losses in certain lines of commercial property and casualty insurance exceed the greater of $10 million or 5 percent of gross direct written premium in the previous year.

Only companies that meet the company retention trigger can obtain assistance from the Federal Government. Outlays for losses up to $50 billion are repaid by insurance policy holders through a surcharge imposed by the Secretary of Commerce on covered lines and collected by commercial insurers. These surcharges cannot exceed 6 percent of annual premiums, and the Secretary has the discretion to adjust the surcharge to reflect different risks in urban and rural areas.

Federal outlays up to $50 billion are paid back over time by commercial property and casualty policy holders. Federal outlays for losses over $50 billion are not recoverable.

Rate regulation is left to the states.

Except with respect to claims against terrorists and their conspirators, punitive damages cannot be recovered in claims arising out of acts of terrorism.

---

By Mr. REID (for himself, Mrs. CLINTON, Mr. LIEBERMAN and Mr. JEFFORDS):

S. 1746. A bill to amend the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to strengthen security at sensitive nuclear facilities; to the Committee on Environment and Public Works.

Mr. REID. Mr. President, I would like to discuss an issue of great importance to our Nation, the safety of our Nation's nuclear power plants.

The tragedy of September 11 taught us many things: It taught us the importance of our first responders. It taught us the vulnerability of our Nation's buildings and the strength of our Nation's resolve. Finally, it taught us that we must be prepared for today's threats because they could become tomorrow's attacks.

We must not fail to take what we have learned and apply it to the vulnerabilities of our Nation's energy and transportation infrastructure.

Less than 1 week ago, the President signed a new law to increase the safety at our Nation's airports.

That act turned the first page in a long struggle to secure our Nation's infrastructure.

Today, I am introducing legislation with Senator CLINTON, Senator LIEBERMAN, and Senator JEFFORDS to write the next chapter, which covers commercial nuclear facilities.

I am pleased that Congressman MARKEY and Congresswoman LOWEY will introduce a companion bill in the House of Representatives.

Nuclear facilities provide us with needed electricity, but, in light of the events of September 11, they also present a security risk that we simply must address.

When plants are failing nearly half their security evaluations, we need to do more than update the curriculum. We need a whole new system.

There are some plants that do a good job, but it is not enough to have peaks of success, we need a new high plateau that secures all plants. We can accomplish that by establishing a new nuclear security force.

Our bill also requires the Nuclear Regulatory Commission to take a new look at the threats posed by terrorists.

This is the foundation that will support the efforts of the nuclear security force and overall plant security.

Our bill also establishes a rigorous training and evaluation program for the nuclear security force.

A new office will be established within the Nuclear Regulatory Commission with a dedicated team of mock terrorists whose only jobs is to perfect their skills in challenging the security guards.

When professional sports teams practice, the don't do it against amateur athletes playing in the park. They train against other professionals. Nuclear Security personnel should also.

Our bill will honor the sacrifice of our Nation's emergency responders by ensuring that emergency response plans are in place and work as we expect them to.

Finally, we will require stockpiles of medicine to help out in the event of a release of radioactive material from a nuclear facility.

These potassium iodide tablets block the absorption of harmful iodine in the thyroid gland.

The American people told us how they wanted their airlines and airports protected. The Congress and the President listened and acted.

We will work to make sure their questions about the safety of all our Nation's nuclear power plants are also answered.

This bill starts that process.

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. 1746

*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 ''Nuclear Security Act of 2001''.

**SEC. 2. DEFINITIONS.**

Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) is amended—

(1) by redesignating subsection jj. as subsection ii.; and

(2) by adding at the end the following:

''jj. DESIGN BASIS THREAT.—The term 'design basis threat' means the design basis threat established by the Commission under section 73.1 of title 10, Code of Federal Regulations (or any successor regulation developed under section 170C).

''kk. SENSITIVE NUCLEAR FACILITY.—The term 'sensitive nuclear facility' means—

''(1) a commercial nuclear power plant and associated spent fuel storage facility;

''(2) a decommissioned nuclear power plant and associated spent fuel storage facility;

''(3) a category I fuel cycle facility;

''(4) a gaseous diffusion plant; and

''(5) any other facility licensed by the Commission, or used in the conduct of an activity licensed by the Commission, that the Commission determines should be treated as a sensitive nuclear facility under section 170C.''.

**SEC. 3. NUCLEAR SECURITY.**

(a) IN GENERAL.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following:

**''SEC. 170C. PROTECTION OF SENSITIVE NUCLEAR FACILITIES AGAINST THE DESIGN BASIS THREAT.**

''(a) DEFINITIONS.—In this section:

''(1) NUCLEAR SECURITY FORCE.—The term 'nuclear security force' means the nuclear security force established under subsection (b)(1).

''(2) FUND.—The term 'Fund' means the Nuclear Security Fund established under subsection (f).

''(3) QUALIFICATION STANDARD.—The term 'qualification standard' means a qualification standard established under subsection (e)(2)(A).

''(4) SECURITY PLAN.—The term 'security plan' means a security plan developed under subsection (b)(2).

''(b) NUCLEAR SECURITY.—The Commission shall—

''(1) establish a nuclear security force, the members of which shall be employees of the Commission, to provide for the security of all sensitive nuclear facilities against the design basis threat; and

''(2) develop and implement a security plan for each sensitive nuclear facility to ensure the security of all sensitive nuclear facilities against the design basis threat.

''(c) DESIGN BASIS THREAT.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, and at least once every 3 years thereafter, the Commission, in consultation with the Assistant to the President for Homeland Security, the Attorney General, the Secretary of Defense, and other Federal, State, and local agencies, as appropriate, shall revise the design basis threat to include—

''(A) threats equivalent to—

''(i) the events of September 11, 2001;

''(ii) a physical, cyber, biochemical, or other terrorist threat;

''(iii) an attack on a facility by multiple coordinated teams of a large number of individuals;

''(iv) assistance in an attack from several persons employed at the facility;

''(v) a suicide attack;

''(vi) a water-based or air-based threat;

''(vii) the use of explosive devices of considerable size and other modern weaponry;

''(viii) an attack by persons with a sophisticated knowledge of the operations of a sensitive nuclear facility; and

''(ix) fire, especially a fire of long duration; and

''(B) any other threat that the Commission determines should be included as an element of the design basis threat.

''(2) REPORTS.—The Commission shall submit to Congress a report on each revision made under paragraph (1).

''(d) SECURITY PLANS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall develop a security plan for each sensitive nuclear facility to ensure the protection of each sensitive nuclear facility against the design basis threat.

''(2) ELEMENTS OF THE PLAN.—A security plan shall prescribe—

''(A) the deployment of the nuclear security force, including—

''(i) numbers of the members of the nuclear security force at each sensitive nuclear facility;

''(ii) tactics of the members of the nuclear security force at each sensitive nuclear facility; and

''(iii) capabilities of the members of the nuclear security force at each sensitive nuclear facility;

''(B) other protective measures, including—

''(i) designs of critical control systems at each sensitive nuclear facility;

''(ii) restricted personnel access to each sensitive nuclear facility;

''(iii) perimeter site security, internal site security, and fire protection barriers;

''(iv) increases in protection for spent fuel storage areas;

''(v) placement of spent fuel in dry cask storage; and

''(vi) background security checks for employees and prospective employees; and

''(C) a schedule for completing the requirements of the security plan not later than 18 months after the date of enactment of this section.

''(3) ADDITIONAL REQUIREMENTS.—A holder of a license for a sensitive nuclear facility under section 103 or 104 or the State or local government in which a sensitive nuclear facility is located may petition the Commission for additional requirements in the security plan for the sensitive nuclear facility.

''(4) IMPLEMENTATION OF SECURITY PLAN.—Not later than 270 days after the date of enactment of this section, the Commission, in consultation with a holder of a license for a sensitive nuclear facility under section 103 or 104, shall, by direct action of the Commission or by order requiring action by the licensee, implement the security plan for the sensitive nuclear facility in accordance with the schedule under paragraph (2)(C).

''(5) SUFFICIENCY OF SECURITY PLAN.—If at any time the Commission determines that the implementation of the requirements of the security plan for a sensitive nuclear facility is insufficient to ensure the security of the sensitive nuclear facility against the design basis threat, the Commission shall immediately submit to Congress and the President a classified report that—

''(A) identifies the vulnerability of the sensitive nuclear facility; and

''(B) recommends actions by Federal, State, or local agencies to eliminate the vulnerability.

''(e) NUCLEAR SECURITY FORCE.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Commission, in consultation with other Federal agencies, as appropriate, shall establish a program for the hiring and training of the nuclear security force.

''(2) HIRING.—

''(A) QUALIFICATION STANDARDS.—Not later than 30 days after the date of enactment of this section, the Commission shall establish qualification standards that individuals shall be required to meet to be hired by the Commission as members of the nuclear security force.

''(B) EXAMINATION.—The Commission shall develop and administer a nuclear security force personnel examination for use in determining the qualification of individuals seeking employment as members of the nuclear security force.

''(C) CRIMINAL AND SECURITY BACKGROUND CHECKS.—The Commission shall require that an individual to be hired as a member of the nuclear security force undergo a criminal and security background check.

''(D) DISQUALIFICATION OF INDIVIDUALS WHO PRESENT NATIONAL SECURITY RISKS.—The Commission, in consultation with the heads of other Federal agencies, as appropriate, shall establish procedures, in addition to any background check conducted under subparagraph (B), to ensure that no individual who presents a threat to national security is employed as a member of the nuclear security force.

''(3) ANNUAL PROFICIENCY REVIEW.—

''(A) IN GENERAL.—The Commission shall provide that an annual evaluation of each member of the nuclear security force is conducted and documented.

''(B) REQUIREMENTS FOR CONTINUATION.—An individual employed as a member of the nuclear security force may not continue to be employed in that capacity unless the evaluation under subparagraph (A) demonstrates that the individual—

''(i) continues to meet all qualification standards;

''(ii) has a satisfactory record of performance and attention to duty; and

''(iii) has the knowledge and skills necessary to vigilantly and effectively provide for the security of a sensitive nuclear facility against the design basis threat.

''(4) TRAINING.—

''(A) IN GENERAL.—The Commission shall provide for the training of each member of the nuclear security force to ensure each member has the knowledge and skills necessary to provide for the security of a sensitive nuclear facility against the design basis threat.

''(B) TRAINING PLAN.—Not later than 60 days after the date of enactment of this section, the Commission shall develop a plan for the training of members of the nuclear security force.

''(C) USE OF OTHER AGENCIES.—The Commission may enter into a memorandum of understanding or other arrangement with any other Federal agency with appropriate law enforcement responsibilities, to provide personnel, resources, or other forms of assistance in the training of members of the nuclear security force.

''(f) NUCLEAR SECURITY FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the 'Nuclear Security Fund', which shall be used by the Commission to administer programs under this section to provide for the security of sensitive nuclear facilities.

''(2) DEPOSITS IN THE FUND.—The Commission shall deposit in the Fund—

''(A) the amount of fees collected under paragraph (5); and

''(B) amounts appropriated under subsection (g).

''(3) INVESTMENT OF AMOUNTS.—

''(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

''(B) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under subparagraph (A), obligations may be acquired—

''(i) on original issue at the issue price; or

''(ii) by purchase of outstanding obligations at the market price.

''(C) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

''(D) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

''(4) USE OF AMOUNTS IN THE FUND.—The Commission shall use amounts in the Fund to pay the costs of—

''(A) salaries, training, and other expenses of the nuclear security force; and

''(B) developing and implementing security plans.

''(5) FEE.—To ensure that adequate amounts are available to provide assistance under paragraph (4), the Commission shall assess licensees a fee in an amount determined by the Commission, not to exceed 1 mill per kilowatt-hour of electricity generated by a sensitive nuclear facility.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) IMPLEMENTATION.—The Commission shall complete the full implementation of the amendment made by subsection (a) as soon as practicable after the date of enactment of this Act, but in no event later than 270 days after the date of enactment of this Act.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by adding at the end the following:

''Sec. 170B. Uranium supply.
''Sec. 170C. Protection of sensitive nuclear facilities against the design basis threat.''.

**SEC. 4. OPERATION SAFEGUARDS AND RESPONSE UNIT.**

Section 204 of the Energy Reorganization Act of 1974 (42 U.S.C. 5844) is amended by adding at the end the following:

''(d) OPERATION SAFEGUARDS AND RESPONSE UNIT.—

''(1) DEFINITIONS.—In this subsection:

''(A) ASSISTANT DIRECTOR.—The term 'Assistant Director' means the Assistant Director for Operation Safeguards and Response.

''(B) DESIGN BASIS THREAT.—The term 'design basis threat' has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

''(C) SENSITIVE NUCLEAR FACILITY.—The term 'sensitive nuclear facility' has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

''(D) UNIT.—The term 'Unit' means the Operation Safeguards and Response Unit established under paragraph (2)(A).

''(2) ESTABLISHMENT OF UNIT.—

''(A) IN GENERAL.—There is established within the Office of Nuclear Material Safety and Safeguards the Operation Safeguards and Response Unit.

''(B) HEAD OF UNIT.—The Unit shall be headed by the Assistant Director for Operation Safeguards and Response.

''(C) DUTIES.—The Assistant Director shall—

''(i) establish a program for the conduct of operation safeguards and response evaluations under paragraph (3); and

''(ii) establish a program for the conduct of emergency response exercises under paragraph (4).

''(D) MOCK TERRORIST TEAM.—The personnel of the Unit shall include a Mock Terrorist Team comprised of—

''(i) not fewer than 20 individuals with advanced knowledge of special weapons and tactics comparable to special operations forces of the Armed Forces;

''(ii) at least 1 nuclear engineer;

''(iii) for each evaluation at a sensitive nuclear facility under paragraph (3), at least 1 individual with knowledge of the operations of the sensitive nuclear facility who is capable of actively disrupting the normal operations of the sensitive nuclear facility; and

''(iv) any other individual that the Assistant Director determines should be a member of the Mock Terrorist Team.

''(3) OPERATION SAFEGUARDS AND RESPONSE EVALUATIONS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Assistant Director shall establish an operation safeguards and response evaluation program to assess the ability of each sensitive nuclear facility to defend against the design basis threat.

''(B) FREQUENCY OF EVALUATIONS.—Not less often than once every 2 years, the Assistant Director shall conduct and document operation safeguards and response evaluations at each sensitive nuclear facility to assess the ability of the members of the nuclear security force at the sensitive nuclear facility to defend against the design basis threat.

''(C) ACTIVITIES.—The evaluation shall include 2 or more force-on-force exercises by the Mock Terrorist Team against the sensitive nuclear facility that simulate air, water, and land assaults (as appropriate).

''(D) CRITERIA.—The Assistant Director shall establish criteria for judging the success of the evaluations.

''(E) CORRECTIVE ACTION.—If a sensitive nuclear facility fails to complete successfully an operation safeguards and response evaluation, the Commission shall require additional operation safeguards and response evaluations not less often than once every 6 months until the sensitive nuclear facility successfully completes an operation safeguards and response evaluation.

''(F) REPORTS.—Not less often than once every year, the Commission shall submit to Congress and the President a report that describes the results of each operation safeguards and response evaluation under this paragraph for the previous year.

''(4) EMERGENCY RESPONSE EXERCISES.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Assistant Director, in consultation with the Assistant to the President for Homeland Security, the Director of the Federal Emergency Management Agency, the Attorney General, and other Federal, State, and local agencies, as appropriate, shall establish an emergency response program to evaluate the ability of Federal, State, and local emergency response personnel within a 50-mile radius of a sensitive nuclear facility to respond to a radiological emergency at the sensitive nuclear facility.

''(B) FREQUENCY.—Not less often than once every 3 years, the Assistant Director shall conduct emergency response exercises to evaluate the ability of Federal, State, and local emergency response personnel within a 50-mile radius of a sensitive nuclear facility to respond to a radiological emergency at the sensitive nuclear facility.

''(C) ACTIVITIES.—The response exercises shall evaluate—

''(i) the response capabilities, response times, and coordination and communication capabilities of the response personnel;

''(ii) the effectiveness and adequacy of emergency response plans, including evacuation plans; and

''(iii) the ability of response personnel to distribute potassium iodide or other prophylactic medicines in an expeditious manner.

''(D) REVISION OF EMERGENCY RESPONSE PLANS.—The Commission shall revise the emergency response plan for a sensitive nuclear facility to correct for any deficiencies identified by an evaluation under this paragraph.

''(E) REPORTS.—Not less often than once every year, the Commission shall submit to Congress and the President a report that describes—

''(i) the results of each emergency response exercise under this paragraph conducted in the previous year; and

''(ii) each revision of an emergency response plan made under subparagraph (D) for the previous year.''.

**SEC. 5. POTASSIUM IODIDE STOCKPILES.**

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following:

''u. Not later than 180 days after the date of enactment of this subsection, the Commission, in consultation with the Director of the Federal Emergency Management Agency, the Secretary of Health and Human Services, and other Federal, State, and local agencies, as appropriate, shall—

''(1) ensure that sufficient stockpiles of potassium iodide tablets have been established at public facilities (such as schools and hospitals) within at least a 50-mile radius of all sensitive nuclear facilities;

''(2) develop plans for the prompt distribution of the stockpiles described in paragraph (1) to all individuals located within at least a 50-mile radius of a sensitive nuclear facility in the event of a release of radionuclides; and

''(3) submit to Congress a report—

''(A) certifying that stockpiles have been established as described in paragraph (1); and

''(B) including the plans described in paragraph (2).''.

**SEC. 6. DEFENSE OF FACILITIES.**

(a) IN GENERAL.—In a case in which a state of war or national emergency exists, the Commission shall—

(1) request the Governor of each State in which a sensitive nuclear facility is located to deploy the National Guard to each sensitive nuclear facility in that State; and

(2) request the President to—

(A) deploy the Coast Guard to sensitive nuclear facilities on the coastline of the United States; and

(B) restrict air space in the vicinity of sensitive nuclear facilities in the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2170. Mr. DASCHLE (for Mr. HATCH (for himself and Mr. BAUCUS)) proposed an amendment to the bill H.R. 10, to provide for pension reform, and for other purposes.

SA 2171. Mr. LOTT (for himself, Mr. MURKOWSKI, and Mr. BROWNBACK) proposed an amendment to amendment SA 2170 submitted by Mr. Daschle and intended to be proposed to the bill (H.R. 10) supra.

SA 2172. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1743, to create a temporary reinsurance mechanism to enhance the availability of terrorism insurance; which was referred to the Committee on Commerce, Science, and Transportation.

SA 2173. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table.

SA 2174. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 10, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 2170.** Mr. DASCHLE (for Mr. HATCH (for himself and Mr. BAUCUS)) proposed an amendment to the bill H.R. 10, to provide for pension reform, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Railroad Retirement and Survivors' Improvement Act of 2001''.

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



**TITLE I—AMENDMENTS TO RAILROAD RETIREMENT ACT OF 1974**

**SEC. 101. EXPANSION OF WIDOW'S AND WIDOWER'S BENEFITS.**

(a) IN GENERAL.—Section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) is amended by adding at the end the following new subdivision:

''(10)(i) If for any month the unreduced annuity provided under this section for a widow or widower is less than the widow's or widower's initial minimum amount computed pursuant to paragraph (ii) of this subdivision, the unreduced annuity shall be increased to that initial minimum amount. For the purposes of this subdivision, the unreduced annuity is the annuity without regard to any deduction on account of work,

without regard to any reduction for entitlement to an annuity under section 2(a)(1) of this Act, without regard to any reduction for entitlement to a benefit under title II of the Social Security Act, and without regard to any reduction for entitlement to a public service pension pursuant to section 202(e)(7), 202(f)(2), or 202(g)(4) of the Social Security Act.

''(ii) For the purposes of this subdivision, the widow or widower's initial minimum amount is the amount of the unreduced annuity computed at the time an annuity is awarded to that widow or widower, except that—

''(A) in subsection (g)(1)(i) '100 per centum' shall be substituted for '50 per centum'; and

''(B) in subsection (g)(2)(ii) '130 per centum' shall be substituted for '80 per centum' both places it appears.

''(iii) If a widow or widower who was previously entitled to a widow's or widower's annuity under section 2(d)(1)(ii) of this Act becomes entitled to a widow's or widower's annuity under section 2(d)(1)(i) of this Act, a new initial minimum amount shall be computed at the time of award of the widow's or widower's annuity under section 2(d)(1)(i) of this Act.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect on the first day of the first month that begins more than 30 days after enactment, and shall apply to annuity amounts accruing for months after the effective date in the case of annuities awarded—

(A) on or after that date; and

(B) before that date, but only if the annuity amount under section 4(g) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)) was computed under such section, as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35; 95 Stat. 357).

(2) SPECIAL RULE FOR ANNUITIES AWARDED BEFORE THE EFFECTIVE DATE.—In applying the amendment made by this section to annuities awarded before the effective date, the calculation of the initial minimum amount under new section 4(g)(10)(ii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(g)(10)(ii)), as added by subsection (a), shall be made as of the date of the award of the widow's or widower's annuity.

**SEC. 102. RETIREMENT AGE RESTORATION.**

(a) EMPLOYEE ANNUITIES.—Section 3(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(2)) is amended by inserting after ''(2)'' the following new sentence: ''For purposes of this subsection, individuals entitled to an annuity under section 2(a)(1)(ii) of this Act shall, except for the purposes of recomputations in accordance with section 215(f) of the Social Security Act, be deemed to have attained retirement age (as defined by section 216(l) of the Social Security Act).''.

(b) SPOUSE AND SURVIVOR ANNUITIES.—Section 4(a)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)(2)) is amended by striking ''if an'' and all that follows through ''section 2(c)(1) of this Act'' and inserting ''a spouse entitled to an annuity under section 2(c)(1)(ii)(B) of this Act''.

(c) CONFORMING REPEALS.—Sections 3(a)(3), 4(a)(3), and 4(a)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(3), 231c(a)(3), and 231c(a)(4)) are repealed.

(d) EFFECTIVE DATES.—

(1) GENERALLY.—Except as provided in paragraph (2), the amendments made by this section shall apply to annuities that begin to accrue on or after January 1, 2002.

(2) EXCEPTION.—The amount of the annuity provided for a spouse under section 4(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)) shall be computed under section 4(a)(3) of such Act, as in effect on December 31, 2001, if the annuity amount provided under section 3(a) of such Act (45 U.S.C. 231b(a)) for the individual on whose employment record the spouse annuity is based was computed under section 3(a)(3) of such Act, as in effect on December 31, 2001.

**SEC. 103. VESTING REQUIREMENT.**

(a) CERTAIN ANNUITIES FOR INDIVIDUALS.—Section 2(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(a)) is amended—

(1) by inserting in subdivision (1) ''(or, for purposes of paragraphs (i), (iii), and (v), five years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''; and

(2) by adding at the end the following new subdivision:

''(4) An individual who is entitled to an annuity under paragraph (v) of subdivision (1), but who does not have at least ten years of service, shall, prior to the month in which the individual attains age 62, be entitled only to an annuity amount computed under section 3(a) of this Act (without regard to section 3(a)(2) of this Act) or section 3(f)(3) of this Act. Upon attainment of age 62, such an individual may also be entitled to an annuity amount computed under section 3(b), but such annuity amount shall be reduced for early retirement in the same manner as if the individual were entitled to an annuity under section 2(a)(1)(iii).''.

(b) COMPUTATION RULE FOR INDIVIDUALS' ANNUITIES.—Section 3(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)), as amended by section 102 of this Act, is further amended by adding at the end the following new subdivision:

''(3) If an individual entitled to an annuity under section 2(a)(1)(i) or (iii) of this Act on the basis of less than ten years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act which began to accrue before the annuity under section 2(a)(1)(i) or (iii) of this Act, the annuity amount provided such individual under this subsection, shall be computed as though the annuity under this Act began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began, or (B) the date on which the individual first met the conditions for entitlement to an age reduced annuity under this Act other than the conditions set forth in sections 2(e)(1) and 2(e)(2) of this Act and the requirement that an application be filed.''.

(c) SURVIVORS' ANNUITIES.—Section 2(d)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(d)(1)) is amended by inserting ''(or five years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''.

(d) LIMITATION ON ANNUITY AMOUNTS.—Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended by adding at the end the following new subsection:

''(i) An individual entitled to an annuity under this section who has completed five years of service, all of which accrues after 1995, but who has not completed ten years of service, and the spouse, divorced spouse, and survivors of such individual, shall not be entitled to an annuity amount provided under section 3(a), section 4(a), or section 4(f) of this Act unless the individual, or the individual's spouse, divorced spouse, or survivors, would be entitled to a benefit under title II of the Social Security Act on the basis of the individual's employment record under both this Act and title II of the Social Security Act.''.

(e) COMPUTATION RULE FOR SPOUSES' ANNUITIES.—Section 4(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231c(a)), as amended by section 102 of this Act, is further amended by adding at the end the following new subdivision:

''(3) If a spouse entitled to an annuity under section 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), or section 2(c)(2) of this Act or a divorced spouse entitled to an annuity under section 2(c)(4) of this Act on the basis of the employment record of an employee who will have completed less than 10 years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act which began to accrue before the annuity under section 2(c)(1)(ii)(A), section 2(c)(1)(ii)(C), section 2(c)(2), or section 2(c)(4) of this Act, the annuity amount provided under this subsection shall be computed as though the annuity under this Act began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began or (B) the first date on which the annuitant met the conditions for entitlement to an age reduced annuity under this Act other than the conditions set forth in sections 2(e)(1) and 2(e)(2) of this Act and the requirement that an application be filed.''.

(f) APPLICATION DEEMING PROVISION.—Section 5(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231d(b)) is amended by striking the second sentence and inserting the following new sentence: ''An application filed with the Board for an employee annuity, spouse annuity, or divorced spouse annuity on the basis of the employment record of an employee who will have completed less than ten years of service shall be deemed to be an application for any benefit to which such applicant may be entitled under this Act or section 202(a), section 202(b), or section 202(c) of the Social Security Act. An application filed with the Board for an annuity on the basis of the employment record of an employee who will have completed ten years of service shall, unless the applicant specified otherwise, be deemed to be an application for any benefit to which such applicant may be entitled under this Act or title II of the Social Security Act.''.

(g) CREDITING SERVICE UNDER THE SOCIAL SECURITY ACT.—Section 18(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231q(2)) is amended—

(1) by inserting ''(or less than five years of service, all of which accrues after December 31, 1995)'' after ''ten years of service'' every place it appears; and

(2) by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten or more years of service''.

(h) AUTOMATIC BENEFIT ELIGIBILITY ADJUSTMENTS.—Section 19 of the Railroad Retirement Act of 1974 (45 U.S.C. 231r) is amended—

(1) by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service'' in subsection (c); and

(2) by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service'' in subsection (d)(2).

(i) CONFORMING AMENDMENTS.—

(1) Section 6(e)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231e(1)) is amended by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''.

(2) Section 7(b)(2)(A) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(2)(A)) is amended by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''.

(3) Section 205(i) of the Social Security Act (42 U.S.C. 405(i)) is amended by inserting ''(or

five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service''.

(4) Section 6(b)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231e(b)(2)) is amended by inserting ''(or five or more years of service, all of which accrues after December 31, 1995)'' after ''ten years of service'' the second place it appears.

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

**SEC. 104. REPEAL OF RAILROAD RETIREMENT MAXIMUM.**

(a) EMPLOYEE ANNUITIES.—

(1) IN GENERAL.—Section 3(f) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(f)) is amended—

(A) by striking subdivision (1); and

(B) by redesignating subdivisions (2) and (3) as subdivisions (1) and (2), respectively.

(2) CONFORMING AMENDMENTS.—

(A) The first sentence of section 3(f)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(f)(1)), as redesignated by paragraph (1)(B), is amended by striking '', without regard to the provisions of subdivision (1) of this subsection,''.

(B) Paragraphs (i) and (ii) of section 7(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)(2)) are each amended by striking ''section 3(f)(3)'' and inserting ''section 3(f)(2)''.

(b) SPOUSE AND SURVIVOR ANNUITIES.—Section 4 of the Railroad Retirement Act of 1974 (45 U.S.C. 231c) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002, and shall apply to annuity amounts accruing for months after December 2001.

**SEC. 105. INVESTMENT OF RAILROAD RETIREMENT ASSETS.**

(a) ESTABLISHMENT OF NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.—Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n) is amended by inserting after subsection (i) the following new subsection:

''(j) NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.—

''(1) ESTABLISHMENT.—The National Railroad Retirement Investment Trust (hereinafter in this subsection referred to as the 'Trust') is hereby established as a trust domiciled in the District of Columbia and shall, to the extent not inconsistent with this Act, be subject to the laws of the District of Columbia applicable to such trusts. The Trust shall manage and invest its assets in the manner set forth in this subsection.

''(2) NOT A FEDERAL AGENCY OR INSTRUMENTALITY.—The Trust is not a department, agency, or instrumentality of the Government of the United States and shall not be subject to title 31, United States Code.

''(3) BOARD OF TRUSTEES.—

''(A) GENERALLY.—

''(i) MEMBERSHIP.—The Trust shall have a Board of Trustees, consisting of 7 members. Three shall represent the interests of labor, 3 shall represent the interests of management, and 1 shall be an independent Trustee. The members of the Board of Trustees shall not be considered officers or employees of the Government of the United States.

''(ii) SELECTION.—

''(I) The 3 members representing the interests of labor shall be selected by the joint recommendation of labor organizations, national in scope, organized in accordance with section 2 of the Railway Labor Act, and representing at least ⅔ of all active employees, represented by such national labor organizations, covered under this Act.

''(II) The 3 members representing the interests of management shall be selected by the joint recommendation of carriers as defined in section 1 of the Railway Labor Act employing at least ⅔ of all active employees covered under this Act.

''(III) The independent member shall be selected by a majority of the other 6 members of the Board of Trustees.

A member of the Board of Trustees may be removed in the same manner and by the same constituency that selected that member.

''(iii) DISPUTE RESOLUTION.—In the event that the parties specified in subclause (I), (II), or (III) of the previous clause cannot agree on the selection of Trustees within 60 days of the date of enactment or 60 days from any subsequent date that a position of the Board of Trustees becomes vacant, an impartial umpire to decide such dispute shall, on the petition of a party to the dispute, be appointed by the District Court of the United States for the District of Columbia.

''(B) QUALIFICATIONS.—Members of the Board of Trustees shall be appointed only from among persons who have experience and expertise in the management of financial investments and pension plans. No member of the Railroad Retirement Board shall be eligible to be a member of the Board of Trustees.

''(C) TERMS.—Except as provided in this subparagraph, each member shall be appointed for a 3-year term. The initial members appointed under this paragraph shall be divided into equal groups so nearly as may be, of which one group will be appointed for a 1-year term, one for a 2-year term, and one for a 3-year term. The Trustee initially selected pursuant to clause (ii)(III) shall be appointed to a 3-year term. A vacancy in the Board of Trustees shall not affect the powers of the Board of Trustees and shall be filled in the same manner as the selection of the member whose departure caused the vacancy. Upon the expiration of a term of a member of the Board of Trustees, that member shall continue to serve until a successor is appointed.

''(4) POWERS OF THE BOARD OF TRUSTEES.—The Board of Trustees shall—

''(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

''(B) retain independent investment managers to invest the assets of the Trust in a manner consistent with such investment guidelines;

''(C) invest assets in the Trust, pursuant to the policies adopted in subparagraph (A);

''(D) pay administrative expenses of the Trust from the assets in the Trust; and

''(E) transfer money to the disbursing agent or as otherwise provided in section 7(b)(4), to pay benefits payable under this Act from the assets of the Trust.

''(5) REPORTING REQUIREMENTS AND FIDUCIARY STANDARDS.—The following reporting requirements and fiduciary standards shall apply with respect to the Trust:

''(A) DUTIES OF THE BOARD OF TRUSTEES.—The Trust and each member of the Board of Trustees shall discharge their duties (including the voting of proxies) with respect to the assets of the Trust solely in the interest of the Railroad Retirement Board and through it, the participants and beneficiaries of the programs funded under this Act—

''(i) for the exclusive purpose of—

''(I) providing benefits to participants and their beneficiaries; and

''(II) defraying reasonable expenses of administering the functions of the Trust;

''(ii) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

''(iii) by diversifying investments so as to minimize the risk of large losses and to avoid disproportionate influence over a particular industry or firm, unless under the circumstances it is clearly prudent not to do so; and

''(iv) in accordance with Trust governing documents and instruments insofar as such documents and instruments are consistent with this Act.

''(B) PROHIBITIONS WITH RESPECT TO MEMBERS OF THE BOARD OF TRUSTEES.—No member of the Board of Trustees shall—

''(i) deal with the assets of the Trust in the trustee's own interest or for the trustee's own account;

''(ii) in an individual or in any other capacity act in any transaction involving the assets of the Trust on behalf of a party (or represent a party) whose interests are adverse to the interests of the Trust, the Railroad Retirement Board, or the interests of participants or beneficiaries; or

''(iii) receive any consideration for the trustee's own personal account from any party dealing with the assets of the Trust.

''(C) EXCULPATORY PROVISIONS AND INSURANCE.—Any provision in an agreement or instrument that purports to relieve a trustee from responsibility or liability for any responsibility, obligation, or duty under this Act shall be void: *Provided*, *however*, That nothing shall preclude—

''(i) the Trust from purchasing insurance for its trustees or for itself to cover liability or losses occurring by reason of the act or omission of a trustee, if such insurance permits recourse by the insurer against the trustee in the case of a breach of a fiduciary obligation by such trustee;

''(ii) a trustee from purchasing insurance to cover liability under this section from and for his own account; or

''(iii) an employer or an employee organization from purchasing insurance to cover potential liability of one or more trustees with respect to their fiduciary responsibilities, obligations, and duties under this section.

''(D) BONDING.—Every trustee and every person who handles funds or other property of the Trust (hereafter in this subsection referred to as 'Trust official') shall be bonded. Such bond shall provide protection to the Trust against loss by reason of acts of fraud or dishonesty on the part of any Trust official, directly or through the connivance of others, and shall be in accordance with the following:

''(i) The amount of such bond shall be fixed at the beginning of each fiscal year of the Trust by the Railroad Retirement Board. Such amount shall not be less than 10 percent of the amount of the funds handled. In no case shall such bond be less than $1,000 nor more than $500,000, except that the Railroad Retirement Board, after consideration of the record, may prescribe an amount in excess of $500,000, subject to the 10 per centum limitation of the preceding sentence.

''(ii) It shall be unlawful for any Trust official to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of the Trust without being bonded as required by this subsection and it shall be unlawful for any Trust official, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any Trust official, with respect to whom the requirements of this subsection have not been met.

''(iii) It shall be unlawful for any person to procure any bond required by this subsection from any surety or other company or

through any agent or broker in whose business operations such person has any control or significant financial interest, direct or indirect.

''(E) AUDIT AND REPORT.—

''(i) The Trust shall annually engage an independent qualified public accountant to audit the financial statements of the Trust.

''(ii) The Trust shall submit an annual management report to the Congress not later than 180 days after the end of the Trust's fiscal year. A management report under this subsection shall include—

''(I) a statement of financial position;

''(II) a statement of operations;

''(III) a statement of cash flows;

''(IV) a statement on internal accounting and administrative control systems;

''(V) the report resulting from an audit of the financial statements of the Trust conducted under clause (i); and

''(VI) any other comments and information necessary to inform the Congress about the operations and financial condition of the Trust.

''(iii) The Trust shall provide the President, the Railroad Retirement Board, and the Director of the Office of Management and Budget a copy of the management report when it is submitted to Congress.

''(F) ENFORCEMENT.—The Railroad Retirement Board may bring a civil action—

''(i) to enjoin any act or practice by the Trust, its Board of Trustees, or its employees or agents that violates any provision of this Act; or

''(ii) to obtain other appropriate relief to redress such violations, or to enforce any provisions of this Act.

''(6) RULES AND ADMINISTRATIVE POWERS.—The Board of Trustees shall have the authority to make rules to govern its operations, employ professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory, or other services necessary for the proper administration of this subsection. In the case of contracts with investment advisory services, compensation for such services may be on a fixed contract fee basis or on such other terms and conditions as are customary for such services.

''(7) QUORUM.—Five members of the Board of Trustees constitute a quorum to do business. Investment guidelines must be adopted by a unanimous vote of the entire Board of Trustees. All other decisions of the Board of Trustees shall be decided by a majority vote of the quorum present. All decisions of the Board of Trustees shall be entered upon the records of the Board of Trustees.

''(8) FUNDING.—The expenses of the Trust and the Board of Trustees incurred under this subsection shall be paid from the Trust.''.

(b) CONFORMING AND TECHNICAL AMENDMENTS GOVERNING INVESTMENTS.—Section 15(e) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(e)) is amended—

(1) in the first sentence, by striking '', the Dual Benefits Payments Account'' and all that follows through ''may be made only'' in the second sentence and inserting ''and the Dual Benefits Payments Account as are not transferred to the National Railroad Retirement Investment Trust as the Board may determine'';

(2) by striking ''the Second Liberty Bond Act, as amended'' and inserting ''chapter 31 of title 31''; and

(3) by striking ''the foregoing requirements'' and inserting ''the requirements of this subsection''.

(c) MEANS OF FINANCING.—For all purposes of the Congressional Budget Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and chapter 11 of title 31, United States Code, and notwithstanding section 20 of the Office of Management and Budget Circular No. A-11, the purchase or sale of non-Federal assets (other than gains or losses from such transactions) by the National Railroad Retirement Investment Trust shall be treated as a means of financing.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the month that begins more than 30 days after enactment.

**SEC. 106. ELIMINATION OF SUPPLEMENTAL ANNUITY ACCOUNT.**

(a) SOURCE OF PAYMENTS.—Section 7(c)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(1)) is amended by striking ''payments of supplemental annuities under section 2(b) of this Act shall be made from the Railroad Retirement Supplemental Account, and''.

(b) ELIMINATION OF ACCOUNT.—Section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) is repealed.

(c) AMENDMENT TO RAILROAD RETIREMENT ACCOUNT.—Section 15(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(a)) is amended by striking '', except those portions of the amounts covered into the Treasury under sections 3211(b),'' and all that follows through the end of the subsection and inserting a period.

(d) TRANSFER.—

(1) DETERMINATION.—As soon as possible after December 31, 2001, the Railroad Retirement Board shall—

(A) determine the amount of funds in the Railroad Retirement Supplemental Account under section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) as of the date of such determination; and

(B) direct the Secretary of the Treasury to transfer such funds to the National Railroad Retirement Investment Trust under section 15(j) of such Act (as added by section 105).

(2) TRANSFER BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall make the transfer described in paragraph (1).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a), (b), and (c) shall take effect January 1, 2002.

(2) ACCOUNT IN EXISTENCE UNTIL TRANSFER MADE.—The Railroad Retirement Supplemental Account under section 15(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(c)) shall continue to exist until the date that the Secretary of the Treasury makes the transfer described in subsection (d)(2).

**SEC. 107. TRANSFER AUTHORITY REVISIONS.**

(a) RAILROAD RETIREMENT ACCOUNT.—Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n) is amended by adding after subsection (j) the following new subsection:

''(k) TRANSFERS TO THE TRUST.—The Board shall, upon establishment of the National Railroad Retirement Investment Trust and from time to time thereafter, direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, that portion of the Railroad Retirement Account that is not needed to pay current administrative expenses of the Board to the National Railroad Retirement Investment Trust. The Secretary shall make that transfer.''.

(b) TRANSFERS FROM THE NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.—Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n), as amended by subsection (a), is further amended by adding after subsection (k) the following new subsection:

''(l) NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.—The National Railroad Retirement Investment Trust shall from time to time transfer to the disbursing agent described in section 7(b)(4) or as otherwise directed by the Railroad Retirement Board pursuant to section 7(b)(4), such amounts as may be necessary to pay benefits under this Act (other than benefits paid from the Social Security Equivalent Benefit Account or the Dual Benefit Payments Account).''.

(c) SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT.—

(1) TRANSFERS TO TRUST.—Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(d)(2)) is amended to read as follows:

''(2) Upon establishment of the National Railroad Retirement Investment Trust and from time to time thereafter, the Board shall direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, the balance of the Social Security Equivalent Benefit Account not needed to pay current benefits and administrative expenses required to be paid from that Account to the National Railroad Retirement Investment Trust, and the Secretary shall make that transfer. Any balance transferred under this paragraph shall be used by the National Railroad Retirement Investment Trust only to pay benefits under this Act or to purchase obligations of the United States that are backed by the full faith and credit of the United States pursuant to chapter 31 of title 31, United States Code. The proceeds of sales of, and the interest income from, such obligations shall be used by the Trust only to pay benefits under this Act.''.

(2) TRANSFERS TO DISBURSING AGENT.—Section 15A(c)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(c)(1)) is amended by adding at the end the following new sentence: ''The Secretary shall from time to time transfer to the disbursing agent under section 7(b)(4) amounts necessary to pay those benefits.''.

(3) CONFORMING AMENDMENT.—Section 15A(d)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(d)(1)) is amended by striking the second and third sentences.

(d) DUAL BENEFITS PAYMENTS ACCOUNT.—Section 15(d)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(d)(1)) is amended by adding at the end the following new sentence: ''The Secretary of the Treasury shall from time to time transfer from the Dual Benefits Payments Account to the disbursing agent under section 7(b)(4) amounts necessary to pay benefits payable from that Account.''.

(e) CERTIFICATION BY THE BOARD AND PAYMENT.—Paragraph (4) of section 7(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(4)) is amended to read as follows:

''(4)(A) The Railroad Retirement Board, after consultation with the Board of Trustees of the National Railroad Retirement Investment Trust and the Secretary of the Treasury, shall enter into an arrangement with a nongovernmental financial institution to serve as disbursing agent for benefits payable under this Act who shall disburse consolidated benefits under this Act to each recipient. Pending the taking effect of that arrangement, benefits shall be paid as under the law in effect prior to the enactment of the Railroad Retirement and Survivors' Improvement Act of 2001.

''(B) The Board shall from time to time certify—

''(i) to the Secretary of the Treasury the amounts required to be transferred from the Social Security Equivalent Benefit Account and the Dual Benefits Payments Account to the disbursing agent to make payments of benefits and the Secretary of the Treasury shall transfer those amounts;

''(ii) to the Board of Trustees of the National Railroad Retirement Investment Trust the amounts required to be transferred from the National Railroad Retirement Investment Trust to the disbursing agent to make payments of benefits and the Board of Trustees shall transfer those amounts; and

''(iii) to the disbursing agent the name and address of each individual entitled to receive a payment, the amount of such payment, and the time at which the payment should be made.''.

(f) BENEFIT PAYMENTS.—Section 7(c)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(1)) is amended—

(1) by striking ''from the Railroad Retirement Account'' and inserting ''by the disbursing agent under subsection (b)(4) from money transferred to it from the National Railroad Retirement Investment Trust or the Social Security Equivalent Benefit Account, as the case may be''; and

(2) by inserting ''by the disbursing agent under subsection (b)(4) from money transferred to it'' after ''Public Law 93–445 shall be made''.

(g) TRANSITIONAL RULE FOR EXISTING OBLIGATION.—In making transfers under sections 15(k) and 15A(d)(2) of the Railroad Retirement Act of 1974, as amended by subsections (a) and (c), respectively, the Railroad Retirement Board shall consult with the Secretary of the Treasury to design an appropriate method to transfer obligations held as of the date of enactment of this Act or to convert such obligations to cash at the discretion of the Railroad Retirement Board prior to transfer. The National Railroad Retirement Investment Trust may hold to maturity any obligations so received or may redeem them prior to maturity, as the Trust deems appropriate.

**SEC. 108. ANNUAL RATIO PROJECTIONS AND CERTIFICATIONS BY THE RAILROAD RETIREMENT BOARD.**

(a) PROJECTIONS.—Section 22(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231u(a)(1)) is amended—

(1) by inserting after the first sentence the following new sentence: ''On or before May 1 of each year beginning in 2003, the Railroad Retirement Board shall compute its projection of the account benefits ratio and the average account benefits ratio (as defined by section 3241(c) of the Internal Revenue Code of 1986) for each of the next succeeding five fiscal years.''; and

(2) by striking ''the projection prepared pursuant to the preceding sentence'' and inserting ''the projections prepared pursuant to the preceding two sentences''.

(b) CERTIFICATIONS.—The Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) is amended by adding at the end the following new section:

''COMPUTATION AND CERTIFICATION OF ACCOUNT BENEFIT RATIOS

''SEC. 23. (a) INITIAL COMPUTATION AND CERTIFICATION.—On or before November 1, 2003, the Railroad Retirement Board shall—

''(1) compute the account benefits ratios for each of the most recent 10 preceding fiscal years, and

''(2) certify the account benefits ratios for each such fiscal year to the Secretary of the Treasury.

''(b) COMPUTATIONS AND CERTIFICATIONS AFTER 2003.—On or before November 1 of each year after 2003, the Railroad Retirement Board shall—

''(1) compute the account benefits ratio for the fiscal year ending in such year, and

''(2) certify the account benefits ratio for such fiscal year to the Secretary of the Treasury.

''(c) DEFINITION.—As used in this section, the term 'account benefits ratio' has the meaning given that term in section 3241(c) of the Internal Revenue Code of 1986.''.

## TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986

**SEC. 201. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.**

Except as otherwise provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. 202. EXEMPTION FROM TAX FOR NATIONAL RAILROAD RETIREMENT INVESTMENT TRUST.**

Subsection (c) of section 501 is amended by adding at the end the following new paragraph:

''(28) The National Railroad Retirement Investment Trust established under section 15(j) of the Railroad Retirement Act of 1974.''.

**SEC. 203. REPEAL OF SUPPLEMENTAL ANNUITY TAX.**

(a) REPEAL OF TAX ON EMPLOYEE REPRESENTATIVES.—Section 3211 is amended by striking subsection (b).

(b) REPEAL OF TAX ON EMPLOYERS.—Section 3221 is amended by striking subsections (c) and (d) and by redesignating subsection (e) as subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 2001.

**SEC. 204. EMPLOYER, EMPLOYEE REPRESENTATIVE, AND EMPLOYEE TIER 2 TAX RATE ADJUSTMENTS.**

(a) RATE OF TAX ON EMPLOYERS.—Subsection (b) of section 3221 is amended to read as follows:

''(b) TIER 2 TAX.—

''(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to the applicable percentage of the compensation paid during any calendar year by such employer for services rendered to such employer.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(A) 15.6 percent in the case of compensation paid during 2002,

''(B) 14.2 percent in the case of compensation paid during 2003, and

''(C) in the case of compensation paid during any calendar year after 2003, the percentage determined under section 3241 for such calendar year.''.

(b) RATE OF TAX ON EMPLOYEE REPRESENTATIVES.—Section 3211, as amended by section 203, is amended by striking subsection (a) and inserting the following new subsections:

''(a) TIER 1 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representative for services rendered by such employee representative. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year.

''(b) TIER 2 TAX.—

''(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on the income of each employee representative a tax equal to the applicable percentage of the compensation received during any calendar year by such employee representatives for services rendered by such employee representative.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(A) 14.75 percent in the case of compensation received during 2002,

''(B) 14.20 percent in the case of compensation received during 2003, and

''(C) in the case of compensation received during any calendar year after 2003, the percentage determined under section 3241 for such calendar year.

''(c) CROSS REFERENCE.—

**''For application of different contribution bases with respect to the taxes imposed by subsections (a) and (b), see section 3231(e)(2).''.**

(c) RATE OF TAX ON EMPLOYEES.—Subsection (b) of section 3201 is amended to read as follows:

''(b) TIER 2 TAX.—

''(1) IN GENERAL.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to the applicable percentage of the compensation received during any calendar year by such employee for services rendered by such employee.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(A) 4.90 percent in the case of compensation received during 2002 or 2003, and

''(B) in the case of compensation received during any calendar year after 2003, the percentage determined under section 3241 for such calendar year.''.

(d) DETERMINATION OF RATE.—Chapter 22 is amended by adding at the end the following new subchapter:

**''Subchapter E—Tier 2 Tax Rate Determination**

''Sec. 3241. Determination of tier 2 tax rate based on average account benefits ratio.

**''SEC. 3241. DETERMINATION OF TIER 2 TAX RATE BASED ON AVERAGE ACCOUNT BENEFITS RATIO.**

''(a) IN GENERAL.—For purposes of sections 3201(b), 3211(b), and 3221(b), the applicable percentage for any calendar year is the percentage determined in accordance with the table in subsection (b).

''(b) TAX RATE SCHEDULE.—

| ''Average account benefits ratio | | Applicable percentage for sections 3211(b) and 3221(b) | Applicable percentage for section 3201(b) |
|---|---|---|---|
| At least | But less than | | |
| | 2.5 | 22.1 | 4.9 |
| 2.5 | 3.0 | 18.1 | 4.9 |
| 3.0 | 3.5 | 15.1 | 4.9 |
| 3.5 | 4.0 | 14.1 | 4.9 |
| 4.0 | 6.1 | 13.1 | 4.9 |
| 6.1 | 6.5 | 12.6 | 4.4 |
| 6.5 | 7.0 | 12.1 | 3.9 |
| 7.0 | 7.5 | 11.6 | 3.4 |
| 7.5 | 8.0 | 11.1 | 2.9 |
| 8.0 | 8.5 | 10.1 | 1.9 |
| 8.5 | 9.0 | 9.1 | 0.9 |
| 9.0 | | 8.2 | 0 |

''(c) DEFINITIONS RELATED TO DETERMINATION OF RATES OF TAX.—

''(1) AVERAGE ACCOUNT BENEFITS RATIO.—For purposes of this section, the term 'average account benefits ratio' means, with respect to any calendar year, the average determined by the Secretary of the account benefits ratios for the 10 most recent fiscal years ending before such calendar year. If the amount determined under the preceding sentence is not a multiple of 0.1, such amount shall be increased to the next highest multiple of 0.1.

''(2) ACCOUNT BENEFITS RATIO.—For purposes of this section, the term 'account benefits ratio' means, with respect to any fiscal year, the amount determined by the Railroad Retirement Board by dividing the fair market value of the assets in the Railroad Retirement Account and of the National

Railroad Retirement Investment Trust (and for years before 2002, the Social Security Equivalent Benefits Account) as of the close of such fiscal year by the total benefits and administrative expenses paid from the Railroad Retirement Account and the National Railroad Retirement Investment Trust during such fiscal year.

''(d) NOTICE.—No later than December 1 of each calendar year, the Secretary shall publish a notice in the Federal Register of the rates of tax determined under this section which are applicable for the following calendar year.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 24(d)(3)(A)(iii) is amended by striking ''section 3211(a)(1)'' and inserting ''section 3211(a)''.

(2) Section 72(r)(2)(B)(i) is amended by striking ''3211(a)(2)'' and inserting ''3211(b)''.

(3) Paragraphs (2)(A)(iii)(II) and (4)(A) of section 3231(e) are amended by striking ''3211(a)(1)'' and inserting ''3211(a)''.

(4) Section 3231(e)(2)(B)(ii)(I) is amended by striking ''3211(a)(2)'' and inserting ''3211(b)''.

(5) The table of subchapters for chapter 22 is amended by adding at the end the following new item:

''Subchapter E. Tier 2 tax rate determination.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 2001.

Amend the title so as to read: ''An Act to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries.''.

---

**SA 2171.** Mr. LOTT (for himself, Mr. MURKOWSKI, and Mr. BROWNBACK) proposed an amendment to amendment SA 2170 submitted by Mr. DASCHLE and intended to be proposed to the bill (H.R. 10) to provide for pension reform, and for other purposes; as follows:

At the appropriate place, insert the following and redesignate accordingly:

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Securing America's Future Energy Act of 2001'' or the ''SAFE Act of 2001''.

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

**SEC. 2. ENERGY POLICY.**

It shall be the sense of the Congress that the United States should take all actions necessary in the areas of conservation, efficiency, alternative source, technology development, and domestic production to reduce the United States dependence on foreign energy sources from 56 percent to 45 percent by January 1, 2012, and to reduce United States dependence on Iraqi energy sources from 700,000 barrels per day to 250,000 barrels per day by January 1, 2012.

## DIVISION A

**SEC. 100. SHORT TITLE.**

This division may be cited as the ''Energy Advancement and Conservation Act of 2001''.

## TITLE I—ENERGY CONSERVATION

### Subtitle A—Reauthorization of Federal Energy Conservation Programs

**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Section 660 of the Department of Energy Organization Act (42 U.S.C. 7270) is amended as follows:

(1) By inserting ''(a)'' before ''Appropriations''.

(2) By inserting at the end the following new subsection:

''(b) There are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002, $950,000,000; for fiscal year 2003, $1,000,000,000; for fiscal year 2004, $1,050,000,000; for fiscal year 2005, $1,100,000,000; and for fiscal year 2006, $1,150,000,000, to carry out energy efficiency activities under the following laws, such sums to remain available until expended:

''(1) Energy Policy and Conservation Act, including section 256(d)(42 U.S.C. 6276(d)) (promote export of energy efficient products), sections 321 through 346 (42 U.S.C. 6291–6317) (appliances program).

''(2) Energy Conservation and Production Act, including sections 301 through 308 (42 U.S.C. 6831–6837) (energy conservation standards for new buildings).

''(3) National Energy Conservation Policy Act, including sections 541–551 (42 U.S.C. 8251–8259) (Federal Energy Management Program).

''(4) Energy Policy Act of 1992, including sections 103 (42 U.S.C. 13458) (energy efficient lighting and building centers), 121 (42 U.S.C. 6292 note) (energy efficiency labeling for windows and window systems), 125 (42 U.S.C. 6292 note) (energy efficiency information for commercial office equipment), 126 (42 U.S.C. 6292 note) (energy efficiency information for luminaires), 131 (42 U.S.C. 6348) (energy efficiency in industrial facilities), and 132 (42 U.S.C. 6349) (process-oriented industrial energy efficiency).''.

### Subtitle B—Federal Leadership in Energy Conservation

**SEC. 121. FEDERAL FACILITIES AND NATIONAL ENERGY SECURITY.**

(a) PURPOSE.—Section 542 of the National Energy Conservation Policy Act (42 U.S.C. 8252) is amended by inserting '', and generally to promote the production, supply, and marketing of energy efficiency products and services and the production, supply, and marketing of unconventional and renewable energy resources'' after ''by the Federal Government''.

(b) ENERGY MANAGEMENT REQUIREMENTS.—Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended as follows:

(1) In subsection (a)(1), by striking ''during the fiscal year 1995'' and all that follows through the end and inserting ''during—

''(1) fiscal year 1995 is at least 10 percent;
''(2) fiscal year 2000 is at least 20 percent;
''(3) fiscal year 2005 is at least 30 percent;
''(4) fiscal year 2010 is at least 35 percent;
''(5) fiscal year 2015 is at least 40 percent; and

''(6) fiscal year 2020 is at least 45 percent,

less than the energy consumption per gross square foot of its Federal buildings in use during fiscal year 1985. To achieve the reductions required by this paragraph, an agency shall make maximum practicable use of energy efficiency products and services and unconventional and renewable energy resources, using guidelines issued by the Secretary under subsection (d) of this section.''.

(2) In subsection (d), by inserting ''Such guidelines shall include appropriate model technical standards for energy efficiency and unconventional and renewable energy resources products and services. Such standards shall reflect, to the extent practicable, evaluation of both currently marketed and potentially marketable products and services that could be used by agencies to improve energy efficiency and increase unconventional and renewable energy resources.'' after ''implementation of this part.''.

(3) By adding at the end the following new subsection:

''(e) STUDIES.—To assist in developing the guidelines issued by the Secretary under subsection (d) and in furtherance of the purposes of this section, the Secretary shall conduct studies to identify and encourage the production and marketing of energy efficiency products and services and unconventional and renewable energy resources. To conduct such studies, and to provide grants to accelerate the use of unconventional and renewable energy, there are authorized to be appropriated to the Secretary $20,000,000 for each of the fiscal years 2003 through 2010.''.

(c) DEFINITION.—Section 551 of the National Energy Conservation Policy Act (42 U.S.C. 8259) is amended as follows:

(1) By striking ''and'' at the end of paragraph (8).

(2) By striking the period at the end of paragraph (9) and inserting ''; and''.

(3) By adding at the end the following new paragraph:

''(10) the term 'unconventional and renewable energy resources' includes renewable energy sources, hydrogen, fuel cells, cogeneration, combined heat and power, heat recovery (including by use of a Stirling heat engine), and distributed generation.''.

(d) EXCLUSIONS FROM REQUIREMENT.—The National Energy Conservation Policy Act (42 U.S.C. 7201 and following) is amended as follows:

(1) In section 543(a)—

(A) by striking ''(1) Subject to paragraph (2)'' and inserting ''Subject to subsection (c)''; and

(B) by striking ''(2) An agency'' and all that follows through ''such exclusion.''.

(2) By amending subsection (c) of such section 543 to read as follows:

''(c) EXCLUSIONS.—(1) A Federal building may be excluded from the requirements of subsections (a) and (b) only if—

''(A) the President declares the building to require exclusion for national security reasons; and

''(B) the agency responsible for the building has—

''(i) completed and submitted all federally required energy management reports; and

''(ii) achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992, Executive Orders, and other Federal law;

''(iii) implemented all practical, life cycle cost-effective projects in the excluded building.

''(2) The President shall only declare buildings described in paragraph (1)(A) to be excluded, not ancillary or nearby facilities that are not in themselves national security facilities.''.

(3) In section 548(b)(1)(A)—

(A) by striking ''copy of the''; and

(B) by striking ''sections 543(a)(2) and 543(c)(3)'' and inserting ''section 543(c)''.

(e) ACQUISITION REQUIREMENT.—Section 543(b) of such Act is amended—

(1) in paragraph (1), by striking ''(1) Not'' and inserting ''(1) Except as provided in paragraph (5), not''; and

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

''(5)(A)(i) Agencies shall select only Energy Star products when available when acquiring energy-using products. For product groups where Energy Star labels are not yet available, agencies shall select products that are in the upper 25 percent of energy efficiency as designated by FEMP. In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficiency motors that meet a standard designated by the Secretary, and shall replace (not rewind) failed motors with motors meeting such standard. The Secretary shall designate such standard within 90 days of the enactment of paragraph, after considering recommendations by the National Electrical Manufacturers Association. The Secretary of Energy shall develop guidelines within 180 days after the enactment of this paragraph for exemptions to this section when equivalent products do not exist, are impractical, or do not meet the agency mission requirements.

''(ii) The Administrator of the General Services Administration and the Secretary of Defense (acting through the Defense Logistics Agency), with assistance from the Administrator of the Environmental Protection Agency and the Secretary of Energy, shall create clear catalogue listings that designate Energy Star products in both print and electronic formats. After any existing federal inventories are exhausted, Administrator of the General Services Administration and the Secretary of Defense (acting through the Defense Logistics Agency) shall only replace inventories with energy-using products that are Energy Star, products that are rated in the top 25 percent of energy efficiency, or products that are exempted as designated by FEMP and defined in clause (i).

''(iii) Agencies shall incorporate energy-efficient criteria consistent with Energy Star and other FEMP designated energy efficiency levels into all guide specifications and project specifications developed for new construction and renovation, as well as into product specification language developed for

Basic Ordering Agreements, Blanket Purchasing Agreements, Government Wide Acquisition Contracts, and all other purchasing procedures.

''(iv) The legislative branch shall be subject to this subparagraph to the same extent and in the same manner as are the Federal agencies referred to in section 521(1).

''(B) Not later than 6 months after the date of the enactment of this paragraph, the Secretary of Energy shall establish guidelines defining the circumstances under which an agency shall not be required to comply with subparagraph (A). Such circumstances may include the absence of Energy Star products, systems, or designs that serve the purpose of the agency, issues relating to the compatibility of a product, system, or design with existing buildings or equipment, and excessive cost compared to other available and appropriate products, systems, or designs.

''(C) Subparagraph (A) shall apply to agency acquisitions occurring on or after October 1, 2002.''.

(f) METERING.—Section 543 of such Act (42 U.S.C. 8254) is amended by adding at the end the following new subsection:

''(f) METERING.—(1) By October 1, 2004, all Federal buildings including buildings owned by the legislative branch and the Federal court system and other energy-using structures shall be metered or submetered in accordance with guidelines established by the Secretary under paragraph (2).

''(2) Not later than 6 months after the date of the enactment of this subsection, the Secretary, in consultation with the General Services Administration and representatives from the metering industry, energy services industry, national laboratories, colleges of higher education, and federal facilities energy managers, shall establish guidelines for agencies to carry out paragraph (1). Such guidelines shall take into consideration each of the following:

''(A) Cost.

''(B) Resources, including personnel, required to maintain, interpret, and report on data so that the meters are continually reviewed.

''(C) Energy management potential.

''(D) Energy savings.

''(E) Utility contract aggregation.

''(F) Savings from operations and maintenance.

''(3) A building shall be exempt from the requirement of this section to the extent that compliance is deemed impractical by the Secretary. A finding of impracticability shall be based on the same factors as identified in subsection (c) of this section.''.

(g) RETENTION OF ENERGY SAVINGS.—Section 546 of such Act (42 U.S.C. 8256) is amended by adding at the end the following new subsection:

''(e) RETENTION OF ENERGY SAVINGS.—An agency may retain any funds appropriated to that agency for energy expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings. Except as otherwise provided by law, such funds may be used only for energy efficiency or unconventional and renewable energy resources projects.''.

(h) REPORTS.—Section 548 of such Act (42 U.S.C. 8258) is amended as follows:

(1) In subsection (a)—

(A) by inserting ''in accordance with guidelines established by and'' after ''to the Secretary,'';

(B) by striking ''and'' at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(D) by adding at the end the following new paragraph:

''(3) an energy emergency response plan developed by the agency.''.

(2) In subsection (b)—

(A) by striking ''and'' at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(5) all information transmitted to the Secretary under subsection (a).''.

(3) By amending subsection (c) to read as follows:

''(c) AGENCY REPORTS TO CONGRESS.—Each agency shall annually report to the Congress, as part of the agency's annual budget request, on all of the agency's activities implementing any Federal energy management requirement.''.

(i) INSPECTOR GENERAL ENERGY AUDITS.—Section 160(c) of the Energy Policy Act of 1992 (42 U.S.C. 8262f(c)) is amended by striking ''is encouraged to conduct periodic'' and inserting ''shall conduct periodic''.

(j) FEDERAL ENERGY MANAGEMENT REVIEWS.—Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following:

''(g) PRIORITY RESPONSE REVIEWS.—Each agency shall—

''(1) not later than 9 months after the date of the enactment of this subsection, undertake a comprehensive review of all practicable measures for—

''(A) increasing energy and water conservation, and

''(B) using renewable energy sources; and

''(2) not later than 180 days after completing the review, develop plans to achieve not less than 50 percent of the potential efficiency and renewable savings identified in the review.

The agency shall implement such measures as soon thereafter as is practicable, consistent with compliance with the requirements of this section.''.

**SEC. 122. ENHANCEMENT AND EXTENSION OF AUTHORITY RELATING TO FEDERAL ENERGY SAVINGS PERFORMANCE CONTRACTS.**

(a) EXPANSION OF DEFINITION OF ENERGY SAVINGS TO INCLUDE WATER AND REPLACEMENT FACILITIES.—

(1) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

''(2) The term 'energy savings' means a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

''(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

''(ii) the increased efficient use of existing energy sources by solar and ground source geothermal resources, cogeneration or heat recovery (including by the use of a Stirling heat engine), excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

''(iii) the increased efficient use of existing water sources.

(2) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

''(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations.''.

(3) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

''(4) The term 'energy or water conservation measure' means—

''(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

''(B) a water conservation measure that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.''.

(4) CONFORMING AMENDMENT.—Section 801(a)(2)(C) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(C)) is amended by inserting ''or water'' after ''financing energy''.

(b) EXTENSION OF AUTHORITY.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

(c) CONTRACTING AND AUDITING.—Section 801(a)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)) is amended by adding at the end the following new subparagraph:

''(E) A Federal agency shall engage in contracting and auditing to implement energy savings performance contracts as necessary and appropriate to ensure compliance with the requirements of this Act, particularly the energy efficiency requirements of section 543.''.

**SEC. 123. CLARIFICATION AND ENHANCEMENT OF AUTHORITY TO ENTER UTILITY INCENTIVE PROGRAMS FOR ENERGY SAVINGS.**

Section 546(c) of the National Energy Conservation Policy Act (42 U.S.C. 8256(c)) is amended as follows:

(1) In paragraph (3) by adding at the end the following: ''Such a utility incentive program may include a contract or contract term designed to provide for cost-effective electricity demand management, energy efficiency, or water conservation.''.

(2) By adding at the end of the following new paragraphs:

''(6) Federal agencies are encouraged to participate in State or regional demand side reduction programs, including those operated by wholesale market institutions such as independent system operators, regional transmission organizations and other entities. The availability of such programs, and the savings resulting from such participation, should be included in the evaluation of energy options for Federal facilities.''.

**SEC. 124. FEDERAL CENTRAL AIR CONDITIONER AND HEAT PUMP EFFICIENCY.**

(a) REQUIREMENT.—Federal agencies shall be required to acquire central air conditioners and heat pumps that meet or exceed the standards established under subsection (b) or (c) in the case of all central air conditioners and heat pumps acquired after the date of the enactment of this Act.

(b) STANDARDS.—The standards referred to in subsection (a) are the following:

(1) For air-cooled air conditioners with cooling capacities of less than 65,000 Btu/hour, a Seasonal Energy Efficiency Ratio of 12.0.

(2) For air-source heat pumps with cooling capacities less than 65,000 Btu/hour, a Seasonal Energy Efficiency Ratio of 12 SEER, and a Heating Seasonal Performance Factor of 7.4.

(c) MODIFIED STANDARDS.—The Secretary of Energy may establish, after appropriate notice and comment, revised standards providing for reduced energy consumption or increased energy efficiency of central air conditioners and heat pumps acquired by the Federal Government, but may not establish standards less rigorous than those established by subsection (b).

(d) DEFINITIONS.—For purposes of this section, the terms ''Energy Efficiency Ratio'',

''Seasonal Energy Efficiency Ratio'', ''Heating Seasonal Performance Factor'', and ''Coefficient of Performance'' have the meanings used for those terms in Appendix M to Subpart B of Part 430 of title 10 of the Code of Federal Regulations, as in effect on May 24, 2001.

(e) EXEMPTIONS.—An agency shall be exempt from the requirements of this section with respect to air conditioner or heat pump purchases for particular uses where the agency head determines that purchase of a air conditioner or heat pump for such use would be impractical. A finding of impracticability shall be based on whether—

(1) the energy savings pay-back period for such purchase would be less than 10 years;

(2) space constraints or other technical factors would make compliance with this section cost-prohibitive; or

(3) in the case of the Departments of Defense and Energy, compliance with this section would be inconsistent with the proper discharge of national security functions.

**SEC. 125. ADVANCED BUILDING EFFICIENCY TESTBED.**

(a) ESTABLISHMENT.—The Secretary of Energy shall establish an Advanced Building Efficiency Testbed program for the development, testing, and demonstration of advanced engineering systems, components, and materials to enable innovations in building technologies. The program shall evaluate government and industry building efficiency concepts, and demonstrate the ability of next generation buildings to support individual and organizational productivity and health as well as flexibility and technological change to improve environmental sustainability.

(b) PARTICIPANTS.—The program established under subsection (a) shall be led by a university having demonstrated experience with the application of intelligent workplaces and advanced building systems in improving the quality of built environments. Such university shall also have the ability to combine the expertise from more than 12 academic fields, including electrical and computer engineering, computer science, architecture, urban design, and environmental and mechanical engineering. Such university shall partner with other universities and entities who have established programs and the capability of advancing innovative building efficiency technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section $18,000,000 for fiscal year 2002, to remain available until expended, of which $6,000,000 shall be provided to the lead university described in subsection (b), and the remainder shall be provided equally to each of the other participants referred to in subsection (b).

**SEC. 126. USE OF INTERVAL DATA IN FEDERAL BUILDINGS.**

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following new subsection:

''(h) USE OF INTERVAL DATA IN FEDERAL BUILDINGS.—Not later than January 1, 2003, each agency shall utilize, to the maximum extent practicable, for the purposes of efficient use of energy and reduction in the cost of electricity consumed in its Federal buildings, interval consumption data that measure on a real time or daily basis consumption of electricity in its Federal buildings. To meet the requirements of this subsection each agency shall prepare and submit at the earliest opportunity pursuant to section 548(a) to the Secretary, a plan describing how the agency intends to meet such requirements, including how it will designate personnel primarily responsible for achieving such requirements, and otherwise implement this subsection.''.

**SEC. 127. REVIEW OF ENERGY SAVINGS PERFORMANCE CONTRACT PROGRAM.**

Within 180 days after the date of the enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, and energy efficiency services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

**SEC. 128. CAPITOL COMPLEX.**

(a) ENERGY INFRASTRUCTURE.—The Architect of the Capitol, building on the Master Plan Study completed in July 2000, shall commission a study to evaluate the energy infrastructure of the Capital Complex to determine how the infrastructure could be augmented to become more energy efficient, using unconventional and renewable energy resources, in a way that would enable the Complex to have reliable utility service in the event of power fluctuations, shortages, or outages.

(b) AUTHORIZATION.—There is authorized to be appropriated to the Architect of the Capitol to carry out this section, not more than $2,000,000 for fiscal years after the enactment of this Act.

**Subtitle C—State Programs**

**SEC. 131. AMENDMENTS TO STATE ENERGY PROGRAMS.**

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

''(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.''.

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended by inserting ''Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of the enactment of Energy Advancement and Conservation Act of 2001, shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2010 as compared to the calendar year 1990, and may contain interim goals.'' after ''contain interim goals.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting ''$75,000,000 for fiscal year 2002, $100,000,000 for fiscal years 2003 and 2004, $125,000,000 for fiscal year 2005''.

**SEC. 132. REAUTHORIZATION OF ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.**

Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended by striking ''2003'' and inserting ''2010''.

**SEC. 133. AMENDMENTS TO WEATHERIZATION ASSISTANCE PROGRAM.**

Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting ''$273,000,000 for fiscal year 2002, $325,000,000 for fiscal year 2003, $400,000,000 for fiscal year 2004, and $500,000,000 for fiscal year 2005''.

**SEC. 134. LIHEAP.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking the first sentence and inserting the following: ''There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A), $3,400,000,000 for each of fiscal years 2001 through 2005.''.

(b) GAO STUDY.—The Comptroller General of the United States shall conduct a study to determine—

(1) the extent to which Low-Income Home Energy Assistance (LIHEAP) and other government energy subsidies paid to consumers discourage or encourage energy conservation and energy efficiency investments when compared to structures of the same physical description and occupancy in compatible geographic locations;

(2) the extent to which education could increase the conservation of low-income households who opt to receive supplemental income instead of Low-Income Home Energy Assistance funds;

(3) the benefit in energy efficiency and energy savings that can be achieved through the annual maintenance of heating and cooling appliances in the homes of those receiving Low-Income Home Energy Assistance funds; and

(4) the loss of energy conservation that results from structural inadequacies in a structure that is unhealthy, not energy efficient, and environmentally unsound and that receives Low-Income Home Energy Assistance funds for weatherization.

**SEC. 135. HIGH PERFORMANCE PUBLIC BUILDINGS.**

(a) PROGRAM ESTABLISHMENT AND ADMINISTRATION.—

(1) ESTABLISHMENT.—There is established in the Department of Energy the High Performance Public Buildings Program (in this section referred to as the ''Program'').

(2) IN GENERAL.—The Secretary of Energy may, through the Program, make grants—

(A) to assist units of local government in the production, through construction or renovation of buildings and facilities they own and operate, of high performance public buildings and facilities that are healthful, productive, energy efficient, and environmentally sound;

(B) to State energy offices to administer the program of assistance to units of local government pursuant to this section; and

(C) to State energy offices to promote participation by units of local government in the Program.

(3) GRANTS TO ASSIST UNITS OF LOCAL GOVERNMENT.—Grants under paragraph (2)(A) for new public buildings shall be used to achieve energy efficiency performance that reduces energy use at least 30 percent below that of a public building constructed in compliance with standards prescribed in Chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent results.

Grants under paragraph (2)(A) for existing public buildings shall be used to achieve energy efficiency performance that reduces energy use below the public building baseline consumption, assuming a 3-year, weather-normalized average for calculating such baseline. Grants under paragraph (2)(A) shall be made to units of local government that have—

(A) demonstrated a need for such grants in order to respond appropriately to increasing population or to make major investments in renovation of public buildings; and

(B) made a commitment to use the grant funds to develop high performance public buildings in accordance with a plan developed and approved pursuant to paragraph (5)(A).

(4) OTHER GRANTS.—

(A) GRANTS FOR ADMINISTRATION.—Grants under paragraph (2)(B) shall be used to evaluate compliance by units of local government with the requirements of this section, and in addition may be used for—

(i) distributing information and materials to clearly define and promote the development of high performance public buildings for both new and existing facilities;

(ii) organizing and conducting programs for local government personnel, architects, engineers, and others to advance the concepts of high performance public buildings;

(iii) obtaining technical services and assistance in planning and designing high performance public buildings; and

(iv) collecting and monitoring data and information pertaining to the high performance public building projects.

(B) GRANTS TO PROMOTE PARTICIPATION.—Grants under paragraph (2)(C) may be used for promotional and marketing activities, including facilitating private and public financing, promoting the use of energy service companies, working with public building users, and communities, and coordinating public benefit programs.

(5) IMPLEMENTATION.—

(A) PLANS.—A grant under paragraph (2)(A) shall be provided only to a unit of local government that, in consultation with its State office of energy, has developed a plan that the State energy office determines to be feasible and appropriate in order to achieve the purposes for which such grants are made.

(B) SUPPLEMENTING GRANT FUNDS.—State energy offices shall encourage qualifying units of local government to supplement their grant funds with funds from other sources in the implementation of their plans.

(b) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (3), funds appropriated to carry out this section shall be provided to State energy offices.

(2) PURPOSES.—Except as provided in paragraph (3), funds appropriated to carry out this section shall be allocated as follows:

(A) Seventy percent shall be used to make grants under subsection (a)(2)(A).

(B) Fifteen percent shall be used to make grants under subsection (a)(2)(B).

(C) Fifteen percent shall be used to make grants under subsection (a)(2)(C).

(3) OTHER FUNDS.—The Secretary of Energy may retain not to exceed $300,000 per year from amounts appropriated under subsection (c) to assist State energy offices 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 public buildings.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section such sums as may be necessary for each of the fiscal years 2002 through 2010.

(d) REPORT TO CONGRESS.—The Secretary of Energy shall conduct a biennial review of State actions implementing this section, and the Secretary shall report to Congress on the results of such reviews. In conducting such reviews, the Secretary shall assess the effectiveness of the calculation procedures used by the States in establishing eligibility of units of local government for funding under this section, and may assess other aspects of the State program to determine whether they have been effectively implemented.

(e) DEFINITIONS.—For purposes of this section:

(1) HIGH PERFORMANCE PUBLIC BUILDING.—The term ''high performance public building'' means a public building which, in its design, construction, operation, and maintenance, maximizes use of unconventional and renewable energy resources and energy efficiency practices, is cost-effective on a life cycle basis, 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, hydroelectric, or biomass power.

(3) UNCONVENTIONAL AND RENEWABLE ENERGY RESOURCES.—The term ''unconventional and renewable energy resources'' means renewable energy, hydrogen, fuel cells, cogeneration, combined heat and power, heat recovery (including by use of a Stirling heat engine), and distributed generation.

## Subtitle D—Energy Efficiency for Consumer Products

### SEC. 141. ENERGY STAR PROGRAM.

(a) AMENDMENT.—The Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by inserting the following after section 324:

**''SEC. 324A. ENERGY STAR PROGRAM.**

''(a) IN GENERAL.—There is established at the Department of Energy and the Environmental Protection Agency a program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through labeling of products and buildings that meet the highest energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the two agencies. The Administrator and the Secretary shall—

''(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for achieving energy efficiency and to reduce pollution;

''(2) work to enhance public awareness of the Energy Star label; and

''(3) preserve the integrity of the Energy Star label.

For the purposes of carrying out this section, there is authorized to be appropriated for fiscal years 2002 through 2006 such sums as may be necessary, to remain available until expended.

''(b) STUDY OF CERTAIN PRODUCTS AND BUILDINGS.—Within 180 days after the date of the enactment of this section, the Secretary and the Administrator, consistent with the terms of agreements between the two agencies (including existing agreements with respect to which agency shall handle a particular product or building), shall determine whether the Energy Star label should be extended to additional products and buildings, including the following:

''(1) Air cleaners.

''(2) Ceiling fans.

''(3) Light commercial heating and cooling products.

''(4) Reach-in refrigerators and freezers.

''(5) Telephony.

''(6) Vending machines.

''(7) Residential water heaters.

''(8) Refrigerated beverage merchandisers.

''(9) Commercial ice makers.

''(10) School buildings.

''(11) Retail buildings.

''(12) Health care facilities.

''(13) Homes.

''(14) Hotels and other commercial lodging facilities.

''(15) Restaurants and other food service facilities.

''(16) Solar water heaters.

''(17) Building-integrated photovoltaic systems.

''(18) Reflective pigment coatings.

''(19) Windows.

''(20) Boilers.

''(21) Devices to extend the life of motor vehicle oil.

''(c) COOL ROOFING.—In determining whether the Energy Star label should be extended to roofing products, the Secretary and the Administrator shall work with the roofing products industry to determine the appropriate solar reflective index of roofing products.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324 the following new item:

''Sec. 324A. Energy Star program.''.

### SEC. 141A. ENERGY SUN RENEWABLE AND ALTERNATIVE ENERGY PROGRAM.

(a) AMENDMENT.—The Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by inserting the following after section 324A:

**''SEC. 324B. ENERGY SUN RENEWABLE AND ALTERNATIVE ENERGY PROGRAM.**

''(a) PROGRAM.—There is established at the Environmental Protection Agency and the Department of Energy a government-industry partnership program to identify and promote the purchase of renewable and alternative energy products, to recognize companies that purchase renewable and alternative energy products for the environmental and energy security benefits of such purchases, and to educate consumers about the environmental and energy security benefits of renewable and alternative energy. Responsibilities under the program shall be divided between the Environmental Protection Agency and the Department of Energy consistent with the terms of agreements between the two agencies. The Administrator of the Environmental Protection Agency and the Secretary of Energy—

''(1) establish an Energy Sun label for renewable and alternative energy products and technologies that the Administrator or the Secretary (consistent with the terms of agreements between the two agencies regarding responsibility for specific product categories) determine to have substantial environmental and energy security benefits and commercial marketability.

''(2) establish an Energy Sun Company program to recognize private companies that draw a substantial portion of their energy from renewable and alternative sources that provide substantial environmental and energy security benefits, as determined by the Administrator or the Secretary.

''(3) promote Energy Sun compliant products and technologies as the preferred products and technologies in the marketplace for reducing pollution and achieving energy security; and

''(4) work to enhance public awareness and preserve the integrity of the Energy Sun label.

For the purposes of carrying out this section, there is authorized to be appropriated $10,000,000 for each of fiscal years 2002 through 2006.

''(b) STUDY OF CERTAIN PRODUCTS, TECHNOLOGIES, AND BUILDINGS.—Within 18 months after the enactment of this section, the Administrator and the Secretary, consistent with the terms of agreements between the two agencies, shall conduct a study to determine whether the Energy Sun label should be authorized for products, technologies, and buildings in the following categories:

''(1) Passive solar, solar thermal, concentrating solar energy, solar water heating, and related solar products and building technologies.

''(2) Solar photovoltaics and other solar electric power generation technologies.

''(3) Wind.

''(4) Geothermal.

''(5) Biomass.

''(6) Distributed energy (including, but not limited to, microturbines, combined heat and power, fuel cells, and stirling heat engines).

''(7) Green power or other renewables and alternative based electric power products (including green tag credit programs) sold to retail consumers of electricity.

''(8) Homes.

''(9) School buildings.

''(10) Retail buildings.

''(11) Health care facilities.

''(12) Hotels and other commercial lodging facilities.

''(13) Restaurants and other food service facilities.

''(14) Rest area facilities along interstate highways.

''(15) Sports stadia, arenas, and concert facilities.

''(16) Any other product, technology or building category, the accelerated recognition of which the Administrator or the Secretary determines to be necessary or appropriate for the achievement of the purposes of this section.

Nothing in this subsection shall be construed to limit the discretion of the Administrator or the Secretary under subsection (a)(1) to include in the Energy Sun program additional products, technologies, and buildings not listed in this subsection. Participation by private-sector entities in programs or studies authorized by this section shall be (A) voluntary, and (B) by permission of the Administrator or Secretary, on terms and conditions the Administrator or the Secretary (consistent with agreements between the agencies) deems necessary or appropriate to carry out the purposes and requirements of this section.

''(c) DEFINITION.—For the purposes of this section, the term 'renewable and alternative energy' shall have the same meaning as the term 'unconventional and renewable energy resources' in Section 551 of the National Energy Conservation Policy Act (42 U.S.C. 8259).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324A the following new item:

''Sec. 324B. Energy Sun renewable and alternative energy program.''.

**SEC. 142. LABELING OF ENERGY EFFICIENT APPLIANCES.**

(a) STUDY.—Section 324(e) of the Energy Policy and Conservation Act (42 U.S.C. 6294(e)) is amended as follows:

(1) By inserting ''(1)'' before ''The Secretary, in consultation''.

(2) By redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(3) By adding the following new paragraph at the end:

''(2) The Secretary shall make recommendations to the Commission within 180 days of the date of the enactment of this paragraph regarding labeling of consumer products that are not covered products in accordance with this section, where such labeling is likely to assist consumers in making purchasing decisions and is technologically and economically feasible.''.

(b) NONCOVERED PRODUCTS.—Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding the following at the end:

''(F) Not later than 1 year after the date of the enactment of this subparagraph, the Commission shall initiate a rulemaking to prescribe labeling rules under this section applicable to consumer products that are not covered products if it determines that labeling of such products is likely to assist consumers in making purchasing decisions and is technologically and economically feasible.

''(G) Not later than 3 months after the date of the enactment of this subparagraph, the Commission shall initiate a rulemaking to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and to consider changes to the label that would improve the effectiveness of the label. Such rulemaking shall be completed within 15 months of the date of the enactment of this subparagraph.''.

**SEC. 143. APPLIANCE STANDARDS.**

(a) STANDARDS FOR HOUSEHOLD APPLIANCES IN STANDBY MODE.—(1) Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

''(u) STANDBY MODE ELECTRIC ENERGY CONSUMPTION BY HOUSEHOLD APPLIANCES.—(1) In this subsection:

''(A) The term 'household appliance' means any device that uses household electric current, operates in a standby mode, and is identified by the Secretary as a major consumer of electricity in standby mode, except digital televisions, digital set top boxes, digital video recorders, any product recognized under the Energy Star program, any product that was on the date of the enactment of this Act subject to an energy conservation standard under this section, and any product regarding which the Secretary finds that the expected additional cost to the consumer of purchasing such product as a result of complying with a standard established under this section is not economically justified within the meaning of subsection (o).

''(B) The term 'standby mode' means a mode in which a household appliance consumes the least amount of electric energy that the household appliance is capable of consuming without being completely switched off (provided that, the amount of electric energy consumed in such mode is substantially less than the amount the household appliance would consume in its normal operational mode).

''(C) The term 'major consumer of electricity in standby mode' means a product for which a standard prescribed under this section would result in substantial energy savings as compared to energy savings achieved or expected to be achieved by standards established by the Secretary under subsections (o) and (p) of this section for products that were, at the time of the enactment of this subsection, covered products under this section.

''(2)(A) Except as provided in subparagraph (B), a household appliance that is manufactured in, or imported for sale in, the United States on or after the date that is 2 years after the date of the enactment of this subsection shall not consume in standby mode more than 1 watt.

''(B) In the case of analog televisions, the Secretary shall prescribe, on or after the date that is 2 years after the date of the enactment of this subsection, in accordance with subsections (o) and (p) of section 325, an energy conservation standard that is technologically feasible and economically justified under section 325(o)(2)(A) (in lieu of the 1 watt standard under subparagraph (A)).

''(3)(A) A manufacturer or importer of a household appliance may submit to the Secretary an application for an exemption of the household appliance from the standard under paragraph (2).

''(B) The Secretary shall grant an exemption for a household appliance for which an application is made under subparagraph (A) if the applicant provides evidence showing that, and the Secretary determines that—

''(i) it is not technically feasible to modify the household appliance to enable the household appliance to meet the standard;

''(ii) the standard is incompatible with an energy efficiency standard applicable to the household appliance under another subsection; or

''(iii) the cost of electricity that a typical consumer would save in operating the household appliance meeting the standard would not equal the increase in the price of the household appliance that would be attributable to the modifications that would be necessary to enable the household appliance to meet the standard by the earlier of—

''(I) the date that is 7 years after the date of purchase of the household appliance; or

''(II) the end of the useful life of the household appliance.

''(C) If the Secretary determines that it is not technically feasible to modify a household appliance to meet the standard under paragraph (2), the Secretary shall establish a different standard for the household appliance in accordance with the criteria under subsection (l).

''(4)(A) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall establish a test procedure for determining the amount of consumption of power by a household appliance operating in standby mode.

''(B) In establishing the test procedure, the Secretary shall consider—

''(i) international test procedures under development;

''(ii) test procedures used in connection with the Energy Star program; and

''(iii) test procedures used for measuring power consumption in standby mode in other countries.

''(5) FURTHER REDUCTION OF STANDBY POWER CONSUMPTION.—The Secretary shall provide technical assistance to manufacturers in achieving further reductions in standby mode electric energy consumption by household appliances.

''(v) STANDBY MODE ELECTRIC ENERGY CONSUMPTION BY DIGITAL TELEVISIONS, DIGITAL SET TOP BOXES, AND DIGITAL VIDEO RECORDERS.—The Secretary shall initiate on January 1, 2007 a rulemaking to prescribe, in accordance with subsections (o) and (p), an energy conservation standard of standby mode electric energy consumption by digital television sets, digital set top boxes, and digital video recorders. The Secretary shall issue a final rule prescribing such standards not later than 18 months thereafter. In determining whether a standard under this section is technologically feasible and economically justified under section 325(o)(2)(A), the Secretary shall consider the potential effects on market penetration by digital products covered under this section, and shall consider any recommendations by the FCC regarding such effects.''.

(2) Section 325(o)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(n)(1)) is

amended by inserting at the end of the paragraph the following: ''Notwithstanding any provision of this part, the Secretary shall not amend a standard established under subsection (u) or (v) of this section.''.

(b) STANDARDS FOR NONCOVERED PRODUCTS.—Section 325(m) of the Energy Policy and Conservation Act (42 U.S.C. 6295(m)) is amended as follows:

(1) Inserting ''(1)'' before ''After''.

(2) Inserting the following at the end:

''(2) Not later than 1 year after the date of the enactment of the Energy Advancement and Conservation Act of 2001, the Secretary shall conduct a rulemaking to determine whether consumer products not classified as a covered product under section 322(a)(1) through (18) meet the criteria of section 322(b)(1) and is a major consumer of electricity. If the Secretary finds that a consumer product not classified as a covered product meets the criteria of section 322(b)(1), he shall prescribe, in accordance with subsections (o) and (p), an energy conservation standard for such consumer product, if such standard is reasonably probable to be technologically feasible and economically justified within the meaning of subsection (o)(2)(A). As used in this paragraph, the term 'major consumer of electricity' means a product for which a standard prescribed under this section would result in substantial aggregate energy savings as compared to energy savings achieved or expected to be achieved by standards established by the Secretary under paragraphs (o) and (p) of this section for products that were, at the time of the enactment of this paragraph, covered products under this section.''.

(c) CONSUMER EDUCATION ON ENERGY EFFICIENCY BENEFITS OF AIR CONDITIONING, HEATING AND VENTILATION MAINTENANCE.—Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding the following new subsection after subsection (b):

''(c) HVAC MAINTENANCE.—For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, within 180 days of the date of the enactment of this subsection, develop and implement a public education campaign to educate homeowners and small business owners concerning the energy savings resulting from regularly scheduled maintenance of air conditioning, heating, and ventilating systems. In developing and implementing this campaign, the Secretary shall consider support by the Department of public education programs sponsored by trade and professional and energy efficiency organizations. The public service information shall provide sufficient information to allow consumers to make informed choices from among professional, licensed (where State or local licensing is required) contractors. There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal years 2002 and 2003 in addition to amounts otherwise appropriated in this part.''.

(d) EFFICIENCY STANDARDS FOR FURNACE FANS, CEILING FANS, AND COLD DRINK VENDING MACHINES.—

(1) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by adding the following at the end thereof:

''(32) The term 'residential furnace fan' means an electric fan installed as part of a furnace for purposes of circulating air through the system air filters, the heat exchangers or heating elements of the furnace, and the duct work.

''(33) The terms 'residential central air conditioner fan' and 'heat pump circulation fan' mean an electric fan installed as part of a central air conditioner or heat pump for purposes of circulating air through the system air filters, the heat exchangers of the air conditioner or heat pump, and the duct work.

''(34) The term 'suspended ceiling fan' means a fan intended to be mounted to a ceiling outlet box, ceiling building structure, or to a vertical rod suspended from the ceiling, and which as blades which rotate below the ceiling and consists of an electric motor, fan blades (which rotate in a direction parallel to the floor), an optional lighting kit, and one or more electrical controls (integral or remote) governing fan speed and lighting operation.

''(35) The term 'refrigerated bottled or canned beverage vending machine' means a machine that cools bottled or canned beverages and dispenses them upon payment.''.

(2) TESTING REQUIREMENTS.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended by adding the following at the end thereof:

''(f) ADDITIONAL CONSUMER PRODUCTS.—The Secretary shall within 18 months after the date of the enactment of this subsection prescribe testing requirements for residential furnace fans, residential central air conditioner fans, heat pump circulation fans, suspended ceiling fans, and refrigerated bottled or canned beverage vending machines. Such testing requirements shall be based on existing test procedures used in industry to the extent practical and reasonable. In the case of residential furnace fans, residential central air conditioner fans, heat pump circulation fans, and suspended ceiling fans, such test procedures shall include efficiency at both maximum output and at an output no more than 50 percent of the maximum output.''.

(3) STANDARDS FOR ADDITIONAL CONSUMER PRODUCTS.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding the following at the end thereof:

''(w) RESIDENTIAL FURNACE FANS, CENTRAL AIR AND HEAT PUMP CIRCULATION FANS, SUSPENDED CEILING FANS, AND VENDING MACHINES.—(1) The Secretary shall, within 18 months after the date of the enactment of this subsection, assess the current and projected future market for residential furnace fans, residential central air conditioner and heat pump circulation fans, suspended ceiling fans, and refrigerated bottled or canned beverage vending machines. This assessment shall include an examination of the types of products sold, the number of products in use, annual sales of these products, energy used by these products sold, the number of products in use, annual sales of these products, energy used by these products, estimates of the potential energy savings from specific technical improvements to these products, and an examination of the cost-effectiveness of these improvements. Prior to the end of this time period, the Secretary shall hold an initial scoping workshop to discuss and receive input to plans for developing minimum efficiency standards for these products.

''(2) The Secretary shall within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to section 323(f), prescribe, by rule, energy conservation standards for residential furnace fans, residential central air conditioner and heat pump circulation fans, suspended ceiling fans, and refrigerated bottled or canned beverage vending machines. In establishing these standards, the Secretary shall use the criteria and procedures contained in subsections (l) and (m). Any standard prescribed under this section shall apply to products manufactured 36 months after the date such rule is published.''.

(4) LABELING.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended by adding the following at the end thereof:

''(5) The Secretary shall within 6 months after the date on which energy conservation standards are prescribed by the Secretary for covered products referred to in section 325(w), prescribe, by rule, labeling requirements for such products. These requirements shall take effect on the same date as the standards prescribed pursuant to section 325(w).''.

(5) COVERED PRODUCTS.—Section 322(a) of the Energy Policy and Conservation Act (42 U.S.C. 6292(a)) is amended by redesignating paragraph (19) as paragraph (20) and by inserting after paragraph (18) the following:

''(19) Beginning on the effective date for standards established pursuant to subsection (v) of section 325, each product referred to in such subsection (v).''.

### Subtitle E—Energy Efficient Vehicles

#### SEC. 151. HIGH OCCUPANCY VEHICLE EXCEPTION.

(a) IN GENERAL.—Notwithstanding section 102(a)(1) of title 23, United States Code, a State may, for the purpose of promoting energy conservation, permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if such vehicle is a hybrid vehicle or is fueled by an alternative fuel.

(b) HYBRID VEHICLE DEFINED.—In this section, the term ''hybrid vehicle'' means a motor vehicle—

(1) which draws propulsion energy from onboard sources of stored energy which are both—

(A) an internal combustion or heat engine using combustible fuel; and

(B) a rechargeable energy storage system;

(2) which, in the case of a passenger automobile or light truck—

(A) for 2002 and later model vehicles, has received a certificate of conformity under section 206 of the Clean Air Act (42 U.S.C. 7525) and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act (42 U.S.C. 7583(e)(2)) for that make and model year; and

(B) for 2004 and later model vehicles, has received a certificate that such vehicle meets the Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

(3) which is made by a manufacturer.

(c) ALTERNATIVE FUEL DEFINED.—In this section, the term ''alternative fuel'' has the meaning such term has under section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)).

#### SEC. 152. RAILROAD EFFICIENCY.

(a) LOCOMOTIVE TECHNOLOGY DEMONSTRATION.—The Secretary of Energy shall establish a public-private research partnership with railroad carriers, locomotive manufacturers, and a world-class research and test center dedicated to the advancement of railroad technology, efficiency, and safety that is owned by the Federal Railroad Administration and operated in the private sector, for the development and demonstration of locomotive technologies that increase fuel economy and reduce emissions.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy $25,000,000 for fiscal year 2002, $30,000,000 for fiscal year 2003, and $35,000,000 for fiscal year 2004 for carrying out this section.

#### SEC. 153. BIODIESEL FUEL USE CREDITS.

Section 312(c) of the Energy Policy Act of 1992 (42 U.S.C. 13220(c)) is amended—

(1) by striking ''NOT'' in the subsection heading; and

(2) by striking ''not''.

**SEC. 154. MOBILE TO STATIONARY SOURCE TRADING.**

Within 90 days after the enactment of this section, the Administrator of the Environmental Protection Agency is directed to commence a review of the Agency's policies regarding the use of mobile to stationary source trading of emission credits under the Clean Air Act to determine whether such trading can provide both nonattainment and attainment areas with additional flexibility in achieving and maintaining healthy air quality and increasing use of alternative fuel and advanced technology vehicles, thereby reducing United States dependence on foreign oil.

**Subtitle F—Other Provisions**

**SEC. 161. REVIEW OF REGULATIONS TO ELIMINATE BARRIERS TO EMERGING ENERGY TECHNOLOGY.**

(a) IN GENERAL.—Each Federal agency shall carry out a review of its regulations and standards to determine those that act as a barrier to market entry for emerging energy-efficient technologies, including, but not limited to, fuel cells, combined heat and power, and distributed generation (including small-scale renewable energy).

(b) REPORT TO CONGRESS.—No later than 18 months after the date of the enactment of this section, each agency shall provide a report to Congress and the President detailing all regulatory barriers to emerging energy-efficient technologies, along with actions the agency intends to take, or has taken, to remove such barriers.

(c) PERIODIC REVIEW.—Each agency shall subsequently review its regulations and standards in the manner specified in this section no less frequently than every 5 years, and report their findings to Congress and the President. Such reviews shall include a detailed analysis of all agency actions taken to remove existing barriers to emerging energy technologies.

**SEC. 162. ADVANCED IDLE ELIMINATION SYSTEMS.**

(a) DEFINITIONS.—

(1) ADVANCED IDLE ELIMINATION SYSTEM.—The term ''advanced idle elimination system'' means a device or system of devices that is installed at a truck stop or other location (for example, a loading, unloading, or transfer facility) where vehicles (such as trucks, trains, buses, boats, automobiles, and recreational vehicles) are parked and that is designed to provide to the vehicle the services (such as heat, air conditioning, and electricity) that would otherwise require the operation of the auxiliary or drive train engine or both while the vehicle is stationary and parked.

(2) EXTENDED IDLING.—The term ''extended idling'' means the idling of a motor vehicle for a period greater than 60 minutes.

(b) RECOGNITION OF BENEFITS OF ADVANCED IDLE ELIMINATION SYSTEMS.—Within 90 days after the date of the enactment of this subsection, the Administrator of the Environmental Protection Agency is directed to commence a review of the Agency's mobile source air emissions models used under the Clean Air Act to determine whether such models accurately reflect the emissions resulting from extended idling of heavy-duty trucks and other vehicles and engines, and shall update those models as the Administrator deems appropriate. Additionally, within 90-days after the date of the enactment of this subsection, the Administrator shall commence a review as to the appropriate emissions reductions credit that should be allotted under the Clean Air Act for the use of advanced idle elimination systems, and whether such credits should be subject to an emissions trading system, and shall revise Agency regulations and guidance as the Administrator deems appropriate.

**SEC. 163. STUDY OF BENEFITS AND FEASIBILITY OF OIL BYPASS FILTRATION TECHNOLOGY.**

(a) STUDY.—The Secretary of Energy and the Administrator of the Environmental Protection Agency shall jointly conduct a study of oil bypass filtration technology in motor vehicle engines. The study shall analyze and quantify the potential benefits of such technology in terms of reduced demand for oil and the potential environmental benefits of the technology in terms of reduced waste and air pollution. The Secretary and the Administrator shall also examine the feasibility of using such technology in the Federal motor vehicle fleet.

(b) REPORT.—Not later than 6 months after the enactment of this Act, the Secretary of Energy and the Administrator of the Environmental Protection Agency shall jointly submit a report containing the results of the study conducted under subsection (a) to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

**SEC. 164. GAS FLARE STUDY.**

(a) STUDY.—The Secretary of Energy shall conduct a study of the economic feasibility of installing small cogeneration facilities utilizing excess gas flares at petrochemical facilities to provide reduced electricity costs to customers living within 3 miles of the petrochemical facilities. The Secretary shall solicit public comment to assist in preparing the report required under subsection (b).

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Energy shall transmit a report to the Congress on the results of the study conducted under subsection (a).

**SEC. 165. TELECOMMUTING STUDY.**

(a) STUDY REQUIRED.—The Secretary, in consultation with Commission, and the NTIA, shall conduct a study of the energy conservation implications of the widespread adoption of telecommuting in the United States.

(b) REQUIRED SUBJECTS OF STUDY.—The study required by subsection (a) shall analyze the following subjects in relation to the energy saving potential of telecommuting:

(1) Reductions of energy use and energy costs in commuting and regular office heating, cooling, and other operations.

(2) Other energy reductions accomplished by telecommuting.

(3) Existing regulatory barriers that hamper telecommuting, including barriers to broadband telecommunications services deployment.

(4) Collateral benefits to the environment, family life, and other values.

(c) REPORT REQUIRED.—The Secretary shall submit to the President and the Congress a report on the study required by this section not later than 6 months after the date of the enactment of this Act. Such report shall include a description of the results of the analysis of each of the subject described in subsection (b).

(d) DEFINITIONS.—As used in this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(2) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(3) NTIA.—The term ''NTIA'' means the National Telecommunications and Information Administration of the Department of Commerce.

(4) TELECOMMUTING.—The term ''telecommuting'' means the performance of work functions using communications technologies, thereby eliminating or substantially reducing the need to commute to and from traditional worksites.

**TITLE II—AUTOMOBILE FUEL ECONOMY**

**SEC. 201. AVERAGE FUEL ECONOMY STANDARDS FOR NONPASSENGER AUTOMOBILES.**

Section 32902(a) of title 49, United States Code, is amended—

(1) by inserting ''(1)'' after ''NONPASSENGER AUTOMOBILES.—''; and

(2) by adding at the end the following:

''(2) The Secretary shall prescribe under paragraph (1) average fuel economy standards for automobiles (except passenger automobiles) manufactured in model years 2004 through 2010 that are calculated to ensure that the aggregate amount of gasoline projected to be used in those model years by automobiles to which the standards apply is at least 5 billion gallons less than the aggregate amount of gasoline that would be used in those model years by such automobiles if they achieved only the fuel economy required under the average fuel economy standard that applies under this subsection to automobiles (except passenger automobiles) manufactured in model year 2002.''.

**SEC. 202. CONSIDERATION OF PRESCRIBING DIFFERENT AVERAGE FUEL ECONOMY STANDARDS FOR NONPASSENGER AUTOMOBILES.**

(a) IN GENERAL.—The Secretary of Transportation shall, in prescribing average fuel economy standards under section 32902(a) of title 49, United States Code, for automobiles (except passenger automobiles) manufactured in model year 2004, consider the potential benefits of—

(1) establishing a weight-based system for automobiles, that is based on the inertia weight, curb weight, gross vehicle weight rating, or another appropriate measure of such automobiles; and

(2) prescribing different fuel economy standards for automobiles that are subject to the weight-based system.

(b) SPECIFIC CONSIDERATIONS.—In implementing this section the Secretary—

(1) shall consider any recommendations made in the National Academy of Sciences study completed pursuant to the Department of Transportation and Related Agencies Appropriations Act, 2000 (Public Law 106–346; 114 Stat. 2763 et seq.); and

(2) shall evaluate the merits of any weight-based system in terms of motor vehicle safety, energy conservation, and competitiveness of and employment in the United States automotive sector, and if a weight-based system is established by the Secretary a manufacturer may trade credits between or among the automobiles (except passenger automobiles) manufactured by the manufacturer.

**SEC. 203. DUAL FUELED AUTOMOBILES.**

(a) PURPOSES.—The purposes of this section are—

(1) to extend the manufacturing incentives for dual fueled automobiles, as set forth in subsections (b) and (d) of section 32905 of title 49, United States Code, through the 2008 model year; and

(2) to similarly extend the limitation on the maximum average fuel economy increase for such automobiles, as set forth in subsection (a)(1) of section 32906 of title 49, United States Code.

(b) AMENDMENTS.—

(1) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code, is amended as follows:

(A) Subsections (b) and (d) are each amended by striking ''model years 1993–2004'' and inserting ''model years 1993–2008''.

(B) Subsection (f) is amended by striking ''Not later than December 31, 2001, the Secretary'' and inserting ''Not later than December 31, 2005, the Secretary''.

(C) Subsection (f)(1) is amended by striking ''model year 2004'' and inserting ''model year 2008''.

(D) Subsection (g) is amended by striking ''Not later than September 30, 2000'' and inserting ''Not later than September 30, 2004''.

(2) MAXIMUM FUEL ECONOMY INCREASE.—Subsection (a)(1) of section 32906 of title 49, United States Code, is amended as follows:

(A) Subparagraph (A) is amended by striking ''the model years 1993–2004'' and inserting ''model years 1993–2008''.

(B) Subparagraph (B) is amended by striking ''the model years 2005–2008'' and inserting ''model years 2009–2012''.

**SEC. 204. FUEL ECONOMY OF THE FEDERAL FLEET OF AUTOMOBILES.**

Section 32917 of title 49, United States Code, is amended to read as follows:

**''§ 32917. Standards for executive agency automobiles**

''(a) BASELINE AVERAGE FUEL ECONOMY.—The head of each executive agency shall determine, for all automobiles in the agency's fleet of automobiles that were leased or bought as a new vehicle in fiscal year 1999, the average fuel economy for such automobiles. For the purposes of this section, the average fuel economy so determined shall be the baseline average fuel economy for the agency's fleet of automobiles.

''(b) INCREASE OF AVERAGE FUEL ECONOMY.—The head of an executive agency shall manage the procurement of automobiles for that agency in such a manner that—

''(1) not later than September 30, 2003, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 1 mile per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet; and

''(2) not later than September 30, 2005, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet.

''(c) CALCULATION OF AVERAGE FUEL ECONOMY.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.

''(d) DEFINITIONS.—In this section:

''(1) The term 'automobile' does not include any vehicle designed for combat-related missions, law enforcement work, or emergency rescue work.

''(2) The term 'executive agency' has the meaning given that term in section 105 of title 5.

''(3) The term 'new automobile', with respect to the fleet of automobiles of an executive agency, means an automobile that is leased for at least 60 consecutive days or bought, by or for the agency, after September 30, 1999.''.

**SEC. 205. HYBRID VEHICLES AND ALTERNATIVE VEHICLES.**

(a) IN GENERAL.—Section 303(b)(1) of the Energy Policy Act of 1992 is amended by adding the following at the end: ''Of the total number of vehicles acquired by a Federal fleet in fiscal years 2004 and 2005, at least 5 percent of the vehicles in addition to those covered by the preceding sentence shall be alternative fueled vehicles or hybrid vehicles and in fiscal year 2006 and thereafter at least 10 percent of the vehicles in addition to those covered by the preceding sentence shall be alternative fueled vehicles or hybrid vehicles.''.

(b) DEFINITION.—Section 301 of such Act is amended by striking ''and'' at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting ''; and'' and by adding at the end the following:

''(15) The term 'hybrid vehicle' means a motor vehicle which draws propulsion energy from onboard sources of stored energy which are both—

''(A) an internal combustion or heat engine using combustible fuel; and

''(B) a rechargeable energy storage system.''.

**SEC. 206. FEDERAL FLEET PETROLEUM-BASED NONALTERNATIVE FUELS.**

(a) IN GENERAL.—Title III of the Energy Policy Act of 1992 (42 U.S.C. 13212 et seq.) is amended as follows:

(1) By adding at the end thereof the following:

**''SEC. 313. CONSERVATION OF PETROLEUM-BASED FUELS BY THE FEDERAL GOVERNMENT FOR LIGHT-DUTY MOTOR VEHICLES.**

''(a) PURPOSES.—The purposes of this section are to complement and supplement the requirements of section 303 of this Act that Federal fleets, as that term is defined in section 303(b)(3), acquire in the aggregate a minimum percentage of alternative fuel vehicles, to encourage the manufacture and sale or lease of such vehicles nationwide, and to achieve, in the aggregate, a reduction in the amount of the petroleum-based fuels (other than the alternative fuels defined in this title) used by new light-duty motor vehicles acquired by the Federal Government in model years 2004 through 2010 and thereafter.

''(b) IMPLEMENTATION.—In furtherance of such purposes, such Federal fleets in the aggregate shall reduce the purchase of petroleum-based nonalternative fuels for such fleets beginning October 1, 2003, through September 30, 2009, from the amount purchased for such fleets over a comparable period since enactment of this Act, as determined by the Secretary, through the annual purchase, in accordance with section 304, and the use of alternative fuels for the light-duty motor vehicles of such Federal fleets, so as to achieve levels which reflect total reliance by such fleets on the consumptive use of alternative fuels consistent with the provisions of section 303(b) of this Act. The Secretary shall, within 120 days after the enactment of this section, promulgate, in consultation with the Administrator of the General Services Administration and the Director of the Office of Management and Budget and such other heads of entities referenced in section 303 within the executive branch as such Director may designate, standards for the full and prompt implementation of this section by such entities. The Secretary shall monitor compliance with this section and such standards by all such fleets and shall report annually to the Congress, based on reports by the heads of such fleets, on the extent to which the requirements of this section and such standards are being achieved. The report shall include information on annual reductions achieved of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels and in requiring their use.''.

(2) By amending section 304(b) of such Act to read as follows:

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary or, as appropriate, the head of each Federal fleet subject to the provisions of this section and section 313 of this Act, such sums as may be necessary to achieve the purposes of section 313(a) and the provisions of this section. Such sums shall remain available until expended.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to title III the following:

''Sec. 313. Conservation of petroleum-based fuels by the Federal Government for light-duty motor vehicles.''.

**SEC. 207. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES.**

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall enter into an arrangement with the National Academy of Sciences under which the Academy shall study the feasibility and effects of reducing by model year 2010, by a significant percentage, the use of fuel for automobiles.

(b) SUBJECTS OF STUDY.—The study under this section shall include—

(1) examination of, and recommendation of alternatives to, the policy under current Federal law of establishing average fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average fuel economy standards that apply to the automobiles it manufactures;

(2) examination of how automobile manufacturers could contribute toward achieving the reduction referred to in subsection (a);

(3) examination of the potential of fuel cell technology in motor vehicles in order to determine the extent to which such technology may contribute to achieving the reduction referred to in subsection (a); and

(4) examination of the effects of the reduction referred to in subsection (a) on—

(A) gasoline supplies;

(B) the automobile industry, including sales of automobiles manufactured in the United States;

(C) motor vehicle safety; and

(D) air quality.

(c) REPORT.—The Secretary shall require the National Academy of Sciences to submit to the Secretary and the Congress a report on the findings, conclusion, and recommendations of the study under this section by not later than 1 year after the date of the enactment of this Act.

## TITLE III—NUCLEAR ENERGY

**SEC. 301. LICENSE PERIOD.**

Section 103 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended—

(1) by striking ''c. Each such'' and inserting the following:

''c. LICENSE PERIOD.—

''(1) IN GENERAL.—Each such''; and

(2) by adding at the end the following:

''(2) COMBINED LICENSES.—In the case of a combined construction and operating license issued under section 185 b., the initial duration of the license may not exceed 40 years from the date on which the Commission finds, before operation of the facility, that the acceptance criteria required by section 185 b. are met.''.

**SEC. 302. COST RECOVERY FROM GOVERNMENT AGENCIES.**

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking ''for or is issued'' and all that follows through ''1702'' and inserting ''to the Commission for, or is issued by the Commission, a license or certificate'';

(2) by striking ''483a'' and inserting ''9701''; and

(3) by striking '', of applicants for, or holders of, such licenses or certificates''.

**SEC. 303. DEPLETED URANIUM HEXAFLUORIDE.**

Section 1(b) of Public Law 105–204 is amended by striking ''fiscal year 2002'' and inserting ''fiscal year 2005''.

**SEC. 304. NUCLEAR REGULATORY COMMISSION MEETINGS.**

If a quorum of the Nuclear Regulatory Commission gathers to discuss official Commission business the discussions shall be recorded, and the Commission shall notify the public of such discussions within 15 days after they occur. The Commission shall promptly make a transcript of the recording available to the public on request, except to

the extent that public disclosure is exempted or prohibited by law. This section shall not apply to a meeting, within the meaning of that term under section 552b(a)(2) of title 5, United States Code.

**SEC. 305. COOPERATIVE RESEARCH AND DEVELOPMENT AND SPECIAL DEMONSTRATION PROJECTS FOR THE URANIUM MINING INDUSTRY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $10,000,000 for each of fiscal years 2002, 2003, and 2004 for—

(1) cooperative, cost-shared, agreements between the Department of Energy and domestic uranium producers to identify, test, and develop improved in situ leaching mining technologies, including low-cost environmental restoration technologies that may be applied to sites after completion of in situ leaching operations; and

(2) funding for competitively selected demonstration projects with domestic uranium producers relating to—

(A) enhanced production with minimal environmental impacts;

(B) restoration of well fields; and

(C) decommissioning and decontamination activities.

(b) DOMESTIC URANIUM PRODUCER.—For purposes of this section, the term ''domestic uranium producer'' has the meaning given that term in section 1018(4) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(4)), except that the term shall not include any producer that has not produced uranium from domestic reserves on or after July 30, 1998.

**SEC. 306. MAINTENANCE OF A VIABLE DOMESTIC URANIUM CONVERSION INDUSTRY.**

There are authorized to be appropriated to the Secretary $800,000 for contracting with the Nation's sole remaining uranium converter for the purpose of performing research and development to improve the environmental and economic performance of United States uranium conversion operations.

**SEC. 307. PADUCAH DECONTAMINATION AND DECOMMISSIONING PLAN.**

The Secretary of Energy shall prepare and submit a plan to Congress within 180 days after the date of the enactment of this Act that establishes scope, cost, schedule, sequence of activities, and contracting strategy for—

(1) the decontamination and decommissioning of the Department of Energy's surplus buildings and facilities at the Paducah Gaseous Diffusion Plant that have no future anticipated reuse; and

(2) the remediation of Department of Energy Material Storage Areas at the Paducah Gaseous Diffusion Plant.

Such plan shall inventory all surplus facilities and buildings, and identify and rank health and safety risks associated with such facilities and buildings. Such plan shall inventory all Department of Energy Material Storage Areas, and identify and rank health and safety risks associated with such Department of Energy Material Storage Areas. The Department of Energy shall incorporate these risk factors in designing the sequence and schedule for the plan. Such plan shall identify funding requirements that are in addition to the expected outlays included in the Department of Energy's Environmental Management Plan for the Paducah Gaseous Diffusion Plan.

**SEC. 308. STUDY TO DETERMINE FEASIBILITY OF DEVELOPING COMMERCIAL NUCLEAR ENERGY PRODUCTION FACILITIES AT EXISTING DEPARTMENT OF ENERGY SITES.**

(a) IN GENERAL.—The Secretary of Energy shall conduct a study to determine the feasibility of developing commercial nuclear energy production facilities at Department of Energy sites in existence on the date of the enactment of this Act, including—

(1) options for how and where nuclear power plants can be developed on existing Department of Energy sites;

(2) estimates on cost savings to the Federal Government that may be realized by locating new nuclear power plants on Federal sites;

(3) the feasibility of incorporating new technology into nuclear power plants located on Federal sites;

(4) potential improvements in the licensing and safety oversight procedures of nuclear power plants located on Federal sites;

(5) an assessment of the effects of nuclear waste management policies and projects as a result of locating nuclear power plants located on Federal sites; and

(6) any other factors that the Secretary believes would be relevant in making the determination.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subsection (a).

**SEC. 309. PROHIBITION OF COMMERCIAL SALES OF URANIUM BY THE UNITED STATES UNTIL 2009.**

Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h–10) is amended by adding at the end the following new subsection:

''(g) PROHIBITION ON SALES.—With the exception of sales pursuant to subsection (b)(2) (42 U.S.C.2297h-10(b)(2)), notwithstanding any other provision of law, the United States Government shall not sell or transfer any uranium (including natural uranium concentrates, natural uranium hexafluoride, enriched uranium, depleted uranium, or uranium in any other form) through March 23, 2009 (except sales or transfers for use by the Tennessee Valley Authority in relation to the Department of Energy's HEU or Tritium programs, or the Department or Energy research reactor sales program, or any depleted uranium hexaflouride to be transferred to a designated Department of Energy contractor in conjunction with the planned construction of the Depleted Uranium Hexaflouride conversion plants in Portsmouth, Ohio, and Paducah, Kentucky, to any natural uranium transferred to the U.S. Enrichment Corporation from the Department of Energy to replace contaminated uranium received from the Department of Energy when the U.S. Enrichment Corporation was privatized in July, 1998, or for emergency purposes in the event of a disruption in supply to end users in the United States). The aggregate of sales or transfers of uranium by the United States Government after March 23, 2009, shall not exceed 3,000,000 pounds $U_3O_8$ per calendar year.''.

## TITLE IV—HYDROELECTRIC ENERGY

**SEC. 401. ALTERNATIVE CONDITIONS AND FISHWAYS.**

(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, and the Secretary of the department under whose supervision such reservation falls deems a condition to such license to be necessary under the first proviso of subsection (e), the license applicant or any other party to the licensing proceeding 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 proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative condition, that the alternative condition—

''(A) provides no less protection for the reservation than provided by the condition deemed necessary by the Secretary; and

''(B) will either—

''(i) cost less to implement, or

''(ii) result in improved operation of the project works for electricity production,

as compared to the condition deemed necessary by the Secretary.

''(3) Within 1 year after the enactment of this subsection, each Secretary concerned shall, by rule, establish a process to expeditiously resolve conflicts arising under this subsection.''.

(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 or any other party to the proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

''(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 proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the party proposing such alternative, that the alternative—

''(A) will be no less effective than the fishway initially prescribed by the Secretary, and

''(B) will either—

''(i) cost less to implement, or

''(ii) result in improved operation of the project works for electricity production,

as compared to the fishway initially prescribed by the Secretary.

''(3) Within 1 year after the enactment of this subsection, the Secretary of the Interior and the Secretary of Commerce shall each, by rule, establish a process to expeditiously resolve conflicts arising under this subsection.''.

**SEC. 402. FERC DATA ON HYDROELECTRIC LICENSING.**

(a) DATA COLLECTION PROCEDURES.—The Federal Energy Regulatory Commission shall revise its procedures regarding the collection of data in connection with the Commission's consideration of hydroelectric licenses under the Federal Power Act. Such revised data collection procedures shall be designed to provide the Commission with complete and accurate information concerning the time and costs to parties involved in the licensing process. Such data shall be available for each significant stage in the licensing process and shall be designed to identify projects with similar characteristics so that analyses can be made of the time and costs involved in licensing proceedings based upon the different characteristics of those proceedings.

(b) REPORTS.—Within 6 months after the date of the enactment of this Act, the Commission shall notify the Committee on Energy and Commerce of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of the progress made by the Commission under subsection (a), and within 1 year after such date of the enactment, the Commission shall submit a report

to such Committees specifying the measures taken by the Commission pursuant to subsection (a).

## TITLE V—FUELS

### SEC. 501. TANK DRAINING DURING TRANSITION TO SUMMERTIME RFG.

Not later than 60 days after the enactment of the Act, the Administrator of the Environmental Protection Agency shall commence a rulemaking to determine whether modifications to the regulations set forth in 40 CFR Section 80.78 and any associated regulations regarding the transition to high ozone season reformulated gasoline are necessary to ensure that the transition to high ozone season reformulated gasoline is conducted in a manner that minimizes disruptions to the general availability and affordability of gasoline, and maximizes flexibility with regard to the draining and inventory management of gasoline storage tanks located at refineries, terminals, wholesale and retail outlets, consistent with the goals of the Clean Air Act. The Administrator shall propose and take final action in such rulemaking to ensure that any modifications are effective and implemented at least 60 days prior to the beginning of the high ozone season for the year 2002.

### SEC. 502. GASOLINE BLENDSTOCK REQUIREMENTS.

Not later than 60 days after the enactment of this Act, the Administrator of the Environmental Protection Agency shall commence a rulemaking to determine whether modifications to product transfer documentation, accounting, compliance calculation, and other requirements contained in the regulations of the Administrator set forth in section 80.102 of title 40 of the Code of Federal Regulations relating to gasoline blendstocks are necessary to facilitate the movement of gasoline and gasoline feedstocks among different regions throughout the country and to improve the ability of petroleum refiners and importers to respond to regional gasoline shortages and prevent unreasonable short-term price increases. The Administrator shall take into consideration the extent to which such requirements have been, or will be, rendered unnecessary or inefficient by reason of subsequent environmental safeguards that were not in effect at the time the regulations in section 80.102 of title 40 of the Code of Federal Regulations were promulgated. The Administrator shall propose and take final action in such rulemaking to ensure that any modifications are effective and implemented at least 60 days prior to the beginning of the high ozone season for the year 2002.

### SEC. 503. BOUTIQUE FUELS.

(a) JOINT STUDY.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of all Federal, State, and local requirements regarding motor vehicle fuels, including requirements relating to reformulated gasoline, volatility (Reid Vapor Pressure), oxygenated fuel, diesel fuel and other requirements that vary from State to State, region to region, or locality to locality. The study shall analyze—

(1) the effect of the variety of such requirements on the price of motor vehicle fuels to the consumer;

(2) the availability and affordability of motor vehicle fuels in different States and localities;

(3) the effect of Federal, State, and local regulations, including multiple fuel requirements, on domestic refineries and the fuel distribution system;

(4) the effect of such requirements on local, regional, and national air quality requirements and goals;

(5) the effect of such requirements on vehicle emissions;

(6) the feasibility of developing national or regional fuel specifications for the contiguous United States that would—

(A) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(B) reduce price volatility and costs to consumers and producers;

(C) meet local, regional, and national air quality requirements and goals; and

(D) provide increased gasoline market liquidity;

(7) the extent to which the Environmental Protection Agency's Tier II requirements for conventional gasoline may achieve in future years the same or similar air quality results as State reformulated gasoline programs and State programs regarding gasoline volatility (RVP); and

(8) the feasibility of providing incentives to promote cleaner burning fuel.

(b) REPORT.—By December 31, 2001, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit a report to the Congress containing the results of the study conducted under subsection (a). Such report shall contain recommendations for legislative and administrative actions that may be taken to simplify the national distribution system for motor vehicle fuel, make such system more cost-effective, and reduce the costs and increase the availability of motor vehicle fuel to the end user while meeting the requirements of the Clean Air Act. Such recommendations shall take into account the need to provide lead time for refinery and fuel distribution system modifications necessary to assure adequate fuel supply for all States.

### SEC. 504. FUNDING FOR MTBE CONTAMINATION.

Notwithstanding any other provision of law, there is authorized to be appropriated to the Administrator of the Environmental Protection Agency from the Leaking Underground Storage Trust Fund not more than $200,000,000 to be used for taking such action, limited to assessment, corrective action, inspection of underground storage tank systems, and groundwater monitoring in connection with MTBE contamination, as the Administrator deems necessary to protect human health and the environment from releases of methyl tertiary butyl ether (MTBE) from underground storage tanks.

## TITLE VI—RENEWABLE ENERGY

### SEC. 601. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENT.—Not later than 1 year after the date of the enactment of this Act, and each year thereafter, the Secretary of Energy shall publish an assessment by the National Laboratories of all renewable energy resources available within the United States.

(b) CONTENTS OF REPORT.—The report published under subsection (a) shall contain each of the following:

(1) A detailed inventory describing the available amount and characteristics of solar, wind, biomass, geothermal, hydroelectric and other renewable energy sources.

(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. RENEWABLE ENERGY PRODUCTION INCENTIVE.

Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended as follows:

(1) In subsection (a) by striking ''and which satisfies'' and all that follows through ''Secretary shall establish.'' and inserting ''. The Secretary shall establish other procedures necessary for efficient administration of the program. The Secretary shall not establish any criteria or procedures that have the effect of assigning to proposals a higher or lower priority for eligibility or allocation of appropriated funds on the basis of the energy source proposed.''.

(2) In subsection (b)—

(A) by striking ''a State or any political'' and all that follows through ''nonprofit electrical cooperative'' and inserting ''an electricity-generating cooperative exempt from taxation under section 501(c)(12) or section 1381(a)(2)(C) of the Internal Revenue Code of 1986, a public utility described in section 115 of such Code, a State, Commonwealth, territory, or possession of the United States or the District of Columbia, or a political subdivision thereof, or an Indian tribal government or subdivision thereof,''; and

(B) By inserting ''landfill gas,'' after ''wind, biomass,''.

(3) In subsection (c) by striking ''during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section'' and inserting ''before October 1, 2013''.

(4) In subsection (d) by inserting ''or in which the Secretary finds that all necessary Federal and State authorizations have been obtained to begin construction of the facility'' after ''eligible for such payments''.

(5) In subsection (e)(1) by inserting ''landfill gas,'' after ''wind, biomass,''.

(6) In subsection (f) by striking ''the expiration of'' and all that follows through ''of this section'' and inserting ''September 30, 2023''.

(7) In subsection (g)—

(A) by striking ''1993, 1994, and 1995'' and inserting ''2003 through 2023''; and

(B) by inserting ''Funds may be appropriated pursuant to this subsection to remain available until expended.'' after ''purposes of this section.''.

### SEC. 603. STUDY OF ETHANOL FROM SOLID WASTE LOAN GUARANTEE PROGRAM.

The Secretary of Energy shall conduct a study of the feasibility of providing guarantees for loans by private banking and investment institutions for facilities for the processing and conversion of municipal solid waste and sewage sludge into fuel ethanol and other commercial byproducts, and not later than 90 days after the date of the enactment of this Act shall transmit to the Congress a report on the results of the study.

### SEC. 604. STUDY OF RENEWABLE FUEL CONTENT.

(a) STUDY.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of the feasibility of developing a requirement that motor vehicle fuel sold or introduced into commerce in the United States in calendar year 2002 or any calendar year thereafter by a refiner, blender, or importer shall, on a 6-month average basis, be comprised of a quantity of renewable fuel, measured in gasoline-equivalent gallons. As part of this study, the Administrator and Secretary shall evaluate the use of a banking and trading credit system and the feasibility and desirability of requiring an increasing percentage of renewable fuel to be phased in over a 15-year period.

(b) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Administrator and the Secretary shall transmit to the Congress a report on the results of the study conducted under this section.

## TITLE VII—PIPELINES

### SEC. 701. PROHIBITION ON CERTAIN PIPELINE ROUTE.

No license, permit, lease, right-of-way, authorization or other approval required under

Federal law for the construction of any pipeline to transport natural gas from lands within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that traverses—

(1) the submerged lands (as defined by the Submerged Lands Act) beneath, or the adjacent shoreline of, the Beaufort Sea; and

(2) enters Canada at any point north of 68 degrees North latitude.

**SEC. 702. HISTORIC PIPELINES.**

Section 7 of the Natural Gas Act (15 U.S.C. 717(f)) is amended by adding at the end the following new subsection:

''(i) Notwithstanding the National Historic Preservation Act, a transportation facility shall not be eligible for inclusion on the National Register of Historic Places unless—

''(1) the Commission has permitted the abandonment of the transportation facility pursuant to subsection (b) of this section, or

''(2) the owner of the facility has given written consent to such eligibility.

Any transportation facility deemed eligible for inclusion on the National Register of Historic Places prior to the date of the enactment of this subsection shall no longer be eligible unless the owner of the facility gives written consent to such eligibility.''.

## TITLE VIII—MISCELLANEOUS PROVISIONS

**SEC. 801. WASTE REDUCTION AND USE OF ALTERNATIVES.**

(a) GRANT AUTHORITY.—The Secretary of Energy is authorized to make a single grant to a qualified institution to examine and develop the feasibility of burning post-consumer carpet in cement kilns as an alternative energy source. The purposes of the grant shall include determining—

(1) how post-consumer carpet can be burned without disrupting kiln operations;

(2) the extent to which overall kiln emissions may be reduced; and

(3) how this process provides benefits to both cement kiln operations and carpet suppliers.

(b) QUALIFIED INSTITUTION.—For the purposes of subsection (a), a qualified institution is a research-intensive institution of higher learning with demonstrated expertise in the fields of fiber recycling and logistical modeling of carpet waste collection and preparation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for carrying out this section $275,000 for fiscal year 2002, to remain available until expended.

**SEC. 802. ANNUAL REPORT ON UNITED STATES ENERGY INDEPENDENCE.**

(a) REPORT.—The Secretary of Energy, in consultation with the heads of other relevant Federal agencies, shall include in each report under section 801(c) of the Department of Energy Organization Act a section which evaluates the progress the United States has made toward obtaining the goal of not more than 50 percent dependence on foreign oil sources by 2010.

(b) ALTERNATIVES.—The information required under this section to be included in the reports under section 801(c) of the Department of Energy Organization Act shall include a specification of what legislative or administrative actions must be implemented to meet this goal and set forth a range of options and alternatives with a cost/benefit analysis for each option or alternative together with an estimate of the contribution each option or alternative could make to reduce foreign oil imports. The Secretary shall solicit information from the public and request information from the Energy Information Agency and other agencies to develop the information required under this section. The information shall indicate, in detail, options and alternatives to—

(1) increase the use of renewable domestic energy sources, including conventional and nonconventional sources;

(2) conserve energy resources, including improving efficiencies and decreasing consumption; and

(3) increase domestic production and use of oil, natural gas, nuclear, and coal, including any actions necessary to provide access to, and transportation of, these energy resources.

**SEC. 803. STUDY OF AIRCRAFT EMISSIONS.**

The Secretary of Transportation and the Administrator of the Environmental Protection Agency shall jointly commence a study within 60 days after the enactment of this Act to investigate the impact of aircraft emissions on air quality in areas that are considered to be in nonattainment for the national ambient air quality standard for ozone. As part of this study, the Secretary and the Administrator shall focus on the impact of emissions by aircraft idling at airports and on the contribution of such emissions as a percentage of total emissions in the nonattainment area. Within 180 days of the commencement of the study, the Secretary and the Administrator shall submit a report to the Committees on Energy and Commerce and Transportation and Infrastructure of the United States House of Representatives and to the Committees on Environment and Public Works and Commerce, Science, and Transportation of the United States Senate containing the results of the study and recommendations with respect to a plan to maintain comprehensive data on aircraft emissions and methods by which such emissions may be reduced, without increasing individual aircraft noise, in order to assist in the attainment of the national ambient air quality standards.

## DIVISION B

**SEC. 2001. SHORT TITLE.**

This division may be cited as the ''Comprehensive Energy Research and Technology Act of 2001''.

**SEC. 2002. FINDINGS.**

The Congress finds that—

(1) the Nation's prosperity and way of life are sustained by energy use;

(2) the growing imbalance between domestic energy production and consumption means that the Nation is becoming increasingly reliant on imported energy, which has the potential to undermine the Nation's economy, standard of living, and national security;

(3) energy conservation and energy efficiency help maximize the use of available energy resources, reduce energy shortages, lower the Nation's reliance on energy imports, mitigate the impacts of high energy prices, and help protect the environment and public health;

(4) development of a balanced portfolio of domestic energy supplies will ensure that future generations of Americans will have access to the energy they need;

(5) energy efficiency technologies, renewable and alternative energy technologies, and advanced energy systems technologies will help diversify the Nation's energy portfolio with few adverse environmental impacts and are vital to delivering clean energy to fuel the Nation's economic growth;

(6) development of reliable, affordable, and environmentally sound energy efficiency technologies, renewable and alternative energy technologies, and advanced energy systems technologies will require maintenance of a vibrant fundamental scientific knowledge base and continued scientific and technological innovations that can be accelerated by Federal funding, whereas commercial deployment of such systems and technologies are the responsibility of the private sector;

(7) Federal funding should focus on those programs, projects, and activities that are long-term, high-risk, noncommercial, and well-managed, and that provide the potential for scientific and technological advances; and

(8) public-private partnerships should be encouraged to leverage scarce taxpayer dollars.

**SEC. 2003. PURPOSES.**

The purposes of this division are to—

(1) protect and strengthen the Nation's economy, standard of living, and national security by reducing dependence on imported energy;

(2) meet future needs for energy services at the lowest total cost to the Nation, including environmental costs, giving balanced and comprehensive consideration to technologies that improve the efficiency of energy end uses and that enhance energy supply;

(3) reduce the air, water, and other environmental impacts (including emissions of greenhouse gases) of energy production, distribution, transportation, and use through the development of environmentally sustainable energy systems;

(4) consider the comparative environmental impacts of the energy saved or produced by specific programs, projects, or activities;

(5) maintain the technological competitiveness of the United States and stimulate economic growth through the development of advanced energy systems and technologies;

(6) foster international cooperation by developing international markets for domestically produced sustainable energy technologies, and by transferring environmentally sound, advanced energy systems and technologies to developing countries to promote sustainable development;

(7) provide sufficient funding of programs, projects, and activities that are performance-based and modeled as public-private partnerships, as appropriate; and

(8) enhance the contribution of a given program, project, or activity to fundamental scientific knowledge.

**SEC. 2004. GOALS.**

(a) IN GENERAL.—Subject to subsection (b), in order to achieve the purposes of this division under section 2003, the Secretary should conduct a balanced energy research, development, demonstration, and commercial application portfolio of programs guided by the following goals to meet the purposes of this division under section 2003.

(1) ENERGY CONSERVATION AND ENERGY EFFICIENCY.—

(A) For the Building Technology, State and Community Sector, the program should develop technologies, housing components, designs, and production methods that will, by 2010—

(i) reduce the monthly energy cost of new housing by 20 percent, compared to the cost as of the date of the enactment of this Act;

(ii) cut the environmental impact and energy use of new housing by 50 percent, compared to the impact and use as of the date of the enactment of this Act; and

(iii) improve durability and reduce maintenance costs by 50 percent compared to the durability and costs as of the date of the enactment of this Act.

(B) For the Industry Sector, the program should, in cooperation with the affected industries, improve the energy intensity of the major energy-consuming industries by at least 25 percent by 2010, compared to the energy intensity as of the date of the enactment of this Act.

(C) For Power Technologies, the program should, in cooperation with the affected industries—

(i) develop a microturbine (40 to 300 kilowatt) that is more than 40 percent more efficient by 2006, and more than 50 percent more efficient by 2010, compared to the efficiency as of the date of the enactment of this Act; and

(ii) 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, compared to such emissions as of the date of the enactment of this Act.

(D) For the Transportation Sector, the program should, in cooperation with affected industries—

(i) develop a production prototype passenger automobile that has fuel economy equivalent to 80 miles per gallon of gasoline by 2004;

(ii) develop class 7 and 8 heavy duty trucks and buses with ultra low emissions and the ability to use an alternative fuel that has an average fuel economy equivalent to—

(I) 10 miles per gallon of gasoline by 2007; and

(II) 13 miles per gallon of gasoline by 2010;

(iii) develop a production prototype of a passenger automobile with zero equivalent emissions that has an average fuel economy of 100 miles per gallon of gasoline by 2010; and

(iv) 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, compared to the fuel economy as of the date of the enactment of this Act.

(2) RENEWABLE ENERGY.—

(A) For Hydrogen Research, to carry out the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990, as amended by subtitle A of title II of this division.

(B) For bioenergy:

(i) The program should reduce the cost of bioenergy relative to other energy sources to enable the United States to triple bioenergy use by 2010.

(ii) For biopower systems, the program should reduce the cost of such systems to enable commercialization of integrated power-generating technologies that employ gas turbines and fuel cells integrated with bioenergy gasifiers within 5 years after the date of the enactment of this Act.

(iii) For biofuels, the program should accelerate research, development, and demonstration 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 engines or fuel cell vehicles.

(C) For Geothermal Technology Development, the program should focus on advanced concepts for the long term. The first priority should be high-grade enhanced geothermal systems; the second priority should be lower grade, hot dry rock, and geopressured systems; and the third priority should be support of field demonstrations of enhanced geothermal systems technology, including sites in lower grade areas to demonstrate the benefits of reservoir concepts to different conditions.

(D) For Hydropower, the program should provide a new generation of turbine technologies that will increase generating capacity and will be less damaging to fish and aquatic ecosystems.

(E) For Concentrating Solar Power, the program should strengthen ongoing research, development, and demonstration 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. The program should limit or halt its research and development on power-tower and power-trough technologies because further refinements to these concepts will not further their deployment, and should assess the market prospects for solar dish/engine technologies to determine whether continued research and development is warranted.

(F) For Photovoltaic Energy Systems, the program should pursue research, development, and demonstration that will, by 2005, increase the efficiency of thin film modules from the current 7 percent to 11 percent in multi-million watt production; reduce the direct manufacturing cost of photovoltaic modules by 30 percent from the current $2.50 per watt to $1.75 per watt by 2005; and establish greater than a 20-year lifetime of photovoltaic systems by improving the reliability and lifetime of balance-of-system components and reducing recurring cost by 40 percent. The program's top priority should be the development of sound manufacturing technologies for thin-film modules, and the program should make a concerted effort to integrate fundamental research and basic engineering research.

(G) For Solar Building Technology Research, the program should complete research and development on new polymers and manufacturing processes to reduce the cost of solar water heating by 50 percent by 2004, compared to the cost as of the date of the enactment of this Act.

(H) For Wind Energy Systems, the program should reduce the cost of wind energy to three cents per kilowatt-hour at Class 6 (15 miles-per-hour annual average) wind sites by 2004, and 4 cents per kilowatt-hour in Class 4 (13 miles-per-hour annual average) wind sites by 2015, and further if required so that wind power can be widely competitive with fossil-fuel-based electricity in a restructured electric industry. Program research on advanced wind turbine technology should focus on turbulent flow studies, durable materials to extend turbine life, blade efficiency, and higher efficiency operation in low quality wind regimes.

(I) For Electric Energy Systems and Storage, including High Temperature Superconducting Research and Development, Energy Storage Systems, and Transmission Reliability, the program should develop high capacity superconducting transmission lines and generators, highly reliable energy storage systems, and distributed generating systems to accommodate multiple types of energy sources under common interconnect standards.

(J) For the International Renewable Energy and Renewable Energy Production Incentive programs, and Renewable Program Support, the program should encourage the commercial application of renewable energy technologies by developed and developing countries, State and local governmental entities and nonprofit electric cooperatives, and by the competitive domestic market.

(3) NUCLEAR ENERGY.—

(A) For university nuclear science and engineering, the program should carry out the provisions of subtitle A of title III of this division.

(B) For fuel cycle research, development, and demonstration, the program should carry out the provisions of subtitle B of title III of this division.

(C) For the Nuclear Energy Research Initiative, the program should accomplish the objectives of section 2341(b) of this Act.

(D) For the Nuclear Energy Plant Optimization Program, the program should accomplish the objectives of section 2342(b) of this Act.

(E) For Nuclear Energy Technologies, the program should carry out the provisions of section 2343 of this Act.

(F) For Advanced Radioisotope Power Systems, the program should ensure that the United States has adequate capability to power future satellite and space missions.

(4) FOSSIL ENERGY.—

(A) For core fossil energy research and development, the program should achieve the goals outlined by the Department's Vision 21 Program. This research should address fuel-flexible gasification and turbines, fuel cells, advanced-combustion systems, advanced fuels and chemicals, advanced modeling and systems analysis, materials and heat exchangers, environmental control technologies, gas-stream purification, gas-separation technology, and sequestration research and development focused on cost-effective novel concepts for capturing, reusing or storing, or otherwise mitigating carbon and other greenhouse gas emissions.

(B) For offshore oil and natural gas resources, the program should investigate and develop technologies to—

(i) extract methane hydrates in coastal waters of the United States, in accordance with the provisions of the Methane Hydrate Research and Development Act of 2000; and

(ii) 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.

(C) 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.

(5) SCIENCE.—The Secretary, through the Office of Science, should—

(A) develop and maintain a robust portfolio of fundamental scientific and energy research, including High Energy and Nuclear Physics, Biological and Environmental Research, Basic Energy Sciences (including Materials Sciences, Chemical Sciences, Engineering and Geosciences, and Energy Biosciences), Advanced Scientific Computing, Energy Research and Analysis, Multiprogram Energy Laboratories-Facilities Support, Fusion Energy Sciences, and Facilities and Infrastructure;

(B) maintain, upgrade, and expand, as appropriate, and in accordance with the provisions of this division, the scientific user facilities maintained by the Office of Science, and ensure that they are an integral part of the Department's mission for exploring the frontiers of fundamental energy sciences; and

(C) ensure that its fundamental energy sciences programs, where appropriate, help inform the applied research and development programs of the Department.

(b) REVIEW AND ASSESSMENT.—The Secretary shall perform an assessment that establishes measurable cost and performance-based goals, or that modifies the goals under subsection (a), as appropriate, for 2005, 2010, 2015, and 2020 for each of the programs authorized by this division that would enable each such program to meet the purposes of this division under section 2003. Such assessment shall be based on the latest scientific and technical knowledge, and shall also take into consideration, as appropriate, the comparative environmental impacts (including emissions of greenhouse gases) of the energy saved or produced by specific programs.

(c) CONSULTATION.—In establishing the measurable cost and performance-based

goals under subsection (b), the Secretary shall consult with the private sector, institutions of higher learning, national laboratories, environmental organizations, professional and technical societies, and any other persons as the Secretary considers appropriate.

(d) SCHEDULE.—The Secretary shall—

(1) issue and publish in the Federal Register a set of draft measurable cost and performance-based goals for the programs authorized by this division for public comment—

(A) in the case of a program established before the date of the enactment of this Act, not later than 120 days after the date of the enactment of this Act; and

(B) in the case of a program not established before the date of the enactment of this Act, not later than 120 days after the date of establishment of the program;

(2) not later than 60 days after the date of publication under paragraph (1), after taking into consideration any public comments received, transmit to the Congress and publish in the Federal Register the final measurable cost and performance-based goals; and

(3) update all such cost and performance-based goals on a biennial basis.

**SEC. 2005. DEFINITIONS.**

For purposes of this division, except as otherwise provided—

(1) the term ''Administrator'' means the Administrator of the Environmental Protection Agency;

(2) the term ''appropriate congressional committees'' means—

(A) the Committee on Science and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate;

(3) the term ''Department'' means the Department of Energy; and

(4) the term ''Secretary'' means the Secretary of Energy.

**SEC. 2006. AUTHORIZATIONS.**

Authorizations of appropriations under this division are for environmental research and development, scientific and energy research, development, and demonstration, and commercial application of energy technology programs, projects, and activities.

**SEC. 2007. BALANCE OF FUNDING PRIORITIES.**

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the funding of the various programs authorized by titles I through IV of this division should remain in the same proportion to each other as provided in this division, regardless of the total amount of funding made available for those programs.

(b) REPORT TO CONGRESS.—If for fiscal year 2002, 2003, or 2004 the amounts appropriated in general appropriations Acts for the programs authorized in titles I through IV of this division are not in the same proportion to one another as are the authorizations for such programs in this division, the Secretary and the Administrator shall, within 60 days after the date of the enactment of the last general appropriations Act appropriating amounts for such programs, transmit to the appropriate congressional committees a report describing the programs, projects, and activities that would have been funded if the proportions provided for in this division had been maintained in the appropriations. The amount appropriated for the program receiving the highest percentage of its authorized funding for a fiscal year shall be used as the baseline for calculating the proportional deficiencies of appropriations for other programs in that fiscal year.

## TITLE I—ENERGY CONSERVATION AND ENERGY EFFICIENCY

### Subtitle A—Alternative Fuel Vehicles

**SEC. 2101. SHORT TITLE.**

This subtitle may be cited as the ''Alternative Fuel Vehicle Acceleration Act of 2001''.

**SEC. 2102. DEFINITIONS.**

For the purposes of this subtitle, the following definitions apply:

(1) ALTERNATIVE FUEL VEHICLE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''alternative fuel vehicle'' means a motor vehicle that is powered—

(i) in whole or in part by electricity, including electricity supplied by a fuel cell;

(ii) by liquefied natural gas;

(iii) by compressed natural gas;

(iv) by liquefied petroleum gas;

(v) by hydrogen;

(vi) by methanol or ethanol at no less than 85 percent by volume; or

(vii) by propane.

(B) EXCLUSIONS.—The term ''alternative fuel vehicle'' does not include—

(i) any vehicle designed to operate solely on gasoline or diesel derived from fossil fuels, regardless of whether it can also be operated on an alternative fuel; or

(ii) any vehicle that the Secretary determines, by rule, does not yield substantial environmental benefits over a vehicle operating solely on gasoline or diesel derived from fossil fuels.

(2) PILOT PROGRAM.—The term ''pilot program'' means the competitive grant program established under section 2103.

(3) ULTRA-LOW SULFUR DIESEL VEHICLE.—The term ''ultra-low sulfur diesel vehicle'' means a vehicle powered by a heavy-duty diesel engine that—

(A) is fueled by diesel fuel which contains sulfur at not more than 15 parts per million; and

(B) emits not more than the lesser of—

(i) for vehicles manufactured in—

(I) model years 2001 through 2003, 3.0 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(II) model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; or

(ii) the emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best performing technology of ultra-low sulfur diesel vehicles of the same type that are commercially available.

**SEC. 2103. PILOT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish a competitive grant pilot program to provide not more than 15 grants to State governments, local governments, or metropolitan transportation authorities to carry out a project or projects for the purposes described in subsection (b).

(b) GRANT PURPOSES.—Grants under this section may be used for the following purposes:

(1) The acquisition of alternative fuel vehicles, including—

(A) passenger vehicles;

(B) buses used for public transportation or transportation to and from schools;

(C) delivery vehicles for goods or services;

(D) ground support vehicles at public airports, including vehicles to carry baggage or push airplanes away from terminal gates; and

(E) motorized two-wheel bicycles, scooters, or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.

(2) The acquisition of ultra-low sulfur diesel vehicles.

(3) Infrastructure necessary to directly support an alternative fuel vehicle project funded by the grant, including fueling and other support equipment.

(4) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(c) APPLICATIONS.—

(1) REQUIREMENTS.—The Secretary shall issue requirements for applying for grants under the pilot program. At a minimum, the Secretary shall require that applications be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and shall include—

(A) at least one project to enable passengers or goods to be transferred directly from one alternative fuel vehicle or ultra-low sulfur diesel vehicle to another in a linked transportation system;

(B) a description of the projects proposed in the application, including how they meet the requirements of this subtitle;

(C) an estimate of the ridership or degree of use of the projects proposed in the application;

(D) an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the projects proposed in the application, and a plan to collect and disseminate environmental data, related to the projects to be funded under the grant, over the life of the projects;

(E) a description of how the projects proposed in the application will be sustainable without Federal assistance after the completion of the term of the grant;

(F) a complete description of the costs of each project proposed in the application, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(G) a description of which costs of the projects proposed in the application will be supported by Federal assistance under this subtitle; and

(H) documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the projects, and a commitment by the applicant to use such fuel in carrying out the projects.

(2) PARTNERS.—An applicant under paragraph (1) may carry out projects under the pilot program in partnership with public and private entities.

(d) SELECTION CRITERIA.—In evaluating applications under the pilot program, the Secretary shall consider each applicant's previous experience with similar projects and shall give priority consideration to applications that—

(1) are most likely to maximize protection of the environment;

(2) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed projects and the greatest likelihood that each project proposed in the application will be maintained or expanded after Federal assistance under this subtitle is completed; and

(3) exceed the minimum requirements of subsection (c)(1)(A).

(e) PILOT PROJECT REQUIREMENTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide more than $20,000,000 in Federal assistance under the pilot program to any applicant.

(2) COST SHARING.—The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(3) MAXIMUM PERIOD OF GRANTS.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(4) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to achieve nationwide deployment of alternative fuel vehicles through the pilot program, and shall ensure a broad geographic distribution of project sites.

(5) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(f) SCHEDULE.—

(1) PUBLICATION.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere as appropriate, a request for applications to undertake projects under the pilot program. Applications shall be due within 6 months of the publication of the notice.

(2) SELECTION.—Not later than 6 months after the date by which applications for grants are due, the Secretary shall select by competitive, peer review all applications for projects to be awarded a grant under the pilot program.

(g) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for the acquisition of ultra-low sulfur diesel vehicles.

**SEC. 2104. REPORTS TO CONGRESS.**

(a) INITIAL REPORT.—Not later than 2 months after the date grants are awarded under this subtitle, the Secretary shall transmit to the appropriate congressional committees a report containing—

(1) an identification of the grant recipients and a description of the projects to be funded;

(2) an identification of other applicants that submitted applications for the pilot program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(b) EVALUATION.—Not later than 3 years after the date of the enactment of this Act, and annually thereafter until the pilot program ends, the Secretary shall transmit to the appropriate congressional committees a report containing an evaluation of the effectiveness of the pilot program, including an assessment of the benefits to the environment derived from the projects included in the pilot program as well as an estimate of the potential benefits to the environment to be derived from widespread application of alternative fuel vehicles and ultra-low sulfur diesel vehicles.

**SEC. 2105. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary $200,000,000 to carry out this subtitle, to remain available until expended.

## Subtitle B—Distributed Power Hybrid Energy Systems

**SEC. 2121. FINDINGS.**

The Congress makes the following findings:

(1) Our ability to take advantage of our renewable, indigenous resources in a cost-effective manner can be greatly advanced through systems that compensate for the intermittent nature of these resources through distributed power hybrid systems.

(2) Distributed power hybrid systems can—

(A) shelter consumers from temporary energy price volatility created by supply and demand mismatches;

(B) increase the reliability of energy supply; and

(C) address significant local differences in power and economic development needs and resource availability that exist throughout the United States.

(3) Realizing these benefits will require a concerted and integrated effort to remove market barriers to adopting distributed power hybrid systems by—

(A) developing the technological foundation that enables designing, testing, certifying, and operating distributed power hybrid systems; and

(B) providing the policy framework that reduces such barriers.

(4) While many of the individual distributed power hybrid systems components are either available or under development in existing private and public sector programs, the capabilities to integrate these components into workable distributed power hybrid systems that maximize benefits to consumers in a safe manner often are not coherently being addressed.

**SEC. 2122. DEFINITIONS.**

For purposes of this subtitle—

(1) the term ''distributed power hybrid system'' means a system using 2 or more distributed power sources, operated together with associated supporting equipment, including storage equipment, and software necessary to provide electric power onsite and to an electric distribution system; and

(2) the term ''distributed power source'' means an independent electric energy source of usually 10 megawatts or less located close to a residential, commercial, or industrial load center, including—

(A) reciprocating engines;
(B) turbines;
(C) microturbines;
(D) fuel cells;
(E) solar electric systems;
(F) wind energy systems;
(G) biopower systems;
(H) geothermal power systems; or
(I) combined heat and power systems.

**SEC. 2123. STRATEGY.**

(a) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and transmit to the Congress a distributed power hybrid systems strategy showing—

(1) needs best met with distributed power hybrid systems configurations, especially systems including one or more solar or renewable power sources; and

(2) technology gaps and barriers (including barriers to efficient connection with the power grid) that hamper the use of distributed power hybrid systems.

(b) ELEMENTS.—The strategy shall provide for development of—

(1) system integration tools (including databases, computer models, software, sensors, and controls) needed to plan, design, build, and operate distributed power hybrid systems for maximum benefits;

(2) tests of distributed power hybrid systems, power parks, and microgrids, including field tests and cost-shared demonstrations with industry;

(3) design tools to characterize the benefits of distributed power hybrid systems for consumers, to reduce testing needs, to speed commercialization, and to generate data characterizing grid operations, including interconnection requirements;

(4) precise resource assessment tools to map local resources for distributed power hybrid systems; and

(5) a comprehensive research, development, demonstration, and commercial application program to ensure the reliability, efficiency, and environmental integrity of distributed energy resources, focused on filling gaps in distributed power hybrid systems technologies identified under subsection (a)(2), which may include—

(A) integration of a wide variety of advanced technologies into distributed power hybrid systems;

(B) energy storage devices;

(C) environmental control technologies;

(D) interconnection standards, protocols, and equipment; and

(E) ancillary equipment for dispatch and control.

(c) IMPLEMENTATION AND INTEGRATION.—The Secretary shall implement the strategy transmitted under subsection (a) and the research program under subsection (b)(5). Activities pursuant to the strategy shall be integrated with other activities of the Department's Office of Power Technologies.

**SEC. 2124. HIGH POWER DENSITY INDUSTRY PROGRAM.**

(a) IN GENERAL.—The Secretary shall develop and implement a comprehensive research, development, demonstration, and commercial application program to improve energy efficiency, reliability, and environmental responsibility in high power density industries, such as data centers, server farms, telecommunications facilities, and heavy industry.

(b) AREAS.—In carrying out this section, the Secretary shall consider technologies that provide—

(1) significant improvement in efficiency of high power density facilities, and in data and telecommunications centers, using advanced thermal control technologies;

(2) significant improvements in air-conditioning efficiency in facilities such as data centers and telecommunications facilities;

(3) significant advances in peak load reduction; and

(4) advanced real time metering and load management and control devices.

(c) IMPLEMENTATION AND INTEGRATION.—Activities pursuant to this program shall be integrated with other activities of the Department's Office of Power Technologies.

**SEC. 2125. MICRO-COGENERATION ENERGY TECHNOLOGY.**

The Secretary shall make competitive, merit-based grants to consortia of private sector entities for the development of micro-cogeneration energy technology. The consortia shall explore the creation of small-scale combined heat and power through the use of residential heating appliances. There are authorized to be appropriated to the Secretary $20,000,000 to carry out this section, to remain available until expended.

**SEC. 2126. PROGRAM PLAN.**

Within 4 months after the date of the enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to the Congress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of the distributed energy resources, power transmission, and high power density industries to prioritize appropriate program areas. The Secretary shall also seek the advice of utilities, energy services providers, manufacturers, institutions of higher learning, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons the Secretary considers appropriate.

**SEC. 2127. REPORT.**

Two years after date of the enactment of this Act and at 2-year intervals thereafter, the Secretary, jointly with other appropriate Federal agencies, shall transmit a report to Congress describing the progress made to achieve the purposes of this subtitle.

**SEC. 2128. VOLUNTARY CONSENSUS STANDARDS.**

Not later than 2 years after the date of the enactment of this Act, the Secretary, in consultation with the National Institute of

Standards and Technology, shall work with the Institute of Electrical and Electronic Engineers and other standards development organizations toward the development of voluntary consensus standards for distributed energy systems for use in manufacturing and using equipment and systems for connection with electric distribution systems, for obtaining electricity from, or providing electricity to, such systems.

**Subtitle C—Secondary Electric Vehicle Battery Use**

**SEC. 2131. DEFINITIONS.**

For purposes of this subtitle, the term—

(1) ''battery'' means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity; and

(2) ''associated equipment'' means equipment located at the location where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

**SEC. 2132. ESTABLISHMENT OF SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.**

(a) PROGRAM.—The Secretary shall establish and conduct a research, development, and demonstration program for the secondary use of batteries where the original use of such batteries was in transportation applications. Such program shall be—

(1) designed to demonstrate the use of batteries in secondary application, including utility and commercial power storage and power quality;

(2) structured to evaluate the performance, including longevity of useful service life and costs, of such batteries in field operations, and evaluate the necessary supporting infrastructure, including disposal and reuse of batteries; and

(3) coordinated with ongoing secondary battery use programs underway at the national laboratories and in industry.

(b) SOLICITATION.—(1) Not later than 6 months after the date of the enactment of this Act, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(2)(A) Proposals submitted in response to a solicitation under this section shall include—

(i) a description of the project, including the batteries to be used in the project, the proposed locations and applications for the batteries, the number of batteries to be demonstrated, and the type, characteristics, and estimated life-cycle costs of the batteries compared to other energy storage devices currently used;

(ii) the contribution, if any, of State or local governments and other persons to the demonstration project;

(iii) the type of associated equipment to be demonstrated and the type of supporting infrastructure to be demonstrated; and

(iv) any other information the Secretary considers appropriate.

(B) If the proposal includes a lease arrangement, the proposal shall indicate the terms of such lease arrangement for the batteries and associated equipment.

(c) SELECTION OF PROPOSALS.—(1)(A) The Secretary shall, not later than 3 months after the closing date established by the Secretary for receipt of proposals under subsection (b), select at least 5 proposals to receive financial assistance under this section.

(B) No one project selected under this section shall receive more than 25 percent of the funds authorized under this section. No more than 3 projects selected under this section shall demonstrate the same battery type.

(2) In selecting a proposal under this section, the Secretary shall consider—

(A) the ability of the proposer to acquire the batteries and associated equipment and to successfully manage and conduct the demonstration project, including the reporting requirements set forth in paragraph (3)(B);

(B) the geographic and climatic diversity of the projects selected;

(C) the long-term technical and competitive viability of the batteries to be used in the project and of the original manufacturer of such batteries;

(D) the suitability of the batteries for their intended uses;

(E) the technical performance of the battery, including the expected additional useful life and the battery's ability to retain energy;

(F) the environmental effects of the use of and disposal of the batteries proposed to be used in the project selected;

(G) the extent of involvement of State or local government and other persons in the demonstration project and whether such involvement will—

(i) permit a reduction of the Federal cost share per project; or

(ii) otherwise be used to allow the Federal contribution to be provided to demonstrate a greater number of batteries; and

(H) such other criteria as the Secretary considers appropriate.

(3) CONDITIONS.—The Secretary shall require that—

(A) as a part of a demonstration project, the users of the batteries provide to the proposer information regarding the operation, maintenance, performance, and use of the batteries, and the proposer provide such information to the battery manufacturer, for 3 years after the beginning of the demonstration project;

(B) the proposer provide to the Secretary such information regarding the operation, maintenance, performance, and use of the batteries as the Secretary may request during the period of the demonstration project; and

(C) the proposer provide at least 50 percent of the costs associated with the proposal.

**SEC. 2133. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary, from amounts authorized under section 2161(a), for purposes of this subtitle—

(1) $1,000,000 for fiscal year 2002;

(2) $7,000,000 for fiscal year 2003; and

(3) $7,000,000 for fiscal year 2004.

Such appropriations may remain available until expended.

**Subtitle D—Green School Buses**

**SEC. 2141. SHORT TITLE.**

This subtitle may be cited as the ''Clean Green School Bus Act of 2001''.

**SEC. 2142. ESTABLISHMENT OF PILOT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish a pilot program for awarding grants on a competitive basis to eligible entities for the demonstration and commercial application of alternative fuel school buses and ultra-low sulfur diesel school buses.

(b) REQUIREMENTS.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish and publish in the Federal register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including certification requirements to ensure compliance with this subtitle.

(c) SOLICITATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall solicit proposals for grants under this section.

(d) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local governmental entity responsible for providing school bus service for one or more public school systems; or

(2) jointly to an entity described in paragraph (1) and a contracting entity that provides school bus service to the public school system or systems.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—Grants under this section shall be for the demonstration and commercial application of technologies to facilitate the use of alternative fuel school buses and ultra-low sulfur diesel school buses in lieu of buses manufactured before model year 1977 and diesel-powered buses manufactured before model year 1991.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Secretary shall give priority to awarding grants to applicants who can demonstrate the use of alternative fuel buses and ultra-low sulfur diesel school buses in lieu of buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel school buses, including State taxes and contract fees; and

(B) to provide—

(i) up to 10 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 15 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) The grant recipient shall be required to provide at least the lesser of 15 percent of the total cost of each bus received or $15,000 per bus.

(4) In the case of a grant recipient receiving a grant to demonstrate ultra-low sulfur diesel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(g) BUSES.—Funding under a grant made under this section may be used to demonstrate the use only of new alternative fuel school buses or ultra-low sulfur diesel school buses—

(1) with a gross vehicle weight of greater than 14,000 pounds;

(2) that are powered by a heavy duty engine;

(3) that, in the case of alternative fuel school buses, emit not more than—

(A) for buses manufactured in model years 2001 and 2002, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(B) for buses manufactured in model years 2003 through 2006, 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(4) that, in the case of ultra-low sulfur diesel school buses, emit not more than—

(A) for buses manufactured in model years 2001 through 2003, 3.0 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(B) for buses manufactured in model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter,

except that under no circumstances shall buses be acquired under this section that emit nonmethane hydrocarbons, oxides of nitrogen, or particulate matter at a rate greater than the best performing technology of ultra-low sulfur diesel school buses commercially available at the time the grant is made.

(h) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to achieve nationwide deployment of alternative fuel school buses through the program under this section, and shall ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(i) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for any fiscal year for the acquisition of ultra-low sulfur diesel school buses.

(j) DEFINITIONS.—For purposes of this section—

(1) the term ''alternative fuel school bus'' means a bus powered substantially by electricity (including electricity supplied by a fuel cell), or by liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume; and

(2) the term ''ultra-low sulfur diesel school bus'' means a school bus powered by diesel fuel which contains sulfur at not more than 15 parts per million.

**SEC. 2143. FUEL CELL BUS DEVELOPMENT AND DEMONSTRATION PROGRAM.**

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program for entering into cooperative agreements with private sector fuel cell bus developers for the development of fuel cell-powered school buses, and subsequently with not less than 2 units of local government using natural gas-powered school buses and such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.

(b) COST SHARING.—The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) FUNDING.—No more than $25,000,000 of the amounts authorized under section 2144 may be used for carrying out this section for the period encompassing fiscal years 2002 through 2006.

(d) REPORTS TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, and not later than October 1, 2006, the Secretary shall transmit to the appropriate congressional committees a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

**SEC. 2144. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary for carrying out this subtitle, to remain available until expended—

(1) $40,000,000 for fiscal year 2002;
(2) $50,000,000 for fiscal year 2003;
(3) $60,000,000 for fiscal year 2004;
(4) $70,000,000 for fiscal year 2005; and
(5) $80,000,000 for fiscal year 2006.

### Subtitle E—Next Generation Lighting Initiative

**SEC. 2151. SHORT TITLE.**

This subtitle may be cited as ''Next Generation Lighting Initiative Act''.

**SEC. 2152. DEFINITION.**

In this subtitle, the term ''Lighting Initiative'' means the ''Next Generation Lighting Initiative'' established under section 2153(a).

**SEC. 2153. NEXT GENERATION LIGHTING INITIATIVE.**

(a) ESTABLISHMENT.—The Secretary is authorized to establish a lighting initiative to be known as the ''Next Generation Lighting Initiative'' to research, develop, and conduct demonstration activities on advanced lighting technologies, including white light emitting diodes.

(b) RESEARCH OBJECTIVES.—The research objectives of the Lighting Initiative shall be to develop, by 2011, advanced lighting technologies that, compared to incandescent and fluorescent lighting technologies as of the date of the enactment of this Act, are—

(1) longer lasting;
(2) more energy-efficient; and
(3) cost-competitive.

**SEC. 2154. STUDY.**

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with other Federal agencies, as appropriate, shall complete a study on strategies for the development and commercial application of advanced lighting technologies. The Secretary shall request a review by the National Academies of Sciences and Engineering of the study under this subsection, and shall transmit the results of the study to the appropriate congressional committees.

(b) REQUIREMENTS.—The study shall—

(1) develop a comprehensive strategy to implement the Lighting Initiative; and

(2) identify the research and development, manufacturing, deployment, and marketing barriers that must be overcome to achieve a goal of a 25 percent market penetration by advanced lighting technologies into the incandescent and fluorescent lighting market by the year 2012.

(c) IMPLEMENTATION.—As soon as practicable after the review of the study under subsection (a) is transmitted to the Secretary by the National Academies of Sciences and Engineering, the Secretary shall adapt the implementation of the Lighting Initiative taking into consideration the recommendations of the National Academies of Sciences and Engineering.

**SEC. 2155. GRANT PROGRAM.**

(a) IN GENERAL.—Subject to section 2603 of this Act, the Secretary may make merit-based competitive grants to firms and research organizations that conduct research, development, and demonstration projects related to advanced lighting technologies.

(b) ANNUAL REVIEW.—

(1) IN GENERAL.—An annual independent review of the grant-related activities of firms and research organizations receiving a grant under this section shall be conducted by a committee appointed by the Secretary under the Federal Advisory Committee Act (5 U.S.C. App.), or, at the request of the Secretary, a committee appointed by the National Academies of Sciences and Engineering.

(2) REQUIREMENTS.—Using clearly defined standards established by the Secretary, the review shall assess technology advances and progress toward commercialization of the grant-related activities of firms or research organizations during each fiscal year of the grant program.

(c) TECHNICAL AND FINANCIAL ASSISTANCE.—The national laboratories and other Federal agencies, as appropriate, shall cooperate with and provide technical and financial assistance to firms and research organizations conducting research, development, and demonstration projects carried out under this subtitle.

### Subtitle F—Department of Energy Authorization of Appropriations

**SEC. 2161. AUTHORIZATION OF APPROPRIATIONS.**

(a) OPERATION AND MAINTENANCE.—In addition to amounts authorized to be appropriated under section 2105, section 2125, and section 2144, there are authorized to be appropriated to the Secretary for subtitle B, subtitle C, subtitle E, and for Energy Conservation operation and maintenance (including Building Technology, State and Community Sector (Nongrants), Industry Sector, Transportation Sector, Power Technologies, and Policy and Management) $625,000,000 for fiscal year 2002, $700,000,000 for fiscal year 2003, and $800,000,000 for fiscal year 2004, to remain available until expended.

(b) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (a) may be used for—

(1) Building Technology, State and Community Sector—

(A) Residential Building Energy Codes;
(B) Commercial Building Energy Codes;
(C) Lighting and Appliance Standards;
(D) Weatherization Assistance Program; or
(E) State Energy Program; or

(2) Federal Energy Management Program.

### Subtitle G—Environmental Protection Agency Office of Air and Radiation Authorization of Appropriations

**SEC. 2171. SHORT TITLE.**

This subtitle may be cited as the ''Environmental Protection Agency Office of Air and Radiation Authorization Act of 2001''.

**SEC. 2172. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Administrator for Office of Air and Radiation Climate Change Protection Programs $121,942,000 for fiscal year 2002, $126,800,000 for fiscal year 2003, and $131,800,000 for fiscal year 2004 to remain available until expended, of which—

(1) $52,731,000 for fiscal year 2002, $54,800,000 for fiscal year 2003, and $57,000,000 for fiscal year 2004 shall be for Buildings;

(2) $32,441,000 for fiscal year 2002, $33,700,000 for fiscal year 2003, and $35,000,000 for fiscal year 2004 shall be for Transportation;

(3) $27,295,000 for fiscal year 2002, $28,400,000 for fiscal year 2003, and $29,500,000 for fiscal year 2004 shall be for Industry;

(4) $1,700,000 for fiscal year 2002, $1,800,000 for fiscal year 2003, and $1,900,000 for fiscal year 2004 shall be for Carbon Removal;

(5) $2,500,000 for fiscal year 2002, $2,600,000 for fiscal year 2003, and $2,700,000 for fiscal year 2004 shall be for State and Local Climate; and

(6) $5,275,000 for fiscal year 2002, $5,500,000 for fiscal year 2003, and $5,700,000 for fiscal year 2004 shall be for International Capacity Building.

**SEC. 2173. LIMITS ON USE OF FUNDS.**

(a) PRODUCTION OR PROVISION OF ARTICLES OR SERVICES.—None of the funds authorized to be appropriated by this subtitle may be used to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Administrator determines that comparable articles or services

are not available from a commercial source in the United States.

(b) REQUESTS FOR PROPOSALS.—None of the funds authorized to be appropriated by this subtitle may be used by the Environmental Protection Agency to prepare or initiate Requests for Proposals for a program if the program has not been authorized by Congress.

**SEC. 2174. COST SHARING.**

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this subtitle, for research and development programs carried out under this subtitle, the Administrator shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Administrator may reduce or eliminate the non-Federal requirement under this subsection if the Administrator determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this subtitle, the Administrator shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this subtitle to be provided from non-Federal sources. The Administrator may reduce the non-Federal requirement under this subsection if the Administrator determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this subtitle.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Administrator may include personnel, services, equipment, and other resources.

**SEC. 2175. LIMITATION ON DEMONSTRATION AND COMMERCIAL APPLICATIONS OF ENERGY TECHNOLOGY.**

The Administrator shall provide funding for scientific or energy demonstration or commercial application of energy technology programs, projects, or activities of the Office of Air and Radiation only for technologies or processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.

**SEC. 2176. REPROGRAMMING.**

(a) AUTHORITY.—The Administrator may use amounts appropriated under this subtitle for a program, project, or activity other than the program, project, or activity for which such amounts were appropriated only if—

(1) the Administrator has transmitted to the appropriate congressional committees a report described in subsection (b) and a period of 30 days has elapsed after such committees receive the report;

(2) amounts used for the program, project, or activity do not exceed—

(A) 105 percent of the amount authorized for the program, project, or activity; or

(B) $250,000 more than the amount authorized for the program, project, or activity,

whichever is less; and

(3) the program, project, or activity has been presented to, or requested of, the Congress by the Administrator.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this subtitle exceed the total amount authorized to be appropriated by this subtitle.

(2) Funds appropriated pursuant to this subtitle may not be used for an item for which Congress has declined to authorize funds.

**SEC. 2177. BUDGET REQUEST FORMAT.**

The Administrator shall provide to the appropriate congressional committees, to be transmitted at the same time as the Environmental Protection Agency's annual budget request submission, a detailed justification for budget authorization for the programs, projects, and activities for which funds are authorized by this subtitle. Each such document shall include, for the fiscal year for which funding is being requested and for the 2 previous fiscal years—

(1) a description of, and funding requested or allocated for, each such program, project, or activity;

(2) an identification of all recipients of funds to conduct such programs, projects, and activities; and

(3) an estimate of the amounts to be expended by each recipient of funds identified under paragraph (2).

**SEC. 2178. OTHER PROVISIONS.**

(a) ANNUAL OPERATING PLAN AND REPORTS.—The Administrator shall provide simultaneously to the Committee on Science of the House of Representatives—

(1) any annual operating plan or other operational funding document, including any additions or amendments thereto; and

(2) any report relating to the environmental research or development, scientific or energy research, development, or demonstration, or commercial application of energy technology programs, projects, or activities of the Environmental Protection Agency,

provided to any committee of Congress.

(b) NOTICE OF REORGANIZATION.—The Administrator shall provide notice to the appropriate congressional committees not later than 15 days before any reorganization of any environmental research or development, scientific or energy research, development, or demonstration, or commercial application of energy technology program, project, or activity of the Office of Air and Radiation.

### Subtitle H—National Building Performance Initiative

**SEC. 2181. NATIONAL BUILDING PERFORMANCE INITIATIVE.**

(a) INTERAGENCY GROUP.—Not later than 3 months after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall establish an Interagency Group responsible for the development and implementation of a National Building Performance Initiative to address energy conservation and research and development and related issues. The National Institute of Standards and Technology shall provide necessary administrative support for the Interagency Group.

(b) PLAN.—Not later than 9 months after the date of the enactment of this Act, the Interagency Group shall transmit to the Congress a multiyear implementation plan describing the Federal role in reducing the costs, including energy costs, of using, owning, and operating commercial, institutional, residential, and industrial buildings by 30 percent by 2020. The plan shall include—

(1) research, development, and demonstration of systems and materials for new construction and retrofit, on the building envelope and components; and

(2) the collection and dissemination in a usable form of research results and other pertinent information to the design and construction industry, government officials, and the general public.

(c) NATIONAL BUILDING PERFORMANCE ADVISORY COMMITTEE.—A National Building Performance Advisory Committee shall be established to advise on creation of the plan, review progress made under the plan, advise on any improvements that should be made to the plan, and report to the Congress on actions that have been taken to advance the Nation's capability in furtherance of the plan. The members shall include representatives of a broad cross-section of interests such as the research, technology transfer, architectural, engineering, and financial communities; materials and systems suppliers; State, county, and local governments; the residential, multifamily, and commercial sectors of the construction industry; and the insurance industry.

(d) REPORT.—The Interagency Group shall, within 90 days after the end of each fiscal year, transmit a report to the Congress describing progress achieved during the preceding fiscal year by government at all levels and by the private sector, toward implementing the plan developed under subsection (b), and including any amendments to the plan.

## TITLE II—RENEWABLE ENERGY

### Subtitle A—Hydrogen

**SEC. 2201. SHORT TITLE.**

This subtitle may be cited as the ''Robert S. Walker and George E. Brown, Jr. Hydrogen Energy Act of 2001''.

**SEC. 2202. PURPOSES.**

Section 102(b) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

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

''(1) to direct the Secretary to conduct research, development, and demonstration activities leading to the production, storage, transportation, and use of hydrogen for industrial, commercial, residential, transportation, and utility applications;

''(2) to direct the Secretary to develop a program of technology assessment, information dissemination, and education in which Federal, State, and local agencies, members of the energy, transportation, and other industries, and other entities may participate; and

''(3) to develop methods of hydrogen production that minimize adverse environmental impacts, with emphasis on efficient and cost-effective production from renewable energy resources.''.

**SEC. 2203. DEFINITIONS.**

Section 102(c) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2), as so redesignated by paragraph (1) of this section, the following new paragraph:

''(1) 'advisory committee' means the advisory committee established under section 108;''.

**SEC. 2204. REPORTS TO CONGRESS.**

Section 103 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

**''SEC. 103. REPORTS TO CONGRESS.**

''(a) REQUIREMENT.—Not later than 1 year after the date of the enactment of the Robert S. Walker and George E. Brown, Jr. Hydrogen Energy Act of 2001, and biennially thereafter, the Secretary shall transmit to Congress a detailed report on the status and progress of the programs and activities authorized under this Act.

''(b) CONTENTS.—A report under subsection (a) shall include, in addition to any views and recommendations of the Secretary—

''(1) an assessment of the extent to which the program is meeting the purposes specified in section 102(b);

''(2) a determination of the effectiveness of the technology assessment, information dissemination, and education program established under section 106;

''(3) an analysis of Federal, State, local, and private sector hydrogen-related research, development, and demonstration activities to identify productive areas for increased intergovernmental and private-public sector collaboration; and

''(4) recommendations of the advisory committee for any improvements needed in the programs and activities authorized by this Act.''.

**SEC. 2205. HYDROGEN RESEARCH AND DEVELOPMENT.**

Section 104 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

**''SEC. 104. HYDROGEN RESEARCH AND DEVELOPMENT.**

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall conduct a hydrogen research and development program relating to production, storage, transportation, and use of hydrogen, with the goal of enabling the private sector to demonstrate the technical feasibility of using hydrogen for industrial, commercial, residential, transportation, and utility applications.

''(b) ELEMENTS.—In conducting the program authorized by this section, the Secretary shall—

''(1) give particular attention to developing an understanding and resolution of critical technical issues preventing the introduction of hydrogen as an energy carrier into the marketplace;

''(2) initiate or accelerate existing research and development in critical technical issues that will contribute to the development of more economical hydrogen production, storage, transportation, and use, including critical technical issues with respect to production (giving priority to those production techniques that use renewable energy resources as their primary source of energy for hydrogen production), liquefaction, transmission, distribution, storage, and use (including use of hydrogen in surface transportation); and

''(3) survey private sector and public sector hydrogen research and development activities worldwide, and take steps to ensure that research and development activities under this section do not—

''(A) duplicate any available research and development results; or

''(B) displace or compete with the privately funded hydrogen research and development activities of United States industry.

''(c) EVALUATION OF TECHNOLOGIES.—The Secretary shall evaluate, for the purpose of determining whether to undertake or fund research and development activities under this section, any reasonable new or improved technology that could lead or contribute to the development of economical hydrogen production, storage, transportation, and use.

''(d) RESEARCH AND DEVELOPMENT SUPPORT.—The Secretary is authorized to arrange for tests and demonstrations and to disseminate to researchers and developers information, data, and other materials necessary to support the research and development activities authorized under this section and other efforts authorized under this Act, consistent with section 106 of this Act.

''(e) COMPETITIVE PEER REVIEW.—The Secretary shall carry out or fund research and development activities under this section only on a competitive basis using peer review.

''(f) COST SHARING.—For research and development programs carried out under this section, the Secretary 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 subsection if the Secretary determines that the research and development is of a basic or fundamental nature.''.

**SEC. 2206. DEMONSTRATIONS.**

Section 105 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended—

(1) in subsection (a), by striking '', preferably in self-contained locations,'';

(2) in subsection (b), by striking ''at self-contained sites'' and inserting '', which shall include a fuel cell bus demonstration program to address hydrogen production, storage, and use in transit bus applications''; and

(3) in subsection (c), by inserting ''NON-FEDERAL FUNDING REQUIREMENT.—'' after ''(c)''.

**SEC. 2207. TECHNOLOGY TRANSFER.**

Section 106 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

**''SEC. 106. TECHNOLOGY ASSESSMENT, INFORMATION DISSEMINATION, AND EDUCATION PROGRAM.**

''(a) PROGRAM.—The Secretary shall, in consultation with the advisory committee, conduct a program designed to accelerate wider application of hydrogen production, storage, transportation, and use technologies, including application in foreign countries to increase the global market for the technologies and foster global economic development without harmful environmental effects.

''(b) INFORMATION.—The Secretary, in carrying out the program authorized by subsection (a), shall—

''(1) undertake an update of the inventory and assessment, required under section 106(b)(1) of this Act as in effect before the date of the enactment of the Robert S. Walker and George E. Brown, Jr. Hydrogen Energy Act of 2001, of hydrogen technologies and their commercial capability to economically produce, store, transport, or use hydrogen in industrial, commercial, residential, transportation, and utility sector; and

''(2) develop, with other Federal agencies as appropriate and industry, an information exchange program to improve technology transfer for hydrogen production, storage, transportation, and use, which may consist of workshops, publications, conferences, and a database for the use by the public and private sectors.''.

**SEC. 2208. COORDINATION AND CONSULTATION.**

Section 107 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended—

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

''(1) shall establish a central point for the coordination of all hydrogen research, development, and demonstration activities of the Department; and''; and

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

''(c) CONSULTATION.—The Secretary shall consult with other Federal agencies as appropriate, and the advisory committee, in carrying out the Secretary's authorities pursuant to this Act.''.

**SEC. 2209. ADVISORY COMMITTEE.**

Section 108 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

**''SEC. 108. ADVISORY COMMITTEE.**

''(a) ESTABLISHMENT.—The Secretary shall enter into appropriate arrangements with the National Academies of Sciences and Engineering to establish an advisory committee consisting of experts drawn from domestic industry, academia, Governmental laboratories, and financial, environmental, and other organizations, as appropriate, to review and advise on the progress made through the programs and activities authorized under this Act.

''(b) COOPERATION.—The heads of Federal agencies shall cooperate with the advisory committee in carrying out this section and shall furnish to the advisory committee such information as the advisory committee reasonably deems necessary to carry out this section.

''(c) REVIEW.—The advisory committee shall review and make any necessary recommendations to the Secretary on—

''(1) the implementation and conduct of programs and activities authorized under this Act; and

''(2) the economic, technological, and environmental consequences of the deployment of hydrogen production, storage, transportation, and use systems.

''(d) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall consider, but need not adopt, any recommendations of the advisory committee under subsection (c). The Secretary shall provide an explanation of the reasons that any such recommendations will not be implemented and include such explanation in the report to Congress under section 103(a) of this Act.''.

**SEC. 2210. AUTHORIZATION OF APPROPRIATIONS.**

Section 109 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 is amended to read as follows:

**''SEC. 109. AUTHORIZATION OF APPROPRIATIONS.**

''(a) RESEARCH AND DEVELOPMENT; ADVISORY COMMITTEE.—There are authorized to be appropriated to the Secretary to carry out sections 104 and 108—

''(1) $40,000,000 for fiscal year 2002;
''(2) $45,000,000 for fiscal year 2003;
''(3) $50,000,000 for fiscal year 2004;
''(4) $55,000,000 for fiscal year 2005; and
''(5) $60,000,000 for fiscal year 2006.

''(b) DEMONSTRATION.—There are authorized to be appropriated to the Secretary to carry out section 105—

''(1) $20,000,000 for fiscal year 2002;
''(2) $25,000,000 for fiscal year 2003;
''(3) $30,000,000 for fiscal year 2004;
''(4) $35,000,000 for fiscal year 2005; and
''(5) $40,000,000 for fiscal year 2006.''.

**SEC. 2211. REPEAL.**

(a) REPEAL.—Title II of the Hydrogen Future Act of 1996 is repealed.

(b) CONFORMING AMENDMENT.—Section 2 of the Hydrogen Future Act of 1996 is amended by striking ''titles II and III'' and inserting ''title III''.

**Subtitle B—Bioenergy**

**SEC. 2221. SHORT TITLE.**

This subtitle may be cited as the ''Bioenergy Act of 2001''.

**SEC. 2222. FINDINGS.**

Congress finds that bioenergy has potential to help—

(1) meet the Nation's energy needs;

(2) reduce reliance on imported fuels;

(3) promote rural economic development;

(4) provide for productive utilization of agricultural residues and waste materials, and forestry residues and byproducts; and

(5) protect the environment.

**SEC. 2223. DEFINITIONS.**

For purposes of this subtitle—

(1) the term ''bioenergy'' means energy derived from any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal and other organic wastes;

(2) the term ''biofuels'' includes liquid or gaseous fuels, industrial chemicals, or both;

(3) the term ''biopower'' includes the generation of electricity or process steam or both; and

(4) the term ''integrated bioenergy research and development'' includes biopower and biofuels applications.

**SEC. 2224. AUTHORIZATION.**

The Secretary is authorized to conduct environmental research and development, scientific and energy research, development, and demonstration, and commercial application of energy technology programs, projects, and activities related to bioenergy, including biopower energy systems, biofuels energy systems, and integrated bioenergy research and development.

**SEC. 2225. AUTHORIZATION OF APPROPRIATIONS.**

(a) BIOPOWER ENERGY SYSTEMS.—There are authorized to be appropriated to the Secretary for Biopower Energy Systems programs, projects, and activities—

(1) $45,700,000 for fiscal year 2002;

(2) $52,500,000 for fiscal year 2003;

(3) $60,300,000 for fiscal year 2004;

(4) $69,300,000 for fiscal year 2005; and

(5) $79,600,000 for fiscal year 2006.

(b) BIOFUELS ENERGY SYSTEMS.—There are authorized to be appropriated to the Secretary for biofuels energy systems programs, projects, and activities—

(1) $53,500,000 for fiscal year 2002;

(2) $61,400,000 for fiscal year 2003;

(3) $70,600,000 for fiscal year 2004;

(4) $81,100,000 for fiscal year 2005; and

(5) $93,200,000 for fiscal year 2006.

(c) INTEGRATED BIOENERGY RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Secretary for integrated bioenergy research and development programs, projects, and activities, $49,000,000 for each of the fiscal years 2002 through 2006. Activities funded under this subsection shall be coordinated with ongoing related programs of other Federal agencies, including the Plant Genome Program of the National Science Foundation. Of the funds authorized under this subsection, at least $5,000,000 for each fiscal year shall be for training and education targeted to minority and social disadvantaged farmers and ranchers.

(d) INTEGRATED APPLICATIONS.—Amounts authorized to be appropriated under this subtitle may be used to assist in the planning, design, and implementation of projects to convert rice straw and barley grain into biopower or biofuels.

### Subtitle C—Transmission Infrastructure Systems

**SEC. 2241. TRANSMISSION INFRASTRUCTURE SYSTEMS RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.**

(a) IN GENERAL.—The Secretary shall develop and implement a comprehensive research, development, demonstration, and commercial application program to ensure the reliability, efficiency, and environmental integrity of electrical transmission systems. Such program shall include advanced energy technologies and systems, high capacity superconducting transmission lines and generators, advanced grid reliability and efficiency technologies development, technologies contributing to significant load reductions, advanced metering, load management and control technologies, and technology transfer and education.

(b) TECHNOLOGY.—In carrying out this subtitle, the Secretary may include research, development, and demonstration on and commercial application of improved transmission technologies including the integration of the following technologies into improved transmission systems:

(1) High temperature superconductivity.

(2) Advanced transmission materials.

(3) Self-adjusting equipment, processes, or software for survivability, security, and failure containment.

(4) Enhancements of energy transfer over existing lines.

(5) Any other infrastructure technologies, as appropriate.

**SEC. 2242. PROGRAM PLAN.**

Within 4 months after the date of the enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to Congress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of the transmission infrastructure systems industry to select and prioritize appropriate program areas. The Secretary shall also seek the advice of utilities, energy services providers, manufacturers, institutions of higher learning, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons as the Secretary considers appropriate.

**SEC. 2243. REPORT.**

Two years after the date of the enactment of this Act, and at 2-year intervals thereafter, the Secretary, in consultation with other appropriate Federal agencies, shall transmit a report to Congress describing the progress made to achieve the purposes of this subtitle and identifying any additional resources needed to continue the development and commercial application of transmission infrastructure technologies.

### Subtitle D—Department of Energy Authorization of Appropriations

**SEC. 2261. AUTHORIZATION OF APPROPRIATIONS.**

(a) OPERATION AND MAINTENANCE.—There are authorized to be appropriated to the Secretary for Renewable Energy operation and maintenance, including activities under subtitle C, Geothermal Technology Development, Hydropower, Concentrating Solar Power, Photovoltaic Energy Systems, Solar Building Technology Research, Wind Energy Systems, High Temperature Superconducting Research and Development, Energy Storage Systems, Transmission Reliability, International Renewable Energy Program, Renewable Energy Production Incentive Program, Renewable Program Support, National Renewable Energy Laboratory, and Program Direction, and including amounts authorized under the amendment made by section 2210 and amounts authorized under section 2225, $535,000,000 for fiscal year 2002, $639,000,000 for fiscal year 2003, and $683,000,000 for fiscal year 2004, to remain available until expended.

(b) WAVE POWERED ELECTRIC GENERATION.—Within the amounts authorized to be appropriated to the Secretary under subsection (a), the Secretary shall carry out a research program, in conjunction with other appropriate Federal agencies, on wave powered electric generation.

(c) ASSESSMENT OF RENEWABLE ENERGY RESOURCES.—

(1) IN GENERAL.—Using funds authorized in subsection (a), of this section, the Secretary shall transmit to the Congress, within 1 year after the date of the enactment of this Act, an assessment of all renewable energy resources available within the United States.

(2) RESOURCE ASSESSMENT.—Such report shall include a detailed inventory describing the available amount and characteristics of solar, wind, biomass, geothermal, hydroelectric, and other renewable energy sources, and an estimate of the costs needed to develop each resource. The report shall also include such other information as the Secretary believes would be useful in siting renewable energy generation, such as appropriate terrain, population and load centers, nearby energy infrastructure, and location of energy resources.

(3) AVAILABILITY.—The information and cost estimates in this report shall be updated annually and made available to the public, along with the data used to create the report.

(4) SUNSET.—This subsection shall expire at the end of fiscal year 2004.

(d) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (a) may be used for—

(1) Departmental Energy Management Program; or

(2) Renewable Indian Energy Resources.

## TITLE III—NUCLEAR ENERGY

### Subtitle A—University Nuclear Science and Engineering

**SEC. 2301. SHORT TITLE.**

This subtitle may be cited as ''Department of Energy University Nuclear Science and Engineering Act''.

**SEC. 2302. FINDINGS.**

The Congress finds the following:

(1) United States university nuclear science and engineering programs are in a state of serious decline, with nuclear engineering enrollment at a 35-year low. Since 1980, the number of nuclear engineering university programs has declined nearly 40 percent, and over two-thirds of the faculty in these programs are 45 years of age or older. Also, since 1980, the number of university research and training reactors in the United States has declined by over 50 percent. Most of these reactors were built in the late 1950s and 1960s with 30-year to 40-year operating licenses, and many will require relicensing in the next several years.

(2) A decline in a competent nuclear workforce, and the lack of adequately trained nuclear scientists and engineers, will affect the ability of the United States to solve future nuclear waste storage issues, operate existing and design future fission reactors in the United States, respond to future nuclear events worldwide, help stem the proliferation of nuclear weapons, and design and operate naval nuclear reactors.

(3) The Department of Energy's Office of Nuclear Energy, Science and Technology, a principal Federal agency for civilian research in nuclear science and engineering, is well suited to help maintain tomorrow's human resource and training investment in the nuclear sciences and engineering.

**SEC. 2303. DEPARTMENT OF ENERGY PROGRAM.**

(a) ESTABLISHMENT.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall support a program to maintain the Nation's human resource investment and infrastructure in the nuclear sciences and engineering consistent with the Department's statutory authorities related to civilian nuclear research, development, and demonstration and commercial application of energy technology.

(b) DUTIES OF THE OFFICE OF NUCLEAR ENERGY, SCIENCE AND TECHNOLOGY.—In carrying out the program under this subtitle, the Director of the Office of Nuclear Energy, Science and Technology shall—

(1) develop a robust graduate and undergraduate fellowship program to attract new and talented students;

(2) assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering through a Junior Faculty Research Initiation Grant Program;

(3) maintain a robust investment in the fundamental nuclear sciences and engineering through the Nuclear Engineering Education Research Program;

(4) encourage collaborative nuclear research among industry, national laboratories, and universities through the Nuclear Energy Research Initiative;

(5) assist universities in maintaining reactor infrastructure; and

(6) support communication and outreach related to nuclear science and engineering.

(c) MAINTAINING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall provide for the following university research and training reactor infrastructure maintenance and research activities:

(1) Refueling of university research reactors with low enriched fuels, upgrade of operational instrumentation, and sharing of reactors among universities.

(2) In collaboration with the United States nuclear industry, assistance, where necessary, in relicensing and upgrading university training reactors as part of a student training program.

(3) A university reactor research and training award program that provides for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) UNIVERSITY-DOE LABORATORY INTERACTIONS.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall develop—

(1) a sabbatical fellowship program for university faculty to spend extended periods of time at Department of Energy laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which laboratory staff can spend time in academic nuclear science and engineering departments.

The Secretary may under subsection (b)(1) provide for fellowships for students to spend time at Department of Energy laboratories in the areas of nuclear science and technology under the mentorship of laboratory staff.

(e) OPERATIONS AND MAINTENANCE.—To the extent that the use of a university research reactor is funded under this subtitle, funds authorized under this subtitle may be used to supplement operation of the research reactor during the investigator's proposed effort. The host institution shall provide at least 50 percent of the cost of the reactor's operation.

(f) MERIT REVIEW REQUIRED.—All grants, contracts, cooperative agreements, or other financial assistance awards under this subtitle shall be made only after independent merit review.

(g) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall prepare and transmit to the appropriate congressional committees a 5-year plan on how the programs authorized in this subtitle will be implemented. The plan shall include a review of the projected personnel needs in the fields of nuclear science and engineering and of the scope of nuclear science and engineering education programs at the Department and other Federal agencies.

**SEC. 2304. AUTHORIZATION OF APPROPRIATIONS.**

(a) TOTAL AUTHORIZATION.—The following sums are authorized to be appropriated to the Secretary, to remain available until expended, for the purposes of carrying out this subtitle:

(1) $30,200,000 for fiscal year 2002.
(2) $41,000,000 for fiscal year 2003.
(3) $47,900,000 for fiscal year 2004.
(4) $55,600,000 for fiscal year 2005.
(5) $64,100,000 for fiscal year 2006.

(b) GRADUATE AND UNDERGRADUATE FELLOWSHIPS.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(1):

(1) $3,000,000 for fiscal year 2002.
(2) $3,100,000 for fiscal year 2003.
(3) $3,200,000 for fiscal year 2004.
(4) $3,200,000 for fiscal year 2005.
(5) $3,200,000 for fiscal year 2006.

(c) JUNIOR FACULTY RESEARCH INITIATION GRANT PROGRAM.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(2):

(1) $5,000,000 for fiscal year 2002.
(2) $7,000,000 for fiscal year 2003.
(3) $8,000,000 for fiscal year 2004.
(4) $9,000,000 for fiscal year 2005.
(5) $10,000,000 for fiscal year 2006.

(d) NUCLEAR ENGINEERING EDUCATION RESEARCH PROGRAM.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(3):

(1) $8,000,000 for fiscal year 2002.
(2) $12,000,000 for fiscal year 2003.
(3) $13,000,000 for fiscal year 2004.
(4) $15,000,000 for fiscal year 2005.
(5) $20,000,000 for fiscal year 2006.

(e) COMMUNICATION AND OUTREACH RELATED TO NUCLEAR SCIENCE AND ENGINEERING.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(b)(5):

(1) $200,000 for fiscal year 2002.
(2) $200,000 for fiscal year 2003.
(3) $300,000 for fiscal year 2004.
(4) $300,000 for fiscal year 2005.
(5) $300,000 for fiscal year 2006.

(f) REFUELING OF UNIVERSITY RESEARCH REACTORS AND INSTRUMENTATION UPGRADES.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(1):

(1) $6,000,000 for fiscal year 2002.
(2) $6,500,000 for fiscal year 2003.
(3) $7,000,000 for fiscal year 2004.
(4) $7,500,000 for fiscal year 2005.
(5) $8,000,000 for fiscal year 2006.

(g) RELICENSING ASSISTANCE.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(2):

(1) $1,000,000 for fiscal year 2002.
(2) $1,100,000 for fiscal year 2003.
(3) $1,200,000 for fiscal year 2004.
(4) $1,300,000 for fiscal year 2005.
(5) $1,300,000 for fiscal year 2006.

(h) REACTOR RESEARCH AND TRAINING AWARD PROGRAM.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(c)(3):

(1) $6,000,000 for fiscal year 2002.
(2) $10,000,000 for fiscal year 2003.
(3) $14,000,000 for fiscal year 2004.
(4) $18,000,000 for fiscal year 2005.
(5) $20,000,000 for fiscal year 2006.

(i) UNIVERSITY-DOE LABORATORY INTERACTIONS.—Of the funds authorized by subsection (a), the following sums are authorized to be appropriated to carry out section 2303(d):

(1) $1,000,000 for fiscal year 2002.
(2) $1,100,000 for fiscal year 2003.
(3) $1,200,000 for fiscal year 2004.
(4) $1,300,000 for fiscal year 2005.
(5) $1,300,000 for fiscal year 2006.

## Subtitle B—Advanced Fuel Recycling Technology Research and Development Program

**SEC. 2321. PROGRAM.**

(a) IN GENERAL.—The Secretary, through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct an advanced fuel recycling technology research and development program to further the availability of proliferation-resistant fuel recycling technologies as an alternative to aqueous reprocessing in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts, subject to annual review by the Secretary's Nuclear Energy Research Advisory Committee or other independent entity, as appropriate.

(b) REPORTS.—The Secretary shall report on the activities of the advanced fuel recycling technology research and development program, as part of the Department's annual budget submission.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $10,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

## Subtitle C—Department of Energy Authorization of Appropriations

**SEC. 2341. NUCLEAR ENERGY RESEARCH INITIATIVE.**

(a) PROGRAM.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall conduct a Nuclear Energy Research Initiative for grants to be competitively awarded and subject to peer review for research relating to nuclear energy.

(b) OBJECTIVES.—The program shall be directed toward accomplishing the objectives of—

(1) developing advanced concepts and scientific breakthroughs in nuclear fission and reactor technology to address and overcome the principal technical and scientific obstacles to the expanded use of nuclear energy in the United States;

(2) advancing the state of nuclear technology to maintain a competitive position in foreign markets and a future domestic market;

(3) promoting and maintaining a United States nuclear science and engineering infrastructure to meet future technical challenges;

(4) providing an effective means to collaborate on a cost-shared basis with international agencies and research organizations to address and influence nuclear technology development worldwide; and

(5) promoting United States leadership and partnerships in bilateral and multilateral nuclear energy research.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $60,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

**SEC. 2342. NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.**

(a) PROGRAM.—The Secretary, through the Office of Nuclear Energy, Science and Technology, shall conduct a Nuclear Energy Plant Optimization research and development program jointly with industry and cost-shared by industry by at least 50 percent and subject to annual review by the Secretary's Nuclear Energy Research Advisory Committee or other independent entity, as appropriate.

(b) OBJECTIVES.—The program shall be directed toward accomplishing the objectives of—

(1) managing long-term effects of component aging; and

(2) improving the efficiency and productivity of existing nuclear power stations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $15,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal years 2003 and 2004.

**SEC. 2343. NUCLEAR ENERGY TECHNOLOGIES.**

(a) IN GENERAL.—The Secretary, through the Office of Nuclear Energy, Science and

Technology, shall conduct a study of Generation IV nuclear energy systems, including development of a technology roadmap and performance of research and development necessary to make an informed technical decision regarding the most promising candidates for commercial application.

(b) REACTOR CHARACTERISTICS.—To the extent practicable, in conducting the study under subsection (a), the Secretary shall study nuclear energy systems that offer the highest probability of achieving the goals for Generation IV nuclear energy systems, including—

(1) economics competitive with any other generators;

(2) enhanced safety features, including passive safety features;

(3) substantially reduced production of high-level waste, as compared with the quantity of waste produced by reactors in operation on the date of the enactment of this Act;

(4) highly proliferation-resistant fuel and waste;

(5) sustainable energy generation including optimized fuel utilization; and

(6) substantially improved thermal efficiency, as compared with the thermal efficiency of reactors in operation on the date of the enactment of this Act.

(c) CONSULTATION.—In conducting the study under subsection (a), the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, and international, professional, and technical organizations.

(d) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2002, the Secretary shall transmit to the appropriate congressional committees a report describing the activities of the Secretary under this section, and plans for research and development leading to a public/private cooperative demonstration of one or more Generation IV nuclear energy systems.

(2) CONTENTS.—The report shall contain—

(A) an assessment of all available technologies;

(B) a summary of actions needed for the most promising candidates to be considered as viable commercial options within the five to ten years after the date of the report, with consideration of regulatory, economic, and technical issues;

(C) a recommendation of not more than three promising Generation IV nuclear energy system concepts for further development;

(D) an evaluation of opportunities for public/private partnerships;

(E) a recommendation for structure of a public/private partnership to share in development and construction costs;

(F) a plan leading to the selection and conceptual design, by September 30, 2004, of at least one Generation IV nuclear energy system concept recommended under subparagraph (C) for demonstration through a public/private partnership;

(G) an evaluation of opportunities for siting demonstration facilities on Department of Energy land; and

(H) a recommendation for appropriate involvement of other Federal agencies.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section and to carry out the recommendations in the report transmitted under subsection (d)—

(1) $20,000,000 for fiscal year 2002; and

(2) such sums as are necessary for fiscal year 2003 and fiscal year 2004.

**SEC. 2344. AUTHORIZATION OF APPROPRIATIONS.**

(a) OPERATION AND MAINTENANCE.—There are authorized to be appropriated to the Secretary to carry out activities authorized under this title for nuclear energy operation and maintenance, including amounts authorized under sections 2304(a), 2321(c), 2341(c), 2342(c), and 2343(e), and including Advanced Radioisotope Power Systems, Test Reactor Landlord, and Program Direction, $191,200,000 for fiscal year 2002, $199,000,000 for fiscal year 2003, and $207,000,000 for fiscal year 2004, to remain available until expended.

(b) CONSTRUCTION.—There are authorized to be appropriated to the Secretary—

(1) $950,000 for fiscal year 2002, $2,200,000 for fiscal year 2003, $1,246,000 for fiscal year 2004, and $1,699,000 for fiscal year 2005 for completion of construction of Project 99-E-200, Test Reactor Area Electric Utility Upgrade, Idaho National Engineering and Environmental Laboratory; and

(2) $500,000 for fiscal year 2002, $500,000 for fiscal year 2003, $500,000 for fiscal year 2004, and $500,000 for fiscal year 2005, for completion of construction of Project 95-E-201, Test Reactor Area Fire and Life Safety Improvements, Idaho National Engineering and Environmental Laboratory.

(c) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (a) may be used for—

(1) Nuclear Energy Isotope Support and Production;

(2) Argonne National Laboratory-West Operations;

(3) Fast Flux Test Facility; or

(4) Nuclear Facilities Management.

## TITLE IV—FOSSIL ENERGY

### Subtitle A—Coal

**SEC. 2401. COAL AND RELATED TECHNOLOGIES PROGRAMS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $172,000,000 for fiscal year 2002, $179,000,000 for fiscal year 2003, and $186,000,000 for fiscal year 2004, to remain available until expended, for other coal and related technologies research and development programs, which shall include—

(1) Innovations for Existing Plants;

(2) Integrated Gasification Combined Cycle;

(3) advanced combustion systems;

(4) Turbines;

(5) Sequestration Research and Development;

(6) innovative technologies for demonstration;

(7) Transportation Fuels and Chemicals;

(8) Solid Fuels and Feedstocks;

(9) Advanced Fuels Research; and

(10) Advanced Research.

(b) LIMIT ON USE OF FUNDS.—Notwithstanding subsection (a), no funds may be used to carry out the activities authorized by this section after September 30, 2002, unless the Secretary has transmitted to the Congress the report required by this subsection and 1 month has elapsed since that transmission. The report shall include a plan containing—

(1) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(2) a detailed list of technical milestones for each coal and related technology that will be pursued;

(3) a description of how the programs authorized in this section will be carried out so as to complement and not duplicate activities authorized under division E.

(c) GASIFICATION.—The Secretary shall fund at least one gasification project with the funds authorized under this section.

### Subtitle B—Oil and Gas

**SEC. 2421. PETROLEUM-OIL TECHNOLOGY.**

The Secretary shall conduct a program of research, development, demonstration, and commercial application on petroleum-oil technology. The program shall address—

(1) Exploration and Production Supporting Research;

(2) Oil Technology Reservoir Management/Extension; and

(3) Effective Environmental Protection.

**SEC. 2422. GAS.**

The Secretary shall conduct a program of research, development, demonstration, and commercial application on natural gas technologies. The program shall address—

(1) Exploration and Production;

(2) Infrastructure; and

(3) Effective Environmental Protection.

**SEC. 2423. NATURAL GAS AND OIL DEPOSITS REPORT.**

Two years after the date of the enactment of this Act, and at 2-year intervals thereafter, the Secretary of the Interior, in consultation with other appropriate Federal agencies, shall transmit a report to the Congress assessing the contents of natural gas and oil deposits at existing drilling sites off the coast of Louisiana and Texas.

**SEC. 2424. OIL SHALE RESEARCH.**

There are authorized to be appropriated to the Secretary of Energy for fiscal year 2002 $10,000,000, to be divided equally between grants for research on Eastern oil shale and grants for research on Western oil shale.

### Subtitle C—Ultra-Deepwater and Unconventional Drilling

**SEC. 2441. SHORT TITLE.**

This subtitle may be cited as the ''Natural Gas and Other Petroleum Research, Development, and Demonstration Act of 2001''.

**SEC. 2442. DEFINITIONS.**

For purposes of this subtitle—

(1) the term ''deepwater'' means water depths greater than 200 meters but less than 1,500 meters;

(2) the term ''Fund'' means the Ultra-Deepwater and Unconventional Gas Research Fund established under section 2450;

(3) the term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001);

(4) the term ''Research Organization'' means the Research Organization created pursuant to section 2446(a);

(5) the term ''ultra-deepwater'' means water depths greater than 1,500 meters; and

(6) the term ''unconventional'' means located in heretofore inaccessible or uneconomic formations on land.

**SEC. 2443. ULTRA-DEEPWATER PROGRAM.**

The Secretary shall establish a program of research, development, and demonstration of ultra-deepwater natural gas and other petroleum exploration and production technologies, in areas currently available for Outer Continental Shelf leasing. The program shall be carried out by the Research Organization as provided in this subtitle.

**SEC. 2444. NATIONAL ENERGY TECHNOLOGY LABORATORY.**

The National Energy Technology Laboratory and the United States Geological Survey, when appropriate, shall carry out programs of long-term research into new natural gas and other petroleum exploration and production technologies and environmental mitigation technologies for production from unconventional and ultra-deepwater resources, including methane hydrates. Such Laboratory shall also conduct a program of research, development, and demonstration of new technologies for the reduction of greenhouse gas emissions from unconventional and ultra-deepwater natural gas or other petroleum exploration and production activities, including sub-sea floor carbon sequestration technologies.

**SEC. 2445. ADVISORY COMMITTEE.**

(a) ESTABLISHMENT.—The Secretary shall, within 3 months after the date of the enactment of this Act, establish an Advisory Committee consisting of 7 members, each having extensive operational knowledge of and experience in the natural gas and other petroleum exploration and production industry who are not Federal Government employees or contractors. A minimum of 4 members shall have extensive knowledge of ultra-deepwater natural gas or other petroleum exploration and production technologies, a minimum of 2 members shall have extensive knowledge of unconventional natural gas or other petroleum exploration and production technologies, and at least 1 member shall have extensive knowledge of greenhouse gas emission reduction technologies, including carbon sequestration.

(b) FUNCTION.—The Advisory Committee shall advise the Secretary on the selection of an organization to create the Research Organization and on the implementation of this subtitle.

(c) COMPENSATION.—Members of the Advisory Committee shall serve without compensation but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(d) ADMINISTRATIVE COSTS.—The costs of activities carried out by the Secretary and the Advisory Committee under this subtitle shall be paid or reimbursed from the Fund.

(e) DURATION OF ADVISORY COMMITTEE.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

**SEC. 2446. RESEARCH ORGANIZATION.**

(a) SELECTION OF RESEARCH ORGANIZATION.—The Secretary, within 6 months after the date of the enactment of this Act, shall solicit proposals from eligible entities for the creation of the Research Organization, and within 3 months after such solicitation, shall select an entity to create the Research Organization.

(b) ELIGIBLE ENTITIES.—Entities eligible to create the Research Organization shall—

(1) have been in existence as of the date of the enactment of this Act;

(2) be entities exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986; and

(3) be experienced in planning and managing programs in natural gas or other petroleum exploration and production research, development, and demonstration.

(c) PROPOSALS.—A proposal from an entity seeking to create the Research Organization shall include a detailed description of the proposed membership and structure of the Research Organization.

(d) FUNCTIONS.—The Research Organization shall—

(1) award grants on a competitive basis to qualified—

(A) research institutions;

(B) institutions of higher education;

(C) companies; and

(D) consortia formed among institutions and companies described in subparagraphs (A) through (C) for the purpose of conducting research, development, and demonstration of unconventional and ultra-deepwater natural gas or other petroleum exploration and production technologies; and

(2) review activities under those grants to ensure that they comply with the requirements of this subtitle and serve the purposes for which the grant was made.

**SEC. 2447. GRANTS.**

(a) TYPES OF GRANTS.—

(1) UNCONVENTIONAL.—The Research Organization shall award grants for research, development, and demonstration of technologies to maximize the value of the Government's natural gas and other petroleum resources in unconventional reservoirs, and to develop technologies to increase the supply of natural gas and other petroleum resources by lowering the cost and improving the efficiency of exploration and production of unconventional reservoirs, while improving safety and minimizing environmental impacts.

(2) ULTRA-DEEPWATER.—The Research Organization shall award grants for research, development, and demonstration of natural gas or other petroleum exploration and production technologies to—

(A) maximize the value of the Federal Government's natural gas and other petroleum resources in the ultra-deepwater areas;

(B) increase the supply of natural gas and other petroleum resources by lowering the cost and improving the efficiency of exploration and production of ultra-deepwater reservoirs; and

(C) improve safety and minimize the environmental impacts of ultra-deepwater developments.

(3) ULTRA-DEEPWATER ARCHITECTURE.—The Research Organization shall award a grant to one or more consortia described in section 2446(d)(1)(D) for the purpose of developing and demonstrating the next generation architecture for ultra-deepwater production of natural gas and other petroleum in furtherance of the purposes stated in paragraph (2)(A) through (C).

(b) CONDITIONS FOR GRANTS.—Grants provided under this section shall contain the following conditions:

(1) If the grant recipient consists of more than one entity, the recipient shall provide a signed contract agreed to by all participating members clearly defining all rights to intellectual property for existing technology and for future inventions conceived and developed using funds provided under the grant, in a manner that is consistent with applicable laws.

(2) There shall be a repayment schedule for Federal dollars provided for demonstration projects under the grant in the event of a successful commercialization of the demonstrated technology. Such repayment schedule shall provide that the payments are made to the Secretary with the express intent that these payments not impede the adoption of the demonstrated technology in the marketplace. In the event that such impedance occurs due to market forces or other factors, the Research Organization shall renegotiate the grant agreement so that the acceptance of the technology in the marketplace is enabled.

(3) Applications for grants for demonstration projects shall clearly state the intended commercial applications of the technology demonstrated.

(4) The total amount of funds made available under a grant provided under subsection (a)(3) shall not exceed 50 percent of the total cost of the activities for which the grant is provided.

(5) The total amount of funds made available under a grant provided under subsection (a)(1) or (2) shall not exceed 50 percent of the total cost of the activities covered by the grant, except that the Research Organization may elect to provide grants covering a higher percentage, not to exceed 90 percent, of total project costs in the case of grants made solely to independent producers.

(6) An appropriate amount of funds provided under a grant shall be used for the broad dissemination of technologies developed under the grant to interested institutions of higher education, industry, and appropriate Federal and State technology entities to ensure the greatest possible benefits for the public and use of government resources.

(7) Demonstrations of ultra-deepwater technologies for which funds are provided under a grant may be conducted in ultra-deepwater or deepwater locations.

(c) ALLOCATION OF FUNDS.—Funds available for grants under this subtitle shall be allocated as follows:

(1) 15 percent shall be for grants under subsection (a)(1).

(2) 15 percent shall be for grants under subsection (a)(2).

(3) 60 percent shall be for grants under subsection (a)(3).

(4) 10 percent shall be for carrying out section 2444.

**SEC. 2448. PLAN AND FUNDING.**

(a) TRANSMITTAL TO SECRETARY.—The Research Organization shall transmit to the Secretary an annual plan proposing projects and funding of activities under each paragraph of section 2447(a).

(b) REVIEW.—The Secretary shall have 1 month to review the annual plan, and shall approve the plan, if it is consistent with this subtitle. If the Secretary approves the plan, the Secretary shall provide funding as proposed in the plan.

(c) DISAPPROVAL.—If the Secretary does not approve the plan, the Secretary shall notify the Research Organization of the reasons for disapproval and shall withhold funding until a new plan is submitted which the Secretary approves. Within 1 month after notifying the Research Organization of a disapproval, the Secretary shall notify the appropriate congressional committees of the disapproval.

**SEC. 2449. AUDIT.**

The Secretary shall retain an independent, commercial auditor to determine the extent to which the funds authorized by this subtitle have been expended in a manner consistent with the purposes of this subtitle. The auditor shall transmit a report annually to the Secretary, who shall transmit the report to the appropriate congressional committees, along with a plan to remedy any deficiencies cited in the report.

**SEC. 2450. FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Ultra-Deepwater and Unconventional Gas Research Fund'' which shall be available for obligation to the extent provided in advance in appropriations Acts for allocation under section 2447(c).

(b) FUNDING SOURCES.—

(1) LOANS FROM TREASURY.—There are authorized to be appropriated to the Secretary $900,000,000 for the period encompassing fiscal years 2002 through 2009. Such amounts shall be deposited by the Secretary in the Fund, and shall be considered loans from the Treasury. Income received by the United States in connection with any ultra-deepwater oil and gas leases shall be deposited in the Treasury and considered as repayment for the loans under this paragraph.

(2) ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for the fiscal years 2002 through 2009, to be deposited in the Fund.

(3) OIL AND GAS LEASE INCOME.—To the extent provided in advance in appropriations Acts, not more than 7.5 percent of the income of the United States from Federal oil and gas leases may be deposited in the Fund for fiscal years 2002 through 2009.

**SEC. 2451. SUNSET.**

No funds are authorized to be appropriated for carrying out this subtitle after fiscal year 2009. The Research Organization shall be terminated when it has expended all funds made available pursuant to this subtitle.

### Subtitle D—Fuel Cells

**SEC. 2461. FUEL CELLS.**

(a) IN GENERAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application on fuel cells. The program shall address—

(1) Advanced Research;

(2) Systems Development;

(3) Vision 21-Hybrids; and

(4) Innovative Concepts.

(b) MANUFACTURING PRODUCTION AND PROCESSES.—In addition to the program under subsection (a), the Secretary, in consultation other Federal agencies, as appropriate, shall establish a program for the demonstration of fuel cell technologies, including fuel cell proton exchange membrane technology, for commercial, residential, and transportation applications. The program shall specifically focus on promoting the application of and improved manufacturing production and processes for fuel cell technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—Within the amounts authorized to be appropriated under section 2481(a), there are authorized to be appropriated to the Secretary for the purpose of carrying out subsection (b), $28,000,000 for each of fiscal years 2002 through 2004.

### Subtitle E—Department of Energy Authorization of Appropriations

**SEC. 2481. AUTHORIZATION OF APPROPRIATIONS.**

(a) OPERATION AND MAINTENANCE.—There are authorized to be appropriated to the Secretary for operation and maintenance for subtitle B and subtitle D, and for Fossil Energy Research and Development Headquarters Program Direction, Field Program Direction, Plant and Capital Equipment, Cooperative Research and Development, Import/Export Authorization, and Advanced Metallurgical Processes $282,000,000 for fiscal year 2002, $293,000,000 for fiscal year 2003, and $305,000,000 for fiscal year 2004, to remain available until expended.

(b) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (a) may be used for—

(1) Gas Hydrates.

(2) Fossil Energy Environmental Restoration; or

(3) research, development, demonstration, and commercial application on coal and related technologies, including activities under subtitle A.

## TITLE V—SCIENCE

### Subtitle A—Fusion Energy Sciences

**SEC. 2501. SHORT TITLE.**

This subtitle may be cited as the ''Fusion Energy Sciences Act of 2001''.

**SEC. 2502. FINDINGS.**

The Congress finds that—

(1) economic prosperity is closely linked to an affordable and ample energy supply;

(2) environmental quality is closely linked to energy production and use;

(3) population, worldwide economic development, energy consumption, and stress on the environment are all expected to increase substantially in the coming decades;

(4) the few energy options with the potential to meet economic and environmental needs for the long-term future should be pursued as part of a balanced national energy plan;

(5) fusion energy is an attractive long-term energy source because of the virtually inexhaustible supply of fuel, and the promise of minimal adverse environmental impact and inherent safety;

(6) the National Research Council, the President's Committee of Advisers on Science and Technology, and the Secretary of Energy Advisory Board have each recently reviewed the Fusion Energy Sciences Program and each strongly supports the fundamental science and creative innovation of the program, and has confirmed that progress toward the goal of producing practical fusion energy has been excellent, although much scientific and engineering work remains to be done;

(7) each of these reviews stressed the need for a magnetic fusion burning plasma experiment to address key scientific issues and as a necessary step in the development of fusion energy;

(8) the National Research Council has also called for a broadening of the Fusion Energy Sciences Program research base as a means to more fully integrate the fusion science community into the broader scientific community; and

(9) the Fusion Energy Sciences Program budget is inadequate to support the necessary science and innovation for the present generation of experiments, and cannot accommodate the cost of a burning plasma experiment constructed by the United States, or even the cost of key participation by the United States in an international effort.

**SEC. 2503. PLAN FOR FUSION EXPERIMENT.**

(a) PLAN FOR UNITED STATES FUSION EXPERIMENT.—The Secretary, on the basis of full consultation with the Fusion Energy Sciences Advisory Committee and the Secretary of Energy Advisory Board, as appropriate, shall develop a plan for United States construction of a magnetic fusion burning plasma experiment for the purpose of accelerating scientific understanding of fusion plasmas. The Secretary shall request a review of the plan by the National Academy of Sciences, and shall transmit the plan and the review to the Congress by July 1, 2004.

(b) REQUIREMENTS OF PLAN.—The plan described in subsection (a) shall—

(1) address key burning plasma physics issues; and

(2) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the overall design of the experiment including its estimated cost and potential construction sites.

(c) UNITED STATES PARTICIPATION IN AN INTERNATIONAL EXPERIMENT.—In addition to the plan described in subsection (a), the Secretary, on the basis of full consultation with the Fusion Energy Sciences Advisory Committee and the Secretary of Energy Advisory Board, as appropriate, may also develop a plan for United States participation in an international burning plasma experiment for the same purpose, whose construction is found by the Secretary to be highly likely and where United States participation is cost effective relative to the cost and scientific benefits of a domestic experiment described in subsection (a). If the Secretary elects to develop a plan under this subsection, he shall include the information described in subsection (b), and an estimate of the cost of United States participation in such an international experiment. The Secretary shall request a review by the National Academies of Sciences and Engineering of a plan developed under this subsection, and shall transmit the plan and the review to the Congress not later than July 1, 2004.

(d) AUTHORIZATION OF RESEARCH AND DEVELOPMENT.—The Secretary, through the Fusion Energy Sciences Program, may conduct any research and development necessary to fully develop the plans described in this section.

**SEC. 2504. PLAN FOR FUSION ENERGY SCIENCES PROGRAM.**

Not later than 6 months after the date of the enactment of this Act, the Secretary, in full consultation with FESAC, shall develop and transmit to the Congress a plan for the purpose of ensuring a strong scientific base for the Fusion Energy Sciences Program and to enable the experiments described in section 2503. Such plan shall include as its objectives—

(1) to ensure that existing fusion research facilities and equipment are more fully utilized with appropriate measurements and control tools;

(2) to ensure a strengthened fusion science theory and computational base;

(3) to ensure that the selection of and funding for new magnetic and inertial fusion research facilities is based on scientific innovation and cost effectiveness;

(4) to improve the communication of scientific results and methods between the fusion science community and the wider scientific community;

(5) to ensure that adequate support is provided to optimize the design of the magnetic fusion burning plasma experiments referred to in section 2503;

(6) to ensure that inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development;

(7) to develop a roadmap for a fusion-based energy source that shows the important scientific questions, the evolution of confinement configurations, the relation between these two features, and their relation to the fusion energy goal;

(8) to establish several new centers of excellence, selected through a competitive peer-review process and devoted to exploring the frontiers of fusion science;

(9) to ensure that the National Science Foundation, and other agencies, as appropriate, play a role in extending the reach of fusion science and in sponsoring general plasma science; and

(10) to ensure that there be continuing broad assessments of the outlook for fusion energy and periodic external reviews of fusion energy sciences.

**SEC. 2505. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary for the development and review, but not for implementation, of the plans described in this subtitle and for activities of the Fusion Energy Sciences Program $320,000,000 for fiscal year 2002 and $335,000,000 for fiscal year 2003, of which up to $15,000,000 for each of fiscal year 2002 and fiscal year 2003 may be used to establish several new centers of excellence, selected through a competitive peer-review process and devoted to exploring the frontiers of fusion science.

### Subtitle B—Spallation Neutron Source

**SEC. 2521. DEFINITION.**

For the purposes of this subtitle, the term ''Spallation Neutron Source'' means Department Project 99–E–334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

**SEC. 2522. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF CONSTRUCTION FUNDING.—There are authorized to be appropriated to the Secretary for construction of the Spallation Neutron Source—

(1) $276,300,000 for fiscal year 2002;

(2) $210,571,000 for fiscal year 2003;

(3) $124,600,000 for fiscal year 2004;

(4) $79,800,000 for fiscal year 2005; and

(5) $41,100,000 for fiscal year 2006 for completion of construction.

(b) AUTHORIZATION OF OTHER PROJECT FUNDING.—There are authorized to be appropriated to the Secretary for other project costs (including research and development necessary to complete the project, preoperations costs, and capital equipment not related to construction) of the Spallation Neutron Source $15,353,000 for fiscal year 2002 and $103,279,000 for the period encompassing fiscal years 2003 through 2006, to remain available until expended through September 30, 2006.

**SEC. 2523. REPORT.**

The Secretary shall report on the Spallation Neutron Source as part of the Department's annual budget submission, including a description of the achievement of milestones, a comparison of actual costs to estimated costs, and any changes in estimated project costs or schedule.

**SEC. 2524. LIMITATIONS.**

The total amount obligated by the Department, including prior year appropriations, for the Spallation Neutron Source may not exceed—

(1) $1,192,700,000 for costs of construction;

(2) $219,000,000 for other project costs; and

(3) $1,411,700,000 for total project cost.

**Subtitle C—Facilities, Infrastructure, and User Facilities**

**SEC. 2541. DEFINITION.**

For purposes of this subtitle—

(1) the term ''nonmilitary energy laboratory'' means—

(A) Ames Laboratory;

(B) Argonne National Laboratory;

(C) Brookhaven National Laboratory;

(D) Fermi National Accelerator Laboratory;

(E) Lawrence Berkeley National Laboratory;

(F) Oak Ridge National Laboratory;

(G) Pacific Northwest National Laboratory;

(H) Princeton Plasma Physics Laboratory;

(I) Stanford Linear Accelerator Center;

(J) Thomas Jefferson National Accelerator Facility; or

(K) any other facility of the Department that the Secretary, in consultation with the Director, Office of Science and the appropriate congressional committees, determines to be consistent with the mission of the Office of Science; and

(2) the term ''user facility'' means—

(A) an Office of Science facility at a nonmilitary energy laboratory that provides special scientific and research capabilities, including technical expertise and support as appropriate, to serve the research needs of the Nation's universities, industry, private laboratories, Federal laboratories, and others, including research institutions or individuals from other nations where reciprocal accommodations are provided to United States research institutions and individuals or where the Secretary considers such accommodation to be in the national interest; and

(B) any other Office of Science funded facility designated by the Secretary as a user facility.

**SEC. 2542. FACILITY AND INFRASTRUCTURE SUPPORT FOR NONMILITARY ENERGY LABORATORIES.**

(a) FACILITY POLICY.—The Secretary shall develop and implement a least-cost nonmilitary energy laboratory facility and infrastructure strategy for—

(1) maintaining existing facilities and infrastructure, as needed;

(2) closing unneeded facilities;

(3) making facility modifications; and

(4) building new facilities.

(b) PLAN.—The Secretary shall prepare a comprehensive 10-year plan for conducting future facility maintenance, making repairs, modifications, and new additions, and constructing new facilities at each nonmilitary energy laboratory. Such plan shall provide for facilities work in accordance with the following priorities:

(1) Providing for the safety and health of employees, visitors, and the general public with regard to correcting existing structural, mechanical, electrical, and environmental deficiencies.

(2) Providing for the repair and rehabilitation of existing facilities to keep them in use and prevent deterioration, if feasible.

(3) Providing engineering design and construction services for those facilities that require modification or additions in order to meet the needs of new or expanded programs.

(c) REPORT.—

(1) TRANSMITTAL.—Within 1 year after the date of the enactment of this Act, the Secretary shall prepare and transmit to the appropriate congressional committees a report containing the plan prepared under subsection (b).

(2) CONTENTS.—For each nonmilitary energy laboratory, such report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current ten-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facilities and infrastructure project compared to the original baseline cost, schedule, and scope.

(3) ADDITIONAL ELEMENTS.—The report shall also—

(A) include a plan for new facilities and facility modifications at each nonmilitary energy laboratory that will be required to meet the Department's changing missions of the twenty-first century, including schedules and estimates for implementation, and including a section outlining long-term funding requirements consistent with anticipated budgets and annual authorization of appropriations;

(B) address the coordination of modernization and consolidation of facilities among the nonmilitary energy laboratories in order to meet changing mission requirements; and

(C) provide for annual reports to the appropriate congressional committees on accomplishments, conformance to schedules, commitments, and expenditures.

**SEC. 2543. USER FACILITIES.**

(a) NOTICE REQUIREMENT.—When the Department makes a user facility available to universities and other potential users, or seeks input from universities and other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users.

(b) COMPETITION REQUIREMENT.—When the Department considers the participation of a university or other potential user in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a participant.

(c) PROHIBITION.—The Department may not redesignate a user facility, as defined by section 2541(b) as something other than a user facility for avoid the requirements of subsections (a) and (b).

**Subtitle D—Advisory Panel on Office of Science**

**SEC. 2561. ESTABLISHMENT.**

The Director of the Office of Science and Technology Policy, in consultation with the Secretary, shall establish an Advisory Panel on the Office of Science comprised of knowledgeable individuals to—

(1) address concerns about the current status and the future of scientific research supported by the Office;

(2) examine alternatives to the current organizational structure of the Office within the Department, taking into consideration existing structures for the support of scientific research in other Federal agencies and the private sector; and

(3) suggest actions to strengthen the scientific research supported by the Office that might be taken jointly by the Department and Congress.

**SEC. 2562. REPORT.**

Within 6 months after the date of the enactment of this Act, the Advisory Panel shall transmit its findings and recommendations in a report to the Director of the Office of Science and Technology Policy and the Secretary. The Director and the Secretary shall jointly—

(1) consider each of the Panel's findings and recommendations, and comment on each as they consider appropriate; and

(2) transmit the Panel's report and the comments of the Director and the Secretary on the report to the appropriate congressional committees within 9 months after the date of the enactment of this Act.

**Subtitle E—Department of Energy Authorization of Appropriations**

**SEC. 2581. AUTHORIZATION OF APPROPRIATIONS.**

(a) OPERATION AND MAINTENANCE.—Including the amounts authorized to be appropriated for fiscal year 2002 under section 2505 for Fusion Energy Sciences and under section 2522(b) for the Spallation Neutron Source, there are authorized to be appropriated to the Secretary for the Office of Science (also including subtitle C, High Energy Physics, Nuclear Physics, Biological and Environmental Research, Basic Energy Sciences (except for the Spallation Neutron Source), Advanced Scientific Computing Research, Energy Research Analysis, Multiprogram Energy Laboratories-Facilities Support, Facilities and Infrastructure, Safeguards and Security, and Program Direction) operation and maintenance $3,299,558,000 for fiscal year 2002, to remain available until expended.

(b) RESEARCH REGARDING PRECIOUS METAL CATALYSIS.—Within the amounts authorized to be appropriated to the Secretary under subsection (a), $5,000,000 for fiscal year 2002 may be used to carry out research in the use of precious metals (excluding platinum, palladium, and rhodium) in catalysis, either directly though national laboratories, or through the award of grants, cooperative agreements, or contracts with public or nonprofit entities.

(c) CONSTRUCTION.—In addition to the amounts authorized to be appropriated under section 2522(a) for construction of the Spallation Neutron Source, there are authorized to be appropriated to the Secretary for Science—

(1) $19,400,000 for fiscal year 2002, $14,800,000 for fiscal year 2003, and $8,900,000 for fiscal year 2004 for completion of constuction of Project 98–G–304, Neutrinos at the Main Injector, Fermi National Accelerator Laboratory;

(2) $11,405,000 for fiscal year 2002 for completion of construction of Project 01-E-300, Laboratory for Comparative and Functional Genomics, Oak Ridge National Laboratory;

(3) $4,000,000 for fiscal year 2002, $8,000,000 for fiscal year 2003, and $2,000,000 for fiscal year 2004 for completion of construction of Project 02-SC-002, Project Engineering Design (PED), Various Locations;

(4) $3,183,000 for fiscal year 2002 for completion of construction of Project 02-SC-002, Multiprogram Energy Laboratories Infrastructure Project Engineering Design (PED), Various Locations; and

(5) $18,633,000 for fiscal year 2002 and $13,029,000 for fiscal year 2003 for completion of construction of Project MEL-001, Multiprogram Energy Laboratories, Infrastructure, Various Locations.

(d) LIMITS ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (c) may be used for construction at any national security laboratory as defined in section 3281(1) of the National Defense Authorization Act for Fiscal Year 2000 (50

U.S.C. 2471(1)) or at any nuclear weapons production facility as defined in section 3281(2) of the National Defense Authorization Act for Fiscal Year 2000 (50 U.S.C. 2471(2)).

## TITLE VI—MISCELLANEOUS

### Subtitle A—General Provisions for the Department of Energy

**SEC. 2601. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION OF ENERGY TECHNOLOGY PROGRAMS, PROJECTS, AND ACTIVITIES.**

(a) AUTHORIZED ACTIVITIES.—Except as otherwise provided in this division, research, development, demonstration, and commercial application programs, projects, and activities for which appropriations are authorized under this division may be carried out under the procedures of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other Act under which the Secretary is authorized to carry out such programs, projects, and activities, but only to the extent the Secretary is authorized to carry out such activities under each such Act.

(b) AUTHORIZED AGREEMENTS.—Except as otherwise provided in this division, in carrying out research, development, demonstration, and commercial application programs, projects, and activities for which appropriations are authorized under this division, the Secretary 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, and any other form of agreement available to the Secretary.

(c) DEFINITION.—For purposes of this section, the term ''joint venture'' has the meaning given that term under section 2 of the National Cooperative Research and Production Act of 1993 (15 U.S.C. 4301), except that such term may apply under this section to research, development, demonstration, and commercial application of energy technology joint ventures.

(d) PROTECTION OF INFORMATION.—Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(7)), relating to the protection of information, shall apply to research, development, demonstration, and commercial application of energy technology programs, projects, and activities for which appropriations are authorized under this division.

(e) INVENTIONS.—An invention conceived and developed by any person using funds provided through a grant under this division shall be considered a subject invention for the purposes of chapter 18 of title 35, United States Code (commonly referred to as the Bayh-Dole Act).

(f) OUTREACH.—The Secretary shall ensure that each program authorized by this division includes an outreach component to provide information, as appropriate, to manufacturers, consumers, engineers, architects, builders, energy service companies, universities, facility planners and managers, State and local governments, and other entities.

(g) GUIDELINES AND PROCEDURES.—The Secretary shall provide guidelines and procedures for the transition, where appropriate, of energy technologies from research through development and demonstration to commercial application of energy technology. Nothing in this section shall preclude the Secretary from—

(1) entering into a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grant, joint venture, or any other form of agreement available to the Secretary under this section that relates to research, development, demonstration, and commercial application of energy technology; or

(2) extending a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary that relates to research, development, and demonstration to cover commercial application of energy technology.

(h) APPLICATION OF SECTION.—This section shall not apply to any contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grant, joint venture, or any other form of agreement available to the Secretary that is in effect as of the date of the enactment of this Act.

**SEC. 2602. LIMITS ON USE OF FUNDS.**

(a) MANAGEMENT AND OPERATING CONTRACTS.—

(1) COMPETITIVE PROCEDURE REQUIREMENT.—None of the funds authorized to be appropriated to the Secretary by this division may be used to award a management and operating contract for a federally owned or operated nonmilitary energy laboratory of the Department unless such contract is awarded using competitive procedures or the Secretary grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver.

(2) CONGRESSIONAL NOTICE.—At least 2 months before a contract award, amendment, or modification for which the Secretary intends to grant such a waiver, the Secretary shall submit to the appropriate congressional committees a report notifying the committees of the waiver and setting forth the reasons for the waiver.

(b) PRODUCTION OR PROVISION OF ARTICLES OR SERVICES.—None of the funds authorized to be appropriated to the Secretary by this division may be used to produce or provide articles or services for the purpose of selling the articles or services to a person outside the Federal Government, unless the Secretary determines that comparable articles or services are not available from a commercial source in the United States.

(c) REQUESTS FOR PROPOSALS.—None of the funds authorized to be appropriated to the Secretary by this division may be used by the Department to prepare or initiate Requests for Proposals for a program if the program has not been authorized by Congress.

**SEC. 2603. COST SHARING.**

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this division, for research and development programs carried out under this division, the Secretary 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 subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this division, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this division to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this division.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary may include personnel, services, equipment, and other resources.

**SEC. 2604. LIMITATION ON DEMONSTRATION AND COMMERCIAL APPLICATION OF ENERGY TECHNOLOGY.**

Except as otherwise provided in this division, the Secretary shall provide funding for scientific or energy demonstration and commercial application of energy technology programs, projects, or activities only for technologies or processes that can be reasonably expected to yield new, measurable benefits to the cost, efficiency, or performance of the technology or process.

**SEC. 2605. REPROGRAMMING.**

(a) AUTHORITY.—The Secretary may use amounts appropriated under this division for a program, project, or activity other than the program, project, or activity for which such amounts were appropriated only if—

(1) the Secretary has transmitted to the appropriate congressional committees a report described in subsection (b) and a period of 30 days has elapsed after such committees receive the report;

(2) amounts used for the program, project, or activity do not exceed—

(A) 105 percent of the amount authorized for the program, project, or activity; or

(B) $250,000 more than the amount authorized for the program, project, or activity,

whichever is less; and

(3) the program, project, or activity has been presented to, or requested of, the Congress by the Secretary.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated by the Secretary pursuant to this division exceed the total amount authorized to be appropriated to the Secretary by this division.

(2) Funds appropriated to the Secretary pursuant to this division may not be used for an item for which Congress has declined to authorize funds.

### Subtitle B—Other Miscellaneous Provisions

**SEC. 2611. NOTICE OF REORGANIZATION.**

The Secretary shall provide notice to the appropriate congressional committees not later than 15 days before any reorganization of any environmental research or development, scientific or energy research, development, or demonstration, or commercial application of energy technology program, project, or activity of the Department.

**SEC. 2612. LIMITS ON GENERAL PLANT PROJECTS.**

If, at any time during the construction of a civilian environmental research and development, scientific or energy research, development, or demonstration, or commercial application of energy technology project of the Department for which no specific funding level is provided by law, the estimated cost (including any revision thereof) of the project exceeds $5,000,000, the Secretary may not continue such construction unless the Secretary has furnished a complete report to the appropriate congressional committees explaining the project and the reasons for the estimate or revision.

**SEC. 2613. LIMITS ON CONSTRUCTION PROJECTS.**

(a) LIMITATION.—Except as provided in subsection (b), construction on a civilian environmental research and development, scientific or energy research, development, or

demonstration, or commercial application of energy technology project of the Department for which funding has been specifically provided by law may not be started, and additional obligations may not be incurred in connection with the project above the authorized funding amount, whenever the current estimated cost of the construction project exceeds by more than 10 percent the higher of—

(1) the amount authorized for the project, if the entire project has been funded by the Congress; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(b) NOTICE.—An action described in subsection (a) may be taken if—

(1) the Secretary has submitted to the appropriate congressional committees a report on the proposed actions and the circumstances making such actions necessary; and

(2) a period of 30 days has elapsed after the date on which the report is received by the committees.

(c) EXCLUSION.—In the computation of the 30-day period described in subsection (b)(2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(d) EXCEPTION.—Subsections (a) and (b) shall not apply to any construction project that has a current estimated cost of less than $5,000,000.

**SEC. 2614. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.**

(a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a civilian environmental research and development, scientific or energy research, development, or demonstration, or commercial application of energy technology program, project, or activity of the Department, the Secretary shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $750,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds for a construction project, the total estimated cost of which is less than $5,000,000.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) The Secretary may carry out construction design (including architectural and engineering services) in connection with any proposed construction project that is in support of a civilian environmental research and development, scientific or energy research, development, and demonstration, or commercial application of energy technology program, project, or activity of the Department if the total estimated cost for such design does not exceed $250,000.

(2) If the total estimated cost for construction design in connection with any construction project described in paragraph (1) exceeds $250,000, funds for such design must be specifically authorized by law.

**SEC. 2615. NATIONAL ENERGY POLICY DEVELOPMENT GROUP MANDATED REPORTS.**

(a) THE SECRETARY'S REVIEW OF ENERGY EFFICIENCY RENEWABLE ENERGY, AND ALTERNATIVE ENERGY RESEARCH AND DEVELOPMENT.—Upon completion of the Secretary's review of current funding and historic performance of the Department's energy efficiency, renewable energy, and alternative energy research and development programs in response to the recommendations of the May 16, 2001, Report of the National Energy Policy Development Group, the Secretary shall transmit a report containing the results of such review to the appropriate congressional committees.

(b) REVIEW AND RECOMMENDATIONS ON USING THE NATION'S ENERGY RESOURCES MORE EFFICIENTLY.—Upon completion of the Office of Science and Technology Policy and the President's Council of Advisors on Science and Technology reviewing and making recommendations on using the Nation's energy resources more efficiently, in response to the recommendation of the May 16, 2001, Report of the National Energy Policy Development Group, the Director of the Office of Science and Technology Policy shall transmit a report containing the results of such review and recommendations to the appropriate congressional committees.

**SEC. 2616. PERIODIC REVIEWS AND ASSESSMENTS.**

The Secretary shall enter into appropriate arrangements with the National Academies of Sciences and Engineering to ensure that there be periodic reviews and assessments of the programs authorized by this division, as well as the measurable cost and performance-based goals for such programs as established under section 2004, and the progress on meeting such goals. Such reviews and assessments shall be conducted at least every 5 years, or more often as the Secretary considers necessary, and the Secretary shall transmit to the appropriate congressional committees reports containing the results of such reviews and assessments.

## DIVISION D

**SEC. 4101. CAPACITY BUILDING FOR ENERGY-EFFICIENT, AFFORDABLE HOUSING.**

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: ", including capabilities regarding the provision of energy efficient, affordable housing and residential energy conservation measures"; and

(2) in paragraph (2), by inserting before the semicolon the following: ", including such activities relating to the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families".

**SEC. 4102. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.**

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by inserting "or efficiency" after "energy conservation";

(2) by striking ", and except that" and inserting "; except that"; and

(3) by inserting before the period at the end the following: "; and except that each percentage limitation under this paragraph on the amount of assistance provided under this title that may be used for the provision of public services is hereby increased by 10 percent, but such percentage increase may be used only for the provision of public services concerning energy conservation or efficiency".

**SEC. 4103. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.**

(a) SINGLE FAMILY HOUSING MORTGAGE INSURANCE.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated paragraph beginning after subparagraph (B)(iii) (relating to solar energy systems)—

(1) by inserting "or paragraph (10)"; and

(2) by striking "20 percent" and inserting "30 percent".

(b) MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(c) of the National Housing Act (12 U.S.C. 1713(c)) is amended, in the second undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking "20 percent" and inserting "30 percent".

(c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 213(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking "20 per centum" and inserting "30 percent".

(d) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE INSURANCE.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended by striking "20 per centum" and inserting "30 percent".

(e) LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 221(k) of the National Housing Act (12 U.S.C. 1715l(k)) is amended by striking "20 per centum" and inserting "30 percent".

(f) ELDERLY HOUSING MORTGAGE INSURANCE.—The proviso at the end of section 213(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended by striking "20 per centum" and inserting "30 percent".

(g) CONDOMINIUM HOUSING MORTGAGE INSURANCE.—Section 234(j) of the National Housing Act (12 U.S.C. 1715y(j)) is amended by striking "20 per centum" and inserting "30 percent".

**SEC. 4104. PUBLIC HOUSING CAPITAL FUND.**

Section 9(d)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d)(1)) is amended—

(1) in subparagraph (I), by striking "and" at the end;

(2) in subparagraph (K), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(L) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate.".

**SEC. 4105. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.**

Section 251(b)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(1)) is amended—

(1) by striking "financed with loans" and inserting "assisted";

(2) by inserting after "1959," the following: "which are eligible multifamily housing projects (as such term is defined in section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)) and are subject to a mortgage restructuring and rental assistance sufficiency plans under such Act,"; and

(3) by inserting after the period at the end of the first sentence the following new sentence: "Such improvements may also include the installation of energy and water conserving fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2-1998 and A112.18.1-2000, or any revision thereto, applicable at the time of installation.".

**SEC. 4106. NORTH AMERICAN DEVELOPMENT BANK.**

Part 2 of subtitle D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 290m–290m-3) is amended by adding at the end the following:

**"SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.**

''Consistent with the focus of the Bank's Charter on environmental infrastructure projects, the Board members representing the United States should use their voice and vote to encourage the Bank to finance projects related to clean and efficient energy, including energy conservation, that prevent, control, or reduce environmental pollutants or contaminants.''.

**DIVISION E**

**SEC. 5000. SHORT TITLE.**

This division may be cited as the ''Clean Coal Power Initiative Act of 2001''.

**SEC. 5001. FINDINGS.**

Congress finds that—

(1) reliable, affordable, increasingly clean electricity will continue to power the growing United States economy;

(2) an increasing use of electrotechnologies, the desire for continuous environmental improvement, a more competitive electricity market, and concerns about rising energy prices add importance to the need for reliable, affordable, increasingly clean electricity;

(3) coal, which, as of the date of the enactment of this Act, accounts for more than ½ of all electricity generated in the United States, is the most abundant fossil energy resource of the United States;

(4) coal comprises more than 85 percent of all fossil resources in the United States and exists in quantities sufficient to supply the United States for 250 years at current usage rates;

(5) investments in electricity generating facility emissions control technology over the past 30 years have reduced the aggregate emissions of pollutants from coal-based generating facilities by 21 percent, even as coal use for electricity generation has nearly tripled;

(6) continuous improvement in efficiency and environmental performance from electricity generating facilities would allow continued use of coal and preserve less abundant energy resources for other energy uses;

(7) new ways to convert coal into electricity can effectively eliminate health-threatening emissions and improve efficiency by as much as 50 percent, but initial deployment of new coal generation methods and equipment entails significant risk that generators may be unable to accept in a newly competitive electricity market; and

(8) continued environmental improvement in coal-based generation and increasing the production and supply of power generation facilities with less air emissions, with the ultimate goal of near-zero emissions, is important and desirable.

**SEC. 5002. DEFINITIONS.**

In this division:

(1) COST AND PERFORMANCE GOALS.—The term ''cost and performance goals'' means the cost and performance goals established under section 5004.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

**SEC. 5003. CLEAN COAL POWER INITIATIVE.**

(a) IN GENERAL.—The Secretary shall carry out a program under—

(1) this division;

(2) the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.);

(3) the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); and

(4) title XIII of the Energy Policy Act of 1992 (42 U.S.C. 13331 et seq.),

to achieve cost and performance goals established by the Secretary under section 5004.

**SEC. 5004. COST AND PERFORMANCE GOALS.**

(a) REVIEW AND ASSESSMENT.—The Secretary shall perform an assessment that establishes measurable cost and performance goals for 2005, 2010, 2015, and 2020 for the programs authorized by this division. Such assessment shall be based on the latest scientific, economic, and technical knowledge.

(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 advanced coal-based equipment;

(6) institutions of higher learning, national laboratories, and professional and technical societies;

(7) organizations representing workers;

(8) organizations formed to—

(A) promote the use of coal;

(B) further the goals of environmental protection; and

(C) promote the production and generation of coal-based power from advanced facilities; and

(9) other appropriate Federal and State agencies.

(c) TIMING.—The Secretary shall—

(1) not later than 120 days after the date of the enactment of this Act, issue a set of draft cost and performance goals for public comment; and

(2) not later than 180 days after the date of the enactment of this Act, after taking into consideration any public comments received, submit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, the final cost and performance goals.

**SEC. 5005. AUTHORIZATION OF APPROPRIATIONS.**

(a) CLEAN COAL POWER INITIATIVE.—Except as provided in subsection (b), there are authorized to be appropriated to the Secretary to carry out the Clean Coal Power Initiative under section 5003 $200,000,000 for each of the fiscal years 2002 through 2011, to remain available until expended.

(b) LIMIT ON USE OF FUNDS.—Notwithstanding subsection (a), no funds may be used to carry out the activities authorized by this Act after September 30, 2002, unless the Secretary has transmitted to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, the report required by this subsection and 1 month has elapsed since that transmission. The report shall include, with respect to subsection (a), a 10-year plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued;

(4) recommendations for a mechanism for recoupment of Federal funding for successful commercial projects; and

(5) a detailed description of how the program will avoid problems enumerated in General Accounting Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

(c) APPLICABILITY.—Subsection (b) shall not apply to any project begun before September 30, 2002.

**SEC. 5006. PROJECT CRITERIA.**

(a) IN GENERAL.—The Secretary shall not provide funding under this division for any project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in operation or have been demonstrated as of the date of the enactment of this Act.

(b) TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.—

(1) GASIFICATION.—(A) In allocating the funds authorized under section 5005(a), the Secretary shall ensure that at least 80 percent of the funds are used only for projects on coal-based gasification technologies, including gasification combined cycle, gasification fuel cells, gasification coproduction and hybrid gasification/combustion.

(B) The Secretary shall set technical milestones specifying emissions levels that coal gasification projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2020 coal gasification projects able—

(i) to remove 99 percent of sulfur dioxide;

(ii) to emit no more than .05 lbs of NOx per million BTU;

(iii) to achieve substantial reductions in mercury emissions; and

(iv) to achieve a thermal efficiency of 60 percent (higher heating value).

(2) OTHER PROJECTS.—For projects not described in paragraph (1), the Secretary shall set technical milestones specifying emissions levels that the projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2010 projects able—

(A) to remove 97 percent of sulfur dioxide;

(B) to emit no more than .08 lbs of NOx per million BTU;

(C) to achieve substantial reductions in mercury emissions; and

(D) to achieve a thermal efficiency of 45 percent (higher heating value).

(c) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under this division unless the recipient has documented to the satisfaction of the Secretary that—

(1) the award recipient is financially viable without the receipt of additional Federal funding;

(2) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that meet the requirements of subsections (a), (b), and (c) and are likely to—

(1) achieve 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; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities that use coal as the primary feedstock as of the date of the enactment of this Act.

(e) FEDERAL SHARE.—The Federal share of the cost of a coal or related technology project funded by the Secretary shall not exceed 50 percent.

(f) APPLICABILITY.—Neither the use of any particular technology, nor the achievement of any emission reduction, by any facility receiving assistance under this title shall be taken into account for purposes of making

any determination under the Clean Air Act in applying the provisions of that Act to a facility not receiving assistance under this title, including any determination concerning new source performance standards, lowest achievable emission rate, best available control technology, or any other standard, requirement, or limitation.

**SEC. 5007. STUDY.**

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and once every 2 years thereafter through 2016, the Secretary, in cooperation with other appropriate Federal agencies, shall transmit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, a report containing the results of a study to—

(1) identify efforts (and the costs and periods of time associated with those efforts) that, by themselves or in combination with other efforts, may be capable of achieving the cost and performance goals;

(2) develop recommendations for the Department of Energy to promote the efforts identified under paragraph (1); and

(3) develop recommendations for additional authorities required to achieve the cost and performance goals.

(b) EXPERT ADVICE.—In carrying out this section, the Secretary shall give due weight to the expert advice of representatives of the entities described in section 5004(b).

**SEC. 5008. CLEAN COAL CENTERS OF EXCELLENCE.**

As part of the program authorized in section 5003, the Secretary shall award competitive, merit-based grants to universities for the establishment of Centers of Excellence for Energy Systems of the Future. The Secretary shall provide grants to universities that can show the greatest potential for advancing new clean coal technologies.

## DIVISION F

**SEC. 6001. SHORT TITLE.**

This division may be cited as the ''Energy Security Act''.

## TITLE I—GENERAL PROTECTIONS FOR ENERGY SUPPLY AND SECURITY

**SEC. 6101. STUDY OF EXISTING RIGHTS-OF-WAY ON FEDERAL LANDS TO DETERMINE CAPABILITY TO SUPPORT NEW PIPELINES OR OTHER TRANSMISSION FACILITIES.**

(a) IN GENERAL.—Within 1 year after the date of the enactment of this Act, the head of each Federal agency that has authorized a right-of-way across Federal lands for transportation of energy supplies or transmission of electricity shall review each such right-of-way and submit a report to the Secretary of Energy and the Chairman of the Federal Energy Regulatory Commission regarding—

(1) whether the right-of-way can be used to support new or additional capacity; and

(2) what modifications or other changes, if any, would be necessary to accommodate such additional capacity.

(b) CONSULTATIONS AND CONSIDERATIONS.—In performing the review, the head of each agency shall—

(1) consult with agencies of State, tribal, or local units of government as appropriate; and

(2) consider whether safety or other concerns related to current uses might preclude the availability of a right-of-way for additional or new transportation or transmission facilities, and set forth those considerations in the report.

**SEC. 6102. INVENTORY OF ENERGY PRODUCTION POTENTIAL OF ALL FEDERAL PUBLIC LANDS.**

(a) INVENTORY REQUIREMENT.—The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall conduct an inventory of the energy production potential of all Federal public lands other than national park lands and lands in any wilderness area, with respect to wind, solar, coal, and geothermal power production.

(b) LIMITATIONS.—

(1) IN GENERAL.—The Secretary shall not include in the inventory under this section the matters to be identified in the inventory under section 604 of the Energy Act of 2000 (43 U.S.C. 6217).

(2) WIND AND SOLAR POWER.—The inventory under this section—

(A) with respect to wind power production shall be limited to sites having a mean average wind speed—

(i) exceeding 12.5 miles per hour at a height of 33 feet; and

(ii) exceeding 15.7 miles per hour at a height of 164 feet; and

(B) with respect to solar power production shall be limited to areas rated as receiving 450 watts per square meter or greater.

(c) EXAMINATION OF RESTRICTIONS AND IMPEDIMENTS.—The inventory shall identify the extent and nature of any restrictions or impediments to the development of such energy production potential.

(d) GEOTHERMAL POWER.—The inventory shall include an update of the 1978 Assessment of Geothermal Resources by the United States Geological Survey.

(e) COMPLETION AND UPDATING.—The Secretary—

(1) shall complete the inventory by not later than 2 years after the date of the enactment of this Act; and

(2) shall update the inventory regularly thereafter.

(f) REPORTS.—The Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and make publicly available—

(1) a report containing the inventory under this section, by not later than 2 years after the effective date of this section; and

(2) each update of such inventory.

**SEC. 6103. REVIEW OF REGULATIONS TO ELIMINATE BARRIERS TO EMERGING ENERGY TECHNOLOGY.**

(a) IN GENERAL.—Each Federal agency shall carry out a review of its regulations and standards to determine those that act as a barrier to market entry for emerging energy-efficient technologies, including fuel cells, combined heat and power, and distributed generation (including small-scale renewable energy).

(b) REPORT TO CONGRESS.—No later than 18 months after date of the enactment of this Act, each agency shall provide a report to the Congress and the President detailing all regulatory barriers to emerging energy-efficient technologies, along with actions the agency intends to take, or has taken, to remove such barriers.

(c) PERIODIC REVIEW.—Each agency shall subsequently review its regulations and standards in this manner no less frequently than every 5 years, and report their findings to the Congress and the President. Such reviews shall include a detailed analysis of all agency actions taken to remove existing barriers to emerging energy technologies.

**SEC. 6104. INTERAGENCY AGREEMENT ON ENVIRONMENTAL REVIEW OF INTERSTATE NATURAL GAS PIPELINE PROJECTS.**

(a) IN GENERAL.—The Secretary of Energy, in coordination with the Federal Energy Regulatory Commission, shall establish an administrative interagency task force to develop an interagency agreement to expedite and facilitate the environmental review and permitting of interstate natural gas pipeline projects.

(b) TASK FORCE MEMBERS.—The task force shall include a representative of each of the Bureau of Land Management, the United States Fish and Wildlife Service, the Army Corps of Engineers, the Forest Service, the Environmental Protection Agency, the Advisory Council on Historic Preservation, and such other agencies as the Secretary of Energy and the Federal Energy Regulatory Commission consider appropriate.

(c) TERMS OF AGREEMENT.—The interagency agreement shall require that agencies complete their review of interstate pipeline projects within a specific period of time after referral of the matter by the Federal Energy Regulatory Commission.

(d) SUBMITTAL OF AGREEMENT.—The Secretary of Energy shall submit a final interagency agreement under this section to the Congress by not later than 6 months after the effective date of this section.

**SEC. 6105. ENHANCING ENERGY EFFICIENCY IN MANAGEMENT OF FEDERAL LANDS.**

(a) SENSE OF THE CONGRESS.—It is the sense of Congress that Federal land managing agencies should enhance the use of energy efficient technologies in the management of natural resources.

(b) ENERGY EFFICIENT BUILDINGS.—To the extent economically practicable, the Secretary of the Interior and the Secretary of Agriculture shall seek to incorporate energy efficient technologies in public and administrative buildings associated with management of the National Park System, National Wildlife Refuge System, National Forest System, and other public lands and resources managed by such Secretaries.

(c) ENERGY EFFICIENT VEHICLES.—To the extent economically practicable, the Secretary of the Interior and the Secretary of Agriculture shall seek to use energy efficient motor vehicles, including vehicles equipped with biodiesel or hybrid engine technologies, in the management of the National Park System, National Wildlife Refuge System, and other public lands and managed by the Secretaries.

**SEC. 6106. EFFICIENT INFRASTRUCTURE DEVELOPMENT.**

(a) IN GENERAL.—The Secretary of Energy and the Chairman of the Federal Energy Regulatory Commission shall jointly undertake a study of the location and extent of anticipated demand growth for natural gas consumption in the Western States, herein defined as the area covered by the Western System Coordinating Council.

(b) CONTENTS.—The study under subsection (a) shall include the following:

(1) A review of natural gas demand forecasts by Western State officials, such as the California Energy Commission and the California Public Utilities Commission, which indicate the forecasted levels of demand for natural gas and the geographic distribution of that forecasted demand.

(2) A review of the locations of proposed new natural gas-fired electric generation facilities currently in the approval process in the Western States, and their forecasted impact on natural gas demand.

(3) A review of the locations of existing interstate natural gas transmission pipelines, and interstate natural gas pipelines currently in the planning stage or approval process, throughout the Western States.

(4) A review of the locations and capacity of intrastate natural gas pipelines in the Western States.

(5) Recommendations for the coordination of the development of the natural gas infrastructure indicated in paragraphs (1) through (4).

(c) REPORT.—The Secretary shall report the findings and recommendations resulting from the study required by this section to

the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate no later than 6 months after the date of the enactment of this Act. The Chairman of the Federal Energy Regulatory Commission shall report on how the Commission will factor these results into its review of applications of interstate pipelines within the Western States to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate no later than 6 months after the date of the enactment of this Act.

## TITLE II—OIL AND GAS DEVELOPMENT

### Subtitle A—Offshore Oil and Gas

**SEC. 6201. SHORT TITLE.**

This subtitle may be referred to as the ''Royalty Relief Extension Act of 2001''.

**SEC. 6202. LEASE SALES IN WESTERN AND CENTRAL PLANNING AREA OF THE GULF OF MEXICO.**

(a) IN GENERAL.—For all tracts located in water depths of greater than 200 meters in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any oil or gas lease sale under the Outer Continental Shelf Lands Act occurring within 2 years after the date of the enactment of this Act shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (30 U.S.C. 1337(a)(1)(H)), except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 5 million barrels of oil equivalent for each lease in water depths of 400 to 800 meters.

(2) 9 million barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters.

(3) 12 million barrels of oil equivalent for each lease in water depths greater than 1,600 meters.

(b) RELATIONSHIP TO EXISTING AUTHORITY.—Except as expressly provided in this section, nothing in this section is intended to limit the authority of the Secretary of the Interior under the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) to provide royalty suspension.

**SEC. 6203. SAVINGS CLAUSE.**

Nothing in this subtitle shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.

**SEC. 6204. ANALYSIS OF GULF OF MEXICO FIELD SIZE DISTRIBUTION, INTERNATIONAL COMPETITIVENESS, AND INCENTIVES FOR DEVELOPMENT.**

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Energy shall enter into appropriate arrangements with the National Academy of Sciences to commission the Academy to perform the following:

(1) Conduct an analysis and review of existing Gulf of Mexico oil and natural gas resource assessments, including—

(A) analysis and review of assessments recently performed by the Minerals Management Service, the 1999 National Petroleum Council Gas Study, the Department of Energy's Offshore Marginal Property Study, and the Advanced Resources International, Inc. Deepwater Gulf of Mexico model; and

(B) evaluation and comparison of the accuracy of assumptions of the existing assessments with respect to resource field size distribution, hydrocarbon potential, and scenarios for leasing, exploration, and development.

(2) Evaluate the lease terms and conditions offered by the Minerals Management Service for Lease Sale 178, and compare the financial incentives offered by such terms and conditions to financial incentives offered by the terms and conditions that apply under leases for other offshore areas that are competing for the same limited offshore oil and gas exploration and development capital, including offshore areas of West Africa and Brazil.

(3) Recommend what level of incentives for all water depths are appropriate in order to ensure that the United States optimizes the domestic supply of oil and natural gas from the offshore areas of the Gulf of Mexico that are not subject to current leasing moratoria. Recommendations under this paragraph should be made in the context of the importance of the oil and natural gas resources of the Gulf of Mexico to the future energy and economic needs of the United States.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Committee on Resources in the House of Representatives and the Committee on Energy and Natural Resources in the Senate, summarizing the findings of the National Academy of Sciences pursuant to subsection (a) and providing recommendations of the Secretary for new policies or other actions that could help to further increase oil and natural gas production from the Gulf of Mexico.

### Subtitle B—Improvements to Federal Oil and Gas Management

**SEC. 6221. SHORT TITLE.**

This subtitle may be cited as the ''Federal Oil and Gas Lease Management Improvement Demonstration Program Act of 2001''.

**SEC. 6222. STUDY OF IMPEDIMENTS TO EFFICIENT LEASE OPERATIONS.**

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Agriculture shall jointly undertake a study of the impediments to efficient oil and gas leasing and operations on Federal onshore lands in order to identify means by which unnecessary impediments to the expeditious exploration and production of oil and natural gas on such lands can be removed.

(b) CONTENTS.—The study under subsection (a) shall include the following:

(1) A review of the process by which Federal land managers accept or reject an offer to lease, including the timeframes in which such offers are acted upon, the reasons for any delays in acting upon such offers, and any recommendations for expediting the response to such offers.

(2) A review of the approval process for applications for permits to drill, including the timeframes in which such applications are approved, the impact of compliance with other Federal laws on such timeframes, any other reasons for delays in making such approvals, and any recommendations for expediting such approvals.

(3) A review of the approval process for surface use plans of operation, including the timeframes in which such applications are approved, the impact of compliance with other Federal laws on such timeframes, any other reasons for delays in making such approvals, and any recommendations for expediting such approvals.

(4) A review of the process for administrative appeal of decisions or orders of officers or employees of the Bureau of Land Management with respect to a Federal oil or gas lease, including the timeframes in which such appeals are heard and decided, any reasons for delays in hearing or deciding such appeals, and any recommendations for expediting the appeals process.

(c) REPORT.—The Secretaries shall report the findings and recommendations resulting from the study required by this section to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate no later than 6 months after the date of the enactment of this Act.

**SEC. 6223. ELIMINATION OF UNWARRANTED DENIALS AND STAYS.**

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

(b) PREPARATION OF LEASING PLAN OR ANALYSIS.—In preparing a management plan or leasing analysis for oil or natural gas leasing on Federal lands administered by the Bureau of Land Management or the Forest Service, the Secretary concerned shall—

(1) identify and review the restrictions on surface use and operations imposed under the laws (including regulations) of the State in which the lands are located;

(2) consult with the appropriate State agency regarding the reasons for the State restrictions identified under paragraph (1);

(3) identify any differences between the State restrictions identified under paragraph (1) and any restrictions on surface use and operations that would apply under the lease; and

(4) prepare and provide upon request a written explanation of such differences.

(c) REJECTION OF OFFER TO LEASE.—

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

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

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

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

(e) PRESERVATION OF FEDERAL AUTHORITY.—Nothing in this section or in any identification, review, or explanation prepared under this section shall be construed—

(1) to limit the authority of the Federal Government to impose lease stipulations, restrictions, requirements, or other terms that are different than those that apply under State law; or

(2) to affect the procedures that apply to judicial review of actions taken under this subsection.

**SEC. 6224. LIMITATION ON COST RECOVERY FOR APPLICATIONS.**

Notwithstanding sections 304 and 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734, 1764) and section 9701 of title 31, United States Code, the Secretary shall not recover the Secretary's costs with

respect to applications and other documents relating to oil and gas leases.

**SEC. 6225. CONSULTATION WITH SECRETARY OF AGRICULTURE.**

Section 17(h) of the Mineral Leasing Act (30 U.S.C. 226(h)) is amended to read as follows:

''(h)(1) In issuing any lease on National Forest System lands reserved from the public domain, the Secretary of the Interior shall consult with the Secretary of Agriculture in determining stipulations on surface use under the lease.

''(2)(A) A lease on lands referred to in paragraph (1) may not be issued if the Secretary of Agriculture determines, after consultation under paragraph (1) and consultation with the Regional Forester having administrative jurisdiction over the National Forest System Lands concerned, that the terms and conditions of the lease, including any prohibition on surface occupancy for lease operations, will not be sufficient to adequately protect such lands under the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

''(B) The authority of the Secretary of Agriculture under this paragraph may be delegated only to the Undersecretary of Agriculture for Natural Resources and Environment.

''(3) The Secretary of Agriculture shall include in the record of decision for a determination under paragraph (2)(A)—

''(A) any written statement regarding the determination that is prepared by a Regional Forester consulted by the Secretary under paragraph (2)(A) regarding the determination; or

''(B) an explanation why such a statement by the Regional Forester is not included.

**Subtitle C—Miscellaneous**

**SEC. 6231. OFFSHORE SUBSALT DEVELOPMENT.**

Section 5 of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1334) is amended by adding at the end the following:

''(k) SUSPENSION OF OPERATIONS FOR SUBSALT EXPLORATION.—Notwithstanding any other provision of law or regulation, to prevent waste caused by the drilling of unnecessary wells and to facilitate the discovery of additional hydrocarbon reserves, the Secretary may grant a request for a suspension of operations under any lease to allow the reprocessing and reinterpretation of geophysical data to identify and define drilling objectives beneath allocthonus salt sheets.''.

**SEC. 6232. PROGRAM ON OIL AND GAS ROYALTIES IN KIND.**

(a) APPLICABILITY OF SECTION.—Notwithstanding any other provision of law, the provisions of this section shall apply to all royalty in kind accepted by the Secretary of the Interior under any Federal oil or gas lease or permit under section 36 of the Mineral Leasing Act (30 U.S.C. 192), section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353), or any other mineral leasing law, in the period beginning on the date of the enactment of this Act through September 30, 2006.

(b) TERMS AND CONDITIONS.—All royalty accruing to the United States under any Federal oil or gas lease or permit under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) shall, on the demand of the Secretary of the Interior, be paid in oil or gas. If the Secretary of the Interior makes such a demand, the following provisions apply to such payment:

(1) Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies the lessee's royalty obligation for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(3) The Secretary of the Interior may—

(A) sell or otherwise dispose of any royalty oil or gas taken in kind (other than oil or gas taken under section 27(a)(3) of the Outer Continental Shlef Lands Act (43 U.S.C. 1353(a)(3)) for not less than the market price; and

(B) transport or process any oil or gas royalty taken in kind.

(4) The Secretary of the Interior may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas royalties taken in kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use royalty production, to pay the cost of—

(A) transporting the oil or gas,

(B) processing the gas, or

(C) disposing of the oil or gas.

(5) The Secretary may not use revenues from the sale of oil and gas royalties taken in kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(c) REIMBURSEMENT OF COST.—If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary of the Interior shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) at the discretion of the Secretary of the Interior, allow the lessee to deduct such transportation or processing costs in reporting and paying royalties in value for other Federal oil and gas leases.

(d) BENEFIT TO THE UNITED STATES REQUIRED.—The Secretary may receive oil or gas royalties in kind only if the Secretary determines that receiving such royalties provides benefits to the United States greater than or equal to those that would be realized under a comparable royalty in value program.

(e) REPORT TO CONGRESS.—For each of the fiscal years 2002 through 2006 in which the United States takes oil or gas royalties in kind from production in any State or from the Outer Continental Shelf, excluding royalties taken in kind and sold to refineries under subsection (h), the Secretary of the Interior shall provide a report to the Congress describing—

(1) the methodology or methodologies used by the Secretary to determine compliance with subsection (d), including performance standards for comparing amounts received by the United States derived from such royalties in kind to amounts likely to have been received had royalties been taken in value;

(2) an explanation of the evaluation that led the Secretary to take royalties in kind from a lease or group of leases, including the expected revenue effect of taking royalties in kind;

(3) actual amounts received by the United States derived from taking royalties in kind, and costs and savings incurred by the United States associated with taking royalties in kind; and

(4) an evaluation of other relevant public benefits or detriments associated with taking royalties in kind.

(f) DEDUCTION OF EXPENSES.—

(1) IN GENERAL.—Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (30 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in kind from a lease, the Secretary of the Interior shall deduct amounts paid or deducted under subsections (b)(4) and (c), and shall deposit such amounts to miscellaneous receipts.

(2) ACCOUNTING FOR DEDUCTIONS.—If the Secretary of the Interior allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) CONSULTATION WITH STATES.—The Secretary of the Interior—

(1) shall consult with a State before conducting a royalty in kind program under this title within the State, and may delegate management of any portion of the Federal royalty in kind program to such State except as otherwise prohibited by Federal law; and

(2) shall consult annually with any State from which Federal oil or gas royalty is being taken in kind to ensure to the maximum extent practicable that the royalty in kind program provides revenues to the State greater than or equal to those which would be realized under a comparable royalty in value program.

(h) PROVISIONS FOR SMALL REFINERIES.—

(1) PREFERENCE.—If the Secretary of the Interior determines that sufficient supplies of crude oil are not available in the open market to refineries not having their own source of supply for crude oil, the Secretary may grant preference to such refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in such refineries at private sale at not less than the market price.

(2) PRORATION AMONG REFINERIES IN PRODUCTION AREA.—In disposing of oil under this subsection, the Secretary of the Interior may, at the discretion of the Secretary, prorate such oil among such refineries in the area in which the oil is produced.

(i) DISPOSITION TO FEDERAL AGENCIES.—

(1) ONSHORE ROYALTY.—Any royalty oil or gas taken by the Secretary in kind from onshore oil and gas leases may be sold at not less than the market price to any department or agency of the United States.

(2) OFFSHORE ROYALTY.—Any royalty oil or gas taken in kind from Federal oil and gas leases on the Outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) PREFERENCE FOR FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.—In disposing of royalty oil or gas taken in kind under this section, the Secretary may grant a preference to any person, including any State or Federal agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

**SEC. 6233. MARGINAL WELL PRODUCTION INCENTIVES.**

To enhance the economics of marginal oil and gas production by increasing the ultimate recovery from marginal wells when the cash price of West Texas Intermediate crude oil, as posted on the Dow Jones Commodities Index chart, is less than $15 per barrel for 180 consecutive pricing days or when the price of natural gas delivered at Henry Hub, Louisiana, is less than $2.00 per million British thermal units for 180 consecutive days, the Secretary shall reduce the royalty rate as production declines for—

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

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

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

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

**SEC. 6234. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.**

(a) IN GENERAL.—The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended by inserting after section 37 the following:

''REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES

''SEC. 38. (a) IN GENERAL.—The Secretary of the Interior may, through royalty credits, reimburse a person who is a lessee, operator, operating rights owner, or applicant for an oil or gas lease under this Act for amounts paid by the person for preparation by the Secretary (or a contractor or other person selected by the Secretary) of any project-level analysis, documentation, or related study required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

''(b) CONDITIONS.—The Secretary may provide reimbursement under subsection (b) only if—

''(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

''(2) the person paid the costs voluntarily; and

''(3) the person maintains records of its costs in accordance with regulations prescribed by the Secretary.''.

(b) APPLICATION.—The amendments made by this section shall apply with respect to any lease entered into before, on, or after the date of the enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Secretary shall issue regulations implementing the amendments made by this section by not later than 90 days after the date of the enactment of this Act.

**SEC. 6235. ENCOURAGEMENT OF STATE AND PROVINCIAL PROHIBITIONS ON OFF-SHORE DRILLING IN THE GREAT LAKES.**

(a) FINDINGS.—The Congress finds the following:

(1) The water resources of the Great Lakes Basin are precious public natural resources, shared and held in trust by the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin, and the Canadian Province of Ontario.

(2) The environmental dangers associated with off-shore drilling in the Great Lakes for oil and gas outweigh the potential benefits of such drilling.

(3) In accordance with the Submerged Lands Act (43 U.S.C. 1301 et seq.), each State that borders any of the Great Lakes has authority over the area between that State's coastline and the boundary of Canada or another State.

(4) The States of Illinois, Michigan, New York, Pennsylvania, and Wisconsin each have a statutory prohibition of off-shore drilling in the Great Lakes for oil and gas.

(5) The States of Indiana, Minnesota, and Ohio do not have such a prohibition.

(6) The Canadian Province of Ontario does not have such a prohibition, and drilling for and production of gas occurs in the Canadian portion of Lake Erie.

(b) ENCOURAGEMENT OF STATE AND PROVINCIAL PROHIBITIONS.—The Congress encourages—

(1) the States of Illinois, Michigan, New York, Pennsylvania, and Wisconsin to continue to prohibit off-shore drilling in the Great Lakes for oil and gas;

(2) the States of Indiana, Minnesota, and Ohio and the Canadian Province of Ontario to enact a prohibition of such drilling; and

(3) the Canadian Province of Ontario to require the cessation of any such drilling and any production resulting from such drilling.

## TITLE III—GEOTHERMAL ENERGY DEVELOPMENT

**SEC. 6301. ROYALTY REDUCTION AND RELIEF.**

(a) ROYALTY REDUCTION.—Section 5(a) of the Geothermal Steam Act of 1970 (30 U.S.C. 1004(a)) is amended by striking ''not less than 10 per centum or more than 15 per centum'' and inserting ''not more than 8 per centum''.

(b) ROYALTY RELIEF.—

(1) IN GENERAL.—Notwithstanding section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004(a)) and any provision of any lease under that Act, no royalty is required to be paid—

(A) under any qualified geothermal energy lease with respect to commercial production of heat or energy from a facility that begins such production in the 5-year period beginning on the date of the enactment of this Act; or

(B) on qualified expansion geothermal energy.

(2) 3-YEAR APPLICATION.—Paragraph (1) applies only to commercial production of heat or energy from a facility in the first 3 years of such production.

(c) DEFINITIONS.—In this section:

(1) QUALIFIED EXPANSION GEOTHERMAL ENERGY.—The term ''qualified expansion geothermal energy''—

(A) subject to subparagraph (B), means geothermal energy produced from a generation facility for which the rated capacity is increased by more than 10 percent as a result of expansion of the facility carried out in the 5-year period beginning on the date of the enactment of this Act; and

(B) does not include the rated capacity of the generation facility on the date of the enactment of this Act.

(2) QUALIFIED GEOTHERMAL ENERGY LEASE.—The term ''qualified geothermal energy lease'' means a lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.)—

(A) that was executed before the end of the 5-year period beginning on the date of the enactment of this Act; and

(B) under which no commercial production of any form of heat or energy occurred before the date of the enactment of this Act.

**SEC. 6302. EXEMPTION FROM ROYALTIES FOR DIRECT USE OF LOW TEMPERATURE GEOTHERMAL ENERGY RESOURCES.**

(a) IN GENERAL.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

(1) in paragraph (c) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B);

(2) by redesignating paragraphs (a) through (d) in order as paragraphs (1) through (4);

(3) by inserting ''(a) IN GENERAL.—'' after ''SEC. 5.''; and

(4) by adding at the end the following new subsection:

''(b) EXEMPTION FOR USE OF LOW TEMPERATURE RESOURCES.—

''(1) IN GENERAL.—In lieu of any royalty or rental under subsection (a), a lease for qualified development and direct utilization of low temperature geothermal resources shall provide for payment by the lessee of an annual fee of not less than $100, and not more than $1,000, in accordance with the schedule issued under paragraph (2).

''(2) SCHEDULE.—The Secretary shall issue a schedule of fees under this section under which a fee is based on the scale of development and utilization to which the fee applies.

''(3) DEFINITIONS.—In this subsection:

''(A) LOW TEMPERATURE GEOTHERMAL RESOURCES.—The term 'low temperature geothermal resources' means geothermal steam and associated geothermal resources having a temperature of less than 195 degrees Fahrenheit.

''(B) QUALIFIED DEVELOPMENT AND DIRECT UTILIZATION.—The term 'qualified development and direct utilization' means development and utilization in which all products of geothermal resources, other than any heat utilized, are returned to the geothermal formation from which they are produced.''.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on October 1, 2003.

**SEC. 6303. AMENDMENTS RELATING TO LEASING ON FOREST SERVICE LANDS.**

The Geothermal Steam Act of 1970 is amended—

(1) in section 15(b) (30 U.S.C. 1014(b))—

(A) by inserting ''(1)'' after ''(b)''; and

(B) in paragraph (1) (as designated by subparagraph (A) of this paragraph) in the first sentence—

(i) by striking ''with the consent of, and'' and inserting ''after consultation with the Secretary of Agriculture and''; and

(ii) by striking ''the head of that Department'' and inserting ''the Secretary of Agriculture''; and

(2) by adding at the end the following:

''(2)(A) A geothermal lease for lands withdrawn or acquired in aid of functions of the Department of Agriculture may not be issued if the Secretary of Agriculture, after the consultation required by paragraph (1) and consultation with any Regional Forester having administrative jurisdiction over the lands concerned, determines that no terms or conditions, including a prohibition on surface occupancy for lease operations, would be sufficient to adequately protect such lands under the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

''(B) The authority of the Secretary of Agriculture under this paragraph may be delegated only to the Undersecretary of Agriculture for Natural Resources and Environment.

''(3) The Secretary of Agriculture shall include in the record of decision for a determination under paragraph (2)(A)—

''(A) any written statement regarding the determination that is prepared by a Regional Forester consulted by the Secretary under paragraph (2)(A) regarding the determination; or

''(B) an explanation why such a statement by the Regional Forester is not included.

**SEC. 6304. DEADLINE FOR DETERMINATION ON PENDING NONCOMPETITIVE LEASE APPLICATIONS.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Interior shall, with respect to each application pending on the date of the enactment of this Act for a lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), issue a final determination of—

(1) whether or not to conduct a lease sale by competitive bidding; and

(2) whether or not to award a lease without competitive bidding.

**SEC. 6305. OPENING OF PUBLIC LANDS UNDER MILITARY JURISDICTION.**

(a) IN GENERAL.—Except as otherwise provided in the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other provisions of Federal law applicable to development of geothermal energy resources within public lands, all public lands under the jurisdiction of a Secretary of a military department shall be open to the operation of such laws and development and utilization of geothermal steam and associated geothermal resources, as that term is defined in section 2 of the Geothermal Steam Act of 1970 (30 U.S.C. 1001), without the necessity for further action by the Secretary or the Congress.

(b) CONFORMING AMENDMENT.—Section 2689 of title 10, United States Code, is amended by striking ''including public lands,'' and inserting ''other than public lands,''.

(c) TREATMENT OF EXISTING LEASES.—Upon the expiration of any lease in effect on the date of the enactment of this Act of public lands under the jurisdiction of a military department for the development of any geothermal resource, such lease may, at the option of the lessee—

(1) be treated as a lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), and be renewed in accordance with such Act; or

(2) be renewed in accordance with the terms of the lease, if such renewal is authorized by such terms.

(d) REGULATIONS.—The Secretary of the Interior, with the advice and concurrence of the Secretary of the military department concerned, shall prescribe such regulations to carry out this section as may be necessary. Such regulations shall contain guidelines to assist in determining how much, if any, of the surface of any lands opened pursuant to this section may be used for purposes incident to geothermal energy resources development and utilization.

(e) CLOSURE FOR PURPOSES OF NATIONAL DEFENSE OR SECURITY.—In the event of a national emergency or for purposes of national defense or security, the Secretary of the Interior, at the request of the Secretary of the military department concerned, shall close any lands that have been opened to geothermal energy resources leasing pursuant to this section.

**SEC. 6306. APPLICATION OF AMENDMENTS.**

The amendments made by this title apply with respect to any lease executed before, on, or after the date of the enactment of this Act.

**SEC. 6307. REVIEW AND REPORT TO CONGRESS.**

The Secretary of the Interior shall promptly review and report to the Congress regarding the status of all moratoria on and withdrawals from leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) of known geothermal resources areas (as that term is defined in section 2 of that Act (30 U.S.C. 1001), specifying for each such area whether the basis for such moratoria or withdrawal still applies.

**SEC. 6308. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.**

(a) IN GENERAL.—The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is amended by adding at the end the following:

''REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES

''SEC. 38. (a) IN GENERAL.—The Secretary of the Interior may, through royalty credits, reimburse a person who is a lessee, operator, operating rights owner, or applicant for a lease under this Act for amounts paid by the person for preparation by the Secretary (or a contractor or other person selected by the Secretary) of any project-level analysis, documentation, or related study required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

''(b) CONDITIONS.—The Secretary shall may provide reimbursement under subsection (a) only if—

''(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

''(2) the person paid the costs voluntarily; and

''(3) the person maintains records of its costs in accordance with regulations prescribed by the Secretary.''.

(b) APPLICATION.—The amendments made by this section shall apply with respect to any lease entered into before, on, or after the date of the enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Secretary shall issue regulations implementing the amendments made by this section by not later than 90 days after the date of the enactment of this Act.

## TITLE IV—HYDROPOWER

**SEC. 6401. STUDY AND REPORT ON INCREASING ELECTRIC POWER PRODUCTION CAPABILITY OF EXISTING FACILITIES.**

(a) IN GENERAL.—The Secretary of the Interior shall conduct a study of the potential for increasing electric power production capability at existing facilities under the administrative jurisdiction of the Secretary.

(b) CONTENT.—The study under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) REPORT.—The Secretary shall submit to the Congress a report on the findings, conclusions, and recommendations of the study under this section by not later than 12 months after the date of the enactment of this Act. The Secretary shall include in the report the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities the Secretary is currently conducting or considering, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of action that has already been taken by the Secretary to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners.

(7) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by performing generator uprates and rewinds.

(8) The impact of increased hydroelectric power production on irrigation, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(9) Any additional recommendations the Secretary considers advisable to increase hydroelectric power production from, and reduce costs and improve efficiency at, facilities under the jurisdiction of the Secretary.

**SEC. 6402. INSTALLATION OF POWERFORMER AT FOLSOM POWER PLANT, CALIFORNIA.**

(a) IN GENERAL.—The Secretary of the Interior may install a powerformer at the Bureau of Reclamation Folsom power plant in Folsom, California, to replace a generator and transformer that are due for replacement due to age.

(b) REIMBURSABLE COSTS.—Costs incurred by the United States for installation of a powerformer under this section shall be treated as reimbursable costs and shall bear interest at current long-term borrowing rates of the United States Treasury at the time of acquisition.

(c) LOCAL COST SHARING.—In addition to reimbursable costs under subsection (b), the Secretary shall seek contributions from power users toward the costs of the powerformer and its installation.

**SEC. 6403. STUDY AND IMPLEMENTATION OF INCREASED OPERATIONAL EFFICIENCIES IN HYDROELECTRIC POWER PROJECTS.**

(a) IN GENERAL.—The Secretary of Interior shall conduct a study of operational methods and water scheduling techniques at all hydroelectric power plants under the administrative jurisdiction of the Secretary that have an electric power production capacity greater than 50 megawatts, to—

(1) determine whether such power plants and associated river systems are operated so as to maximize energy and capacity capabilities; and

(2) identify measures that can be taken to improve operational flexibility at such plants to achieve such maximization.

(b) REPORT.—The Secretary shall submit a report on the findings, conclusions, and recommendations of the study under this section by not later than 18 months after the date of the enactment of this Act, including a summary of the determinations and identifications under paragraphs (1) and (2) of subsection (a).

(c) COOPERATION BY FEDERAL POWER MARKETING ADMINISTRATIONS.—The Secretary shall coordinate with the Administrator of each Federal power marketing administration in—

(1) determining how the value of electric power produced by each hydroelectric power facility that produces power marketed by the administration can be maximized; and

(2) implementing measures identified under subsection (a)(2).

(d) LIMITATION ON IMPLEMENTATION OF MEASURES.—Implementation under subsections (a)(2) and (b)(2) shall be limited to those measures that can be implemented within the constraints imposed on Department of the Interior facilities by other uses required by law.

**SEC. 6404. SHIFT OF PROJECT LOADS TO OFF-PEAK PERIODS.**

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) review electric power consumption by Bureau of Reclamation facilities for water pumping purposes; and

(2) make such adjustments in such pumping as possible to minimize the amount of electric power consumed for such pumping during periods of peak electric power consumption, including by performing as much of such pumping as possible during off-peak hours at night.

(b) CONSENT OF AFFECTED IRRIGATION CUSTOMERS REQUIRED.—The Secretary may not under this section make any adjustment in pumping at a facility without the consent of each person that has contracted with the United States for delivery of water from the facility for use for irrigation and that would be affected by such adjustment.

(c) EXISTING OBLIGATIONS NOT AFFECTED.—This section shall not be construed to affect any existing obligation of the Secretary to provide electric power, water, or other benefits from Bureau of Reclamation facilities.

## TITLE V—ARCTIC COASTAL PLAIN DOMESTIC ENERGY

**SEC. 6501. SHORT TITLE.**

This title may be cited as the ''Arctic Coastal Plain Domestic Energy Security Act of 2001''.

**SEC. 6502. DEFINITIONS.**

In this title:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as such in the map entitled ''Arctic National Wildlife Refuge'', dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)), comprising approximately 1,549,000 acres.

(2) SECRETARY.—The term ''Secretary'', except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

**SEC. 6503. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.**

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement in accordance with this title a competitive oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.) that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966, the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this title shall be completed within 18 months after the date of the enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

(e) SPECIAL AREAS.—

(1) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map referred to in section 6502(1).

(2) MANAGEMENT.—Each such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) DIRECTIONAL DRILLING.—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases located outside the area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of the enactment of this Act.

(2) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

**SEC. 6504. LEASE SALES.**

(a) IN GENERAL.—Lands may be leased pursuant to this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this title shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—In the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) conduct the first lease sale under this title within 22 months after the date of the enactment of this title; and

(2) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

**SEC. 6505. GRANT OF LEASES BY THE SECRETARY.**

(a) IN GENERAL.—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 6504 any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary.

(b) SUBSEQUENT TRANSFERS.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

**SEC. 6506. LEASE TERMS AND CONDITIONS.**

(a) IN GENERAL.—An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, and the environment as required pursuant to section 6503(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State;

(8) prohibit the export of oil produced under the lease; and

(9) contain such other provisions as the Secretary determines necessary to ensure

compliance with the provisions of this title and the regulations issued under this title.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this title and in recognizing the Government's proprietary interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

**SEC. 6507. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall, consistent with the requirements of section 6503, administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable provisions of Federal and State environmental law and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times, if—

(A) the Secretary determines, after affording an opportunity for public comment and review, that special circumstances exist necessitating that exploration activities be conducted at other times of the year; and

(B) the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or reduction of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC–ASRC private lands that are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) OBJECTIVES.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

**SEC. 6508. EXPEDITED JUDICIAL REVIEW.**

(a) FILING OF COMPLAINT.—

(1) DEADLINE.—Subject to paragraph (2), any complaint seeking judicial review of any provision of this title or any action of the Secretary under this title shall be filed in any appropriate district court of the United States—

(A) except as provided in subparagraph (B), within the 90-day period beginning on the date of the action being challenged; or

(B) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) VENUE.—Any complaint seeking judicial review of an action of the Secretary under this title may be filed only in the United States Court of Appeals for the District of Columbia.

(3) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this division and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this division shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) LIMITATION ON OTHER REVIEW.—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

**SEC. 6509. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

(a) EXEMPTION.—Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.) shall not apply to the issuance by the Secretary under section 28 of the Mineral Leasing Act (30 U.S.C. 185) of rights-of-way and easements across the Coastal Plain for the transportation of oil and gas.

(b) TERMS AND CONDITIONS.—The Secretary shall include in any right-of-way or easement referred to in subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) REGULATIONS.—The Secretary shall include in regulations under section 6503(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

**SEC. 6510. CONVEYANCE.**

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 2 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611); and

(2) to the Arctic Slope Regional Corporation the subsurface estate beneath such surface estate pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

**SEC. 6511. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.**

(a) FINANCIAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this title.

(2) ELIGIBLE ENTITIES.—The North Slope Borough, Kaktovik, and other boroughs, municipal subdivisions, villages, and any other community organized under Alaska State law shall be eligible for financial assistance under this section.

(b) USE OF ASSISTANCE.—Financial assistance under this section may be used only for—

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects; and

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including firefighting, police, water, waste treatment, medivac, and medical services.

(c) APPLICATION.—

(1) IN GENERAL.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) NORTH SLOPE BOROUGH COMMUNITIES.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

(3) APPLICATION ASSISTANCE.—The Secretary shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.

(d) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury the Coastal Plain Local Government Impact Aid Assistance Fund.

(2) USE.—Amounts in the fund may be used only for providing financial assistance under this section.

(3) DEPOSITS.—Subject to paragraph (4), there shall be deposited into the fund amounts received by the United States as revenues derived from rents, bonuses, and royalties under on leases and lease sales authorized under this title.

(4) LIMITATION ON DEPOSITS.—The total amount in the fund may not exceed $10,000,000.

(5) INVESTMENT OF BALANCES.—The Secretary of the Treasury shall invest amounts in the fund in interest bearing government securities.

(e) AUTHORIZATION OF APPROPRIATIONS.—To provide financial assistance under this section there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund $5,000,000 for each fiscal year.

**SEC. 6512. REVENUE ALLOCATION.**

(a) FEDERAL AND STATE DISTRIBUTION.—

(1) IN GENERAL.—Notwithstanding section 6504 of this Act, the Mineral Leasing Act (30 U.S.C. 181 et. seq.), or any other law, of the amount of adjusted bonus, rental, and royalty revenues from oil and gas leasing and operations authorized under this title—

(A) 50 percent shall be paid to the State of Alaska; and

(B) the balance shall be deposited into the Renewable Energy Technology Investment Fund and the Royalties Conservation Fund as provided in this section.

(2) ADJUSTMENTS.—Adjustments to bonus, rental, and royalty amounts from oil and gas leasing and operations authorized under this title shall be made as necessary for overpayments and refunds from lease revenues received in current or subsequent periods before distribution of such revenues pursuant to this section.

(3) TIMING OF PAYMENTS TO STATE.—Payments to the State of Alaska under this section shall be made semiannually.

(b) RENEWABLE ENERGY TECHNOLOGY INVESTMENT FUND.—

(1) ESTABLISHMENT AND AVAILABILITY.—There is hereby established in the Treasury of the United States a separate account which shall be known as the ''Renewable Energy Technology Investment Fund''.

(2) DEPOSITS.—Fifty percent of adjusted revenues from bonus payments for leases issued under this title shall be deposited into the Renewable Energy Technology Investment Fund.

(3) USE, GENERALLY.—Subject to paragraph (4), funds deposited into the Renewable Energy Technology Investment Fund shall be used by the Secretary of Energy to finance research grants, contracts, and cooperative agreements and expenses of direct research by Federal agencies, including the costs of administering and reporting on such a program of research, to improve and demonstrate technology and develop basic science information for development and use of renewable and alternative fuels including wind energy, solar energy, geothermal energy, and energy from biomass. Such research may include studies on deployment of such technology including research on how to lower the costs of introduction of such technology and of barriers to entry into the market of such technology.

(4) USE FOR ADJUSTMENTS AND REFUNDS.—If for any circumstances, adjustments or refunds of bonus amounts deposited pursuant to this title become warranted, 50 percent of the amount necessary for the sum of such adjustments and refunds may be paid by the Secretary from the Renewable Energy Technology Investment Fund.

(5) CONSULTATION AND COORDINATION.—Any specific use of the Renewable Energy Technology Investment Fund shall be determined only after the Secretary of Energy consults and coordinates with the heads of other appropriate Federal agencies.

(6) REPORTS.—Not later than 1 year after the date of the enactment of this Act and on an annual basis thereafter, the Secretary of Energy shall transmit to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the use of funds under this subsection and the impact of and efforts to integrate such uses with other energy research efforts.

(c) ROYALTIES CONSERVATION FUND.—

(1) ESTABLISHMENT AND AVAILABILITY.—There is hereby established in the Treasury of the United States a separate account which shall be known as the ''Royalties Conservation Fund''.

(2) DEPOSITS.—Fifty percent of revenues from rents and royalty payments for leases issued under this title shall be deposited into the Royalties Conservation Fund.

(3) USE, GENERALLY.—Subject to paragraph (4), funds deposited into the Royalties Conservation Fund—

(A) may be used by the Secretary of the Interior and the Secretary of Agriculture to finance grants, contracts, cooperative agreements, and expenses for direct activities of the Department of the Interior and the Forest Service to restore and otherwise conserve lands and habitat and to eliminate maintenance and improvements backlogs on Federal lands, including the costs of administering and reporting on such a program; and

(B) may be used by the Secretary of the Interior to finance grants, contracts, cooperative agreements, and expenses—

(i) to preserve historic Federal properties;

(ii) to assist States and Indian Tribes in preserving their historic properties;

(iii) to foster the development of urban parks; and

(iv) to conduct research to improve the effectiveness and lower the costs of habitat restoration.

(4) USE FOR ADJUSTMENTS AND REFUNDS.—If for any circumstances, refunds or adjustments of royalty and rental amounts deposited pursuant to this title become warranted, 50 percent of the amount necessary for the sum of such adjustments and refunds may be paid from the Royalties Conservation Fund.

(d) AVAILABILITY.—Moneys covered into the accounts established by this section—

(1) shall be available for expenditure only to the extent appropriated therefor;

(2) may be appropriated without fiscal-year limitation; and

(3) may be obligated or expended only as provided in this section.

## TITLE VI—CONSERVATION OF ENERGY BY THE DEPARTMENT OF THE INTERIOR

### SEC. 6601. ENERGY CONSERVATION BY THE DEPARTMENT OF THE INTERIOR.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) conduct a study to identify, evaluate, and recommend opportunities for conserving energy by reducing the amount of energy used by facilities of the Department of the Interior; and

(2) wherever feasible and appropriate, reduce the use of energy from traditional sources by encouraging use of alternative energy sources, including solar power and power from fuel cells, throughout such facilities and the public lands of the United States.

(b) REPORTS.—The Secretary shall submit to the Congress—

(1) by not later than 90 days after the date of the enactment of this Act, a report containing the findings, conclusions, and recommendations of the study under subsection (a)(1); and

(2) by not later than December 31 each year, an annual report describing progress made in—

(A) conserving energy through opportunities recommended in the report under paragraph (1); and

(B) encouraging use of alternative energy sources under subsection (a)(2).

### SEC. 6602. AMENDMENT TO BUY INDIAN ACT.

Section 23 of the Act of June 25, 1910 (25 U.S.C. 47; commonly known as the ''Buy Indian Act'') is amended by inserting ''energy products, and energy by-products,'' after ''printing,''.

## TITLE VII—COAL

### SEC. 6701. LIMITATION ON FEES WITH RESPECT TO COAL LEASE APPLICATIONS AND DOCUMENTS.

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

### SEC. 6702. MINING PLANS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following:

''(B) The Secretary may establish a period of more than 40 years if the Secretary determines that the longer period—

''(i) will ensure the maximum economic recovery of a coal deposit; or

''(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resources.''.

### SEC. 6703. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

(a) IN GENERAL.—Section 7(b) of the Mineral Leasing Act of 1920 (30 U.S.C. 207(b)) is amended to read as follows:

''(b)(1) Each lease shall be subjected to the condition of diligent development and continued operation of the mine or mines, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee.

''(2)(A) The Secretary of the Interior, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties.

''(B) Such advance royalties shall be computed based on the average price for coal sold in the spot market from the same region during the last month of each applicable continued operation year.

''(C) The aggregate number of years during the initial and any extended term of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20.

''(3) The amount of any production royalty paid for any year shall be reduced (but not below zero) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year.

''(4) This subsection shall be applicable to any lease or logical mining unit in existence on the date of the enactment of this paragraph or issued or approved after such date.

''(5) Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) relating to commencement of production at the end of 10 years.''.

(b) AUTHORITY TO WAIVE, SUSPEND, OR REDUCE ADVANCE ROYALTIES.—Section 39 of the Mineral Leasing Act (30 U.S.C. 209) is amended by striking the last sentence.

### SEC. 6704. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking ''and not later than three years after a lease is issued,''.

## TITLE VIII—INSULAR AREAS ENERGY SECURITY

### SEC. 6801. INSULAR AREAS ENERGY SECURITY.

Section 604 of the Act entitled ''An Act to authorize appropriations for certain insular areas of the United States, and for other purposes'', approved December 24, 1980 (Public Law 96–597; 94 Stat. 3480–3481), is amended—

(1) in subsection (a)(4) by striking the period and inserting a semicolon;

(2) by adding at the end of subsection (a) the following new paragraphs:

''(5) electric power transmission and distribution lines in insular areas are inadequate to withstand damage caused by the hurricanes and typhoons which frequently occur in insular areas and such damage often costs millions of dollars to repair; and

''(6) the refinement of renewable energy technologies since the publication of the 1982 Territorial Energy Assessment prepared pursuant to subsection (c) reveals the need to reassess the state of energy production, consumption, infrastructure, reliance on imported energy, and indigenous sources in regard to the insular areas.'';

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

''(e)(1) The Secretary of the Interior, in consultation with the Secretary of Energy and the chief executive officer of each insular area, shall update the plans required under subsection (c) by—

''(A) updating the contents required by subsection (c);

''(B) drafting long-term energy plans for such insular areas with the objective of reducing, to the extent feasible, their reliance on energy imports by the year 2010 and maximizing, to the extent feasible, use of indigenous energy sources; and

''(C) drafting long-term energy transmission line plans for such insular areas with the objective that the maximum percentage feasible of electric power transmission and distribution lines in each insular area be protected from damage caused by hurricanes and typhoons.

''(2) Not later than May 31, 2003, the Secretary of the Interior shall submit to Congress the updated plans for each insular area required by this subsection.''; and

(4) by amending subsection (g)(4) to read as follows:

''(4) POWER LINE GRANTS FOR TERRITORIES.—

''(A) IN GENERAL.—The Secretary of the Interior is authorized to make grants to governments of territories of the United States to carry out eligible projects to protect electric power transmission and distribution lines in such territories from damage caused by hurricanes and typhoons.

''(B) ELIGIBLE PROJECTS.—The Secretary may award grants under subparagraph (A) only to governments of territories of the United States that submit written project plans to the Secretary for projects that meet the following criteria:

''(i) The project is designed to protect electric power transmission and distribution lines located in one or more of the territories of the United States from damage caused by hurricanes and typhoons.

''(ii) The project is likely to substantially reduce the risk of future damage, hardship, loss, or suffering.

''(iii) The project addresses one or more problems that have been repetitive or that pose a significant risk to public health and safety.

''(iv) The project is not likely to cost more than the value of the reduction in direct damage and other negative impacts that the project is designed to prevent or mitigate. The cost benefit analysis required by this criterion shall be computed on a net present value basis.

''(v) The project design has taken into consideration long-term changes to the areas and persons it is designed to protect and has manageable future maintenance and modification requirements.

''(vi) The project plan includes an analysis of a range of options to address the problem it is designed to prevent or mitigate and a justification for the selection of the project in light of that analysis.

''(vii) The applicant has demonstrated to the Secretary that the matching funds required by subparagraph (D) are available.

''(C) PRIORITY.—When making grants under this paragraph, the Secretary shall give priority to grants for projects which are likely to—

''(i) have the greatest impact on reducing future disaster losses; and

''(ii) best conform with plans that have been approved by the Federal Government or the government of the territory where the project is to be carried out for development or hazard mitigation for that territory.

''(D) MATCHING REQUIREMENT.—The Federal share of the cost for a project for which a grant is provided under this paragraph shall not exceed 75 percent of the total cost of that project. The non-Federal share of the cost may be provided in the form of cash or services.

''(E) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—Grants provided under this paragraph shall not be considered as income, a resource, or a duplicative program when determining eligibility or benefit levels for Federal major disaster and emergency assistance.

''(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $5,000,000 for each fiscal year beginning after the date of the enactment of this paragraph.''.

## DIVISION G

### SEC. 7101. BUY AMERICAN.

No funds authorized under this Act shall be available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

## DIVISION H

### Sec. 8101. PROHIBITION ON HUMAN CLONING.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

**''CHAPTER 16—HUMAN CLONING**

''Sec.
''301. Definitions.
''302. Prohibition on human cloning.

**''§ 301. Definitions**

''In this chapter:

''(1) HUMAN CLONING.—The term 'human cloning' means human asexual reproduction, accomplished by introducing nuclear material from one or more human somatic cells into a fertilized or unfertilized oocyte whose nuclear material has been removed or inactivated so as to produce a living organism (at any stage of development) that is genetically virtually identical to an existing or previously existing human organism.

''(2) ASEXUAL REPRODUCTION.—The term 'asexual reproduction' means reproduction not initiated by the union of oocyte and sperm.

''(3) SOMATIC CELL.—The term 'somatic cell' means a diploid cell (having a complete set of chromosomes) obtained or derived from a living or deceased human body at any stage of development.

**''§ 302. Prohibition on human cloning**

''(a) IN GENERAL.—It shall be unlawful for any person or entity, public or private, in or affecting interstate commerce, knowingly—

''(1) to perform or attempt to perform human cloning;

''(2) to participate in an attempt to perform human cloning; or

''(3) to ship or receive for any purpose an embryo produced by human cloning or any product derived from such embryo.

''(b) IMPORTATION.—It shall be unlawful for any person or entity, public or private, knowingly to import for any purpose an embryo produced by human cloning, or any product derived from such embryo.

''(c) PENALTIES.—

''(1) CRIMINAL PENALTY.—Any person or entity that violates this section shall be fined under this title or imprisoned not more than 10 years, or both.

''(2) CIVIL PENALTY.—Any person or entity that violates any provision of this section shall be subject to, in the case of a violation that involves the derivation of a pecuniary gain, a civil penalty of not less than $1,000,000 and not more than an amount equal to the amount of the gross gain multiplied by 2, if that amount is greater than $1,000,000.

''(d) SCIENTIFIC RESEARCH.—Nothing in this section restricts areas of scientific research not specifically prohibited by this section, including research in the use of nuclear transfer or other cloning techniques to produce molecules, DNA, cells other than human embryos, tissues, organs, plants, or animals other than humans.''.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The General Accounting Office shall conduct a study to assess the need (if any) for amendment of the prohibition on human cloning, as defined in section 301 of title 18, United States Code, as added by this section, which study shall include—

(A) a discussion of new developments in medical technology concerning human cloning and somatic cell nuclear transfer, the need (if any) for somatic cell nuclear transfer to produce medical advances, current public attitudes and prevailing ethical views concerning the use of somatic cell nuclear transfer, and potential legal implications of research in somatic cell nuclear transfer; and

(B) a review of any technological developments that may require that technical changes be made to chapter 16 of title 18, United States Code, as added by this section.

(2) REPORT.—The General Accounting Office shall transmit to Congress, within 4 years after the date of enactment of this Act, a report containing the findings and conclusions of its study, together with recommendations for any legislation or administrative actions which it considers appropriate.

(c) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 15 the following:

**''16. Human Cloning ..... 301''.**

(d) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect the day after the date of enactment of this Act, and shall expire on the date that is 180 days after the date of enactment of this Act.

---

**SA 2172.** Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 1743, to create a temporary reinsurance mechanism to enhance the availability of terrorism insurance; which was referred to the Committee on Commerce, Science, and Transportation, as follows:

At the appropriate place, insert the following:

**SEC. . TAX-EXEMPT STATUS OF TERRORISM RISK-RELATED INCREASED PREMIUM PASSTHROUGH ACCOUNTS.**

Amounts received by participating insurers as increased premiums under section 9(a) and deposited in the separate segregated account required by section 9(b), and amounts earned as interest, dividends, or other income on funds deposited in such account, shall be exempt from all Federal, State, and local income and excise taxes, and may not be taken into account for the purpose of determining any other tax liability of the participating insurer.

---

**SA 2173.** Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE IX—CAPITAL GRANTS FOR RAILROAD TRACK**

**SEC. 901. ESTABLISHMENT OF PROGRAM.**

(a) AUTHORITY.—Chapter 223 of title 49, United States Code, is amended to read as follows:

**''CHAPTER 223—CAPITAL GRANTS FOR RAILROAD TRACK**

''Sec.
''22301. Capital grants for railroad track.

**''§ 22301. Capital grants for railroad track**

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program of capital grants for the rehabilitation, preservation, or improvement of railroad track (including roadbed, bridges, and related track structures) of class II and class III railroads. Such grants shall be for rehabilitating, preserving, or improving track used primarily for freight transportation to a standard ensuring that the track can be operated safely and efficiently, including grants for rehabilitating, preserving, or improving track to handle 286,000 pound rail cars. Grants may be provided under this chapter—

''(A) directly to the class II or class III railroad; or

''(B) with the concurrence of the class II or class III railroad, to a State or local government.

''(2) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

''(3) INTERIM REGULATIONS.—Not later than December 31, 2001, the Secretary shall issue temporary regulations to implement the program under this section. Subchapter II of chapter 5 of title 5 does not apply to a temporary regulation issued under this paragraph or to an amendment to such a temporary regulation.

''(4) FINAL REGULATIONS.—Not later than October 1, 2002, the Secretary shall issue final regulations to implement the program under this section.

''(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case by case basis consistent with this chapter.

''(c) PROJECT ELIGIBILITY.—For a project to be eligible for assistance under this section the track must have been operated or owned by a class II or class III railroad as of the date of the enactment of the Railroad Track Modernization Act of 2001.

''(d) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

''(e) ADDITIONAL PURPOSE.—In addition to making grants for projects as provided in subsection (a), the Secretary may also make grants to supplement direct loans or loan guarantees made under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)), for projects described in the last sentence of section 502(d) of such title. Grants made under this subsection may be used, in whole or in part, for paying credit risk premiums, lowering rates of interest, or providing for a holiday on principal payments.

''(f) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2001.

''(g) LABOR STANDARDS.—

''(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

''(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).

''(h) STUDY.—The Secretary shall conduct a study of the projects carried out with grant

assistance under this section to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system. Not later than March 31, 2003, the Secretary shall report to Congress any recommendations the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $350,000,000 for each of the fiscal years 2002 through 2004 for carrying out this section.''.

(b) CONFORMING AMENDMENT.—The item relating to chapter 223 in the table of chapters of subtitle V of title 49, United States Code, is amended to read as follows:

''223. CAPITAL GRANTS FOR RAILROAD TRACK ..... 22301''.

---

**SA 2174.** Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 10, to provide for pension reform, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE IX—RAILROAD COMPETITION, ARBITRATION, AND SERVICE**

**SEC. 901. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.**

(a) SHORT TITLE.—This title may be cited as the ''Railroad Competition, Arbitration, and Service Act of 2001''.

(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

**SEC. 902. PURPOSES.**

The purposes of this title are as follows:

(1) To eliminate unreasonable barriers to competition among rail carriers.

(2) To provide for use of expedited, private means for the resolution of disputes between shippers and carriers.

**SEC. 903. CLARIFICATION OF RAIL TRANSPORTATION POLICY.**

Section 10101 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''In regulating''; and

(2) by adding at the end the following:

''(b) PRIMARY OBJECTIVES.—The primary objectives of the rail transportation policy of the United States are as follows:

''(1) To ensure effective competition among rail carriers at origins and destinations.

''(2) To maintain reasonable rates for rail transportation where effective competition among rail carriers has not been achieved.

''(3) To maintain consistent and efficient rail transportation service for shippers.''.

**SEC. 904. ARBITRATION OF CERTAIN RAIL RATE, SERVICE, AND OTHER DISPUTES.**

(a) IN GENERAL.—

(1) AUTHORITY.—Chapter 117 of title 49 is amended by adding the following section after section 11707:

**''§ 11708. Arbitration of certain rail rate, service, and other disputes**

''(a) ELECTION OF ARBITRATION.—A dispute described in subsection (b) shall be submitted for resolution by arbitration upon the election of any party to the dispute that is not a rail carrier.

''(b) COVERED DISPUTES.—(1) Except as provided in paragraph (2), subsection (a) applies to any dispute between a party described in subsection (a) and a rail carrier that—

''(A) arises under section 10701(c), 10701(d), 10702, 10704(a)(1), 10707, 10741, 10745, 10746, 11101(a), 11102, 11121, 11122, or 11706 of this title; and

''(B) involves—

''(i) the payment of money;

''(ii) a rate charged by the rail carrier; or

''(iii) transportation by the rail carrier.

''(2) Subsection (a) does not apply to a dispute if the resolution of the dispute would necessarily involve the promulgation of regulations generally applicable to all rail carriers.

''(c) ARBITRATION PROCEDURES.—The Secretary of Transportation shall prescribe in regulations the procedures for the resolution of disputes submitted for arbitration under subsection (a). The regulations shall include the following:

''(1) Procedures, including time limits, for the selection of an arbitrator or panel of arbitrators for a dispute from among arbitrators listed on the roster of arbitrators established and maintained by the Secretary under subsection (d)(1).

''(2) Policies, requirements, and procedures for the compensation of each arbitrator for a dispute to be paid by the parties to the dispute.

''(3) Procedures for expedited arbitration of a dispute, including procedures for discovery authorized in the exercise of discretion by the arbitrator or panel of arbitrators.

''(d) SELECTION OF ARBITRATORS.—(1) The Secretary of Transportation shall establish, maintain, and revise as necessary a roster of arbitrators who—

''(A) are experienced in transportation or economic issues within the jurisdiction of the Board or issues similar to those issues;

''(B) satisfy requirements for neutrality and other qualification requirements prescribed by the Secretary;

''(C) consent to serve as arbitrators under this section; and

''(D) are not officers or employees of the United States.

(2) For a dispute involving an amount not in excess of $1,000,000, the regulations under subsection (c) shall provide for arbitration by a single arbitrator selected by—

''(A) the parties to the dispute; or

''(B) if the parties cannot agree, the Secretary of Transportation, from the roster of arbitrators prescribed under paragraph (1).

''(3)(A) For a dispute involving an amount in excess of $1,000,000, the regulations under subsection (c) shall provide for arbitration by a panel of three arbitrators selected as follows:

''(i) One arbitrator selected by the party electing the arbitration.

''(ii) One arbitrator selected by the rail carrier or all of the rail carriers who are parties to the dispute, as the case may be.

''(iii) One arbitrator selected by the two arbitrators selected under clauses (i) and (ii).

''(B) If a selection of an arbitrator is not made under clause (ii) or (iii) of subparagraph (A) within the time limits prescribed in the regulations, then the Secretary shall select the arbitrator from the roster of arbitrators prescribed under paragraph (1).

''(e) DISPUTES ON RATES OR CHARGES.—(1) The requirements of this subsection apply to a dispute submitted under this section for resolution of an issue of the reasonableness of a rate or charge imposed by a rail carrier.

''(2)(A) Subject to subparagraph (B), the decision of an arbitrator or panel of arbitrators in a dispute on an issue described in paragraph (1) shall be one of the final offers of the parties to the dispute.

''(B) A decision under subparagraph (A) may not provide for a rate for transportation by a rail carrier that would result in a revenue-variable cost percentage for such transportation that is less than 180 percent, as determined under standards applied in the administration of section 10707(d) of this title.

''(3) If the party electing arbitration of a dispute described in paragraph (1) seeks compensation for damages incurred by the party as a result of a specific rate or charge imposed by a rail carrier for the transportation of items for the party and the party alleges an amount of damages that does not exceed $500,000 for any year as a result of the imposition of the specific rate or charge, the arbitrator, in making a decision on the dispute, shall consider the rates or charges, respectively, that are imposed by rail carriers for the transportation of similar items under similar circumstances in rail transportation markets where there is effective competition, as determined under standards applied by the Board in the administration of section 10707(a) of this title.

''(f) TIME FOR ISSUANCE OF ARBITRATION DECISION.—Notwithstanding any other provision of this subtitle limiting the time for the taking of an action under this subtitle, the arbitrator or panel of arbitrators for a dispute submitted for resolution under this section shall issue a final decision on the dispute within the maximum period after the date on which the arbitrator or panel is selected to resolve the dispute under this section, as follows:

''(1) In the case of a dispute involving $1,000,000 or less, 120 days.

''(2) In the case of a dispute involving more than $1,000,000, 180 days.

''(g) AUTHORIZED RELIEF.—A decision of an arbitrator or panel of arbitrators under this section may grant relief in either or both of the following forms:

''(1) Monetary damages, to the extent authorized to be provided by the Board in such a dispute under this subtitle.

''(2) An order that requires specific performance of any obligation under a statute determined to be applicable, including any limitation of rates to reasonable rates, for any period not in excess of two years beginning on the date of the decision.

''(h) JUDICIAL CONFIRMATION AND REVIEW.—The following provisions of title 9 shall apply to an arbitration decision issued in a dispute under this section:

''(1) Section 9 (relating to confirmation of an award in an arbitration decision), which shall be applied as if the parties had entered into an agreement under title 9 to submit the dispute to the arbitration and had provided in that agreement for a judgment of an unspecified court to be entered on the award made pursuant to the arbitration.

''(2) Section 10 (relating to judicial vacation of an award in an arbitration decision).''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 11707 the following:

''11708. Arbitration of certain rail rate, service, and other disputes.''.

(b) TIME FOR IMPLEMENTING CERTAIN REQUIREMENTS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall promulgate regulations, prescribe a roster of arbitrators, and complete any other action that is necessary for the implementation of section 11708 of title 49, United States Code (as added by subsection (a)).

**SEC. 905. ELIMINATION OF BARRIERS TO COMPETITION BETWEEN CLASS I CARRIERS AND CLASS II AND CLASS III CARRIERS.**

(a) RESTRICTION ON APPROVAL OR EXEMPTION OF CARRIERS' ACTIVITIES BY SURFACE TRANSPORTATION BOARD.—Section 10901 is amended by adding at the end the following new subsection:

''(e)(1) The Board may not issue under this section a certificate authorizing an activity described in subsection (a), or exempt from

the applicability of this section under section 10502 of this title such an activity that involves a transfer of interest in a line of railroad, by a Class I rail carrier to a Class II or III rail carrier if the activity directly or indirectly would result in—

''(A) a restriction of the ability of the Class II or Class III rail carrier to interchange traffic with other carriers; or

''(B) a restriction of competition between or among rail carriers in the region affected by the activity in a manner or to an extent that would violate antitrust laws of the United States (notwithstanding any exemption from the applicability of antitrust laws that is provided under section 10706 of this title or any other provision of law).

''(2) Any party to an activity referred to in paragraph (1) that has been carried out, or any rail shipper affected by such an activity, may request the Board to review the activity to determine whether the activity has resulted in a restriction described in that paragraph. If, upon review of the activity, the Board determines that the activity resulted in such a restriction and the restriction has been in effect for at least 10 years, the Board shall declare the restriction to be unlawful and terminate the restriction unless the Board finds that the termination of the restriction would materially impair the ability of an affected rail carrier to provide service to the public or would otherwise be inconsistent with the public interest.

''(3) In this subsection:

''(A) The term'antitrust laws' has the meaning given that term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term also means section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

''(B) The terms 'class I rail carrier', 'class II rail carrier', and 'class III rail carrier' mean, respectively, a rail carrier classified under regulations of the Board as a Class I rail carrier, Class II rail carrier, and Class III rail carrier.''.

(b) APPLICABILITY TO PREVIOUSLY APPROVED OR EXEMPTED ACTIVITIES.—Paragraph (2) of section 10901(e) of title 49, United States Code (as added by subsection (a)), shall apply with respect to any activity referred to in that paragraph for which the Surface Transportation Board issued a certificate authorizing the activity under section 10901 of such title, or exempted the activity from the necessity for such a certificate under section 10502 of such title, before, on, or after the date of the enactment of this Act.

**SEC. 906. SYSTEM WIDE COMPETITION.**

(a) TRACKAGE RIGHTS.—Chapter 111 is amended by inserting after section 11102 the following new section:

**''§ 11102a. Trackage rights**

''(a) ALTERNATIVE RAIL CARRIER SERVICE.—(1) A person who uses or seeks to use rail service for major train load shipments to or from a facility (whether located in a terminal area or served by terminal facilities) that has physical access solely to one rail carrier may request, as provided in this subsection, that rail service for such shipments be provided to or from that facility by—

''(A) an existing Class I rail carrier; or

''(B) an existing Class II rail carrier, existing Class III rail carrier, or new rail service provider that, as determined by the Federal Railroad Administration before the person makes the request—

''(i) is or is likely to be capable of transporting the major train load shipments over the facilities of the one rail carrier to or from the facility with the physical access solely to that rail carrier;

''(ii) is or is likely to be capable of doing so in compliance with applicable Federal Railroad Administration regulations and with the operating and safety rules of the rail carrier responsible for dispatching for the use of the facilities; and

''(iii) has or is likely to have the financial ability (or insurance coverage with limits customary in the railroad industry) to satisfy liability claims arising from its operations.

''(2) For the purposes of this section a major train load shipment is any train load shipment that consists of 50 or more rail cars and is tendered all at one time on a single bill of lading.

''(b) PROCEDURE FOR REQUESTING SERVICE.—(1) A person seeking under subsection (a) to obtain from an alternative rail service provider transportation for major train load shipments to or from a facility described in paragraph (1) of that subsection shall file with the Board a notice of intent to request that service. The notice shall include the following:

''(A) A description of the facilities to be used by the alternative service provider.

''(B) A statement that the person has attempted without success, through negotiations with the rail carrier that has been providing the person with rail service to or from the facility, to obtain the proposed service from that rail carrier on terms similar to those available from the alternative rail service provider.

''(C) Any other details of the proposed service.

''(D) If the alternative rail service provider is a provider described in subparagraph (B) of subsection (a)(1), a certification by the Federal Railroad Administration of the determinations required for eligibility under that subparagraph.

''(2)(A) Subject to subparagraph (D), rail service described in a notice filed with the Board under paragraph (1) may be provided by the alternative rail service provider referred to in the notice beginning 60 days after the notice is so filed unless, before the expiration of that 60-day period, the Board determines that the alternative rail service provider's use of the facilities involved—

''(i) will be unsafe;

''(ii) is not operationally feasible; or

''(iii) will substantially impair the ability of the other rail carrier or rail carriers using the facilities to provide transportation over those facilities in accordance with the reasonable requirements of the customers served by the other carrier or carriers as of the date of the Board's determination.

''(B) The rail carrier or carriers that own or provide transportation over the facilities to be used by an alternative rail service provider in rail service covered by a notice filed with the Board under paragraph (1) shall have the burden of proving the matters described in clauses (i), (ii), and (iii) of subparagraph (A).

''(C) The Board shall consult with the Federal Railroad Administration in determining the facts regarding any allegation by a rail carrier or rail carriers that an alternative rail service provider's use of facilities would be unsafe.

''(D) An alternative rail service provider may not begin to provide any rail service under subparagraph (A) before the provider's train crews are qualified to operate over the facilities to be used to provide the service, as determined under rules applicable to such operations.

''(c) DISPATCHING AND OTHER RESPONSIBILITIES.—(1) The rail carrier responsible for controlling rail operations on, or for dispatching for the use of, facilities used by any alternative rail service provider pursuant to a notice filed with the Board under subsection (b) shall—

''(A) continue to perform those functions for all rail carriers using the facilities, including the alternative rail service provider; and

''(B) dispatch trains for the alternative rail service provider, without discrimination, on the same basis that the rail carrier would apply if it were providing the transportation for the traffic transported by the alternative rail service provider.

''(2) The Board shall have jurisdiction over, and shall promptly resolve, any disputes arising under paragraph (1)(B).

''(d) COMPENSATION FOR USE OF FACILITIES.—(1) An alternative rail service provider that, pursuant to a notice filed with the Board under subsection (b), is providing transportation over facilities owned by another rail carrier shall compensate the owner of the facilities on such terms as the alternative rail service provider and the owner may agree. The terms of compensation shall be adjusted annually, as the parties may agree, effective as of the anniversary of the date on which the alternative rail service provider began to use the facilities.

''(2)(A) The terms of compensation for an owner of facilities for the use of facilities by an alternative rail service provider shall be established on a basis that provides for the alternative rail service provider to compensate the owner at a level that—

''(i) defrays the relevant costs incurred by the owner for transportation over those facilities to the extent of a share that is proportionate to the use of those facilities by the alternative rail service provider in relation to the use of those facilities by all users of the facilities; and

''(ii) provides the owner with a reasonable return on and of the owner's net book investment in road property for the facilities (exclusive of write-ups or write-downs resulting from mergers and consolidations of any of the facilities that were acquired from another rail carrier on or after July 1, 1995).

''(B) For the purposes of subparagraph (A), an alternative rail service provider's proportionate share of the total relevant costs incurred by the owner of facilities for the use of facilities during the first 12 months of the provider's use of the facilities pursuant to a notice filed with the Board under subsection (b) shall be the ratio of—

''(i) the extent to which the alternative rail service provider is reasonably expected to use the facilities during that 12-month period, measured in gross ton-miles, to

''(ii) the total volume of the use of the facilities by all users of the facilities during the 12 calendar months preceding the month in which the notice was filed with the Board, measured in gross ton-miles.

''(C) For the purpose of calculating an annual adjustment of the terms of compensation for an owner of facilities for the use of those facilities for rail service by an alternative rail service provider, the ratio applied under subparagraph (A) for determining the alternative rail service provider's proportionate share of the total relevant costs incurred by the owner of facilities for the use of facilities shall be the ratio of—

''(i) the total volume of the use of the facilities by the alternative rail service provider during the 12 calendar months preceding the month in which the adjustment takes effect, measured in gross ton-miles, to

''(ii) the total volume of the use of the facilities by all users of the facilities during those 12 months, measured in gross ton-miles.

''(D) For the purposes of subparagraph (A), the total relevant costs for use of facilities shall include the following:

''(i) Roadway maintenance expenses.

''(ii) Costs reasonably related to the dispatching or control of the operation of users' trains.

''(iii) Any ad valorem taxes.

''(3)(A) If the owner of facilities to be used by an alternative rail service provider pursuant to a notice filed with the Board under subsection (b) and the alternative rail service provider do not agree on the terms of compensation for the initial use of the facilities before the expiration of the 60-day period applicable to the notice under paragraph (2) of that subsection (b), either party (or the person requesting the rail service from the alternative rail service provider) may request the Board to establish the terms of compensation. The Board shall establish those terms of compensation, in accordance with the standards applicable under this subsection, within 60 days after receiving such a request. The terms so established shall be effective retroactively as of the date on which the 60-day period applicable under subsection (b)(2) expires.

''(B) If the owner of facilities and an alternative rail service provider do not agree on an annual adjustment to terms of compensation under paragraph (1) before the anniversary of the date on which the alternative rail service provider began to use the facilities, either party may submit the dispute to the Board. The Board shall resolve the dispute within 60 days after the dispute is submitted. Any adjustment pursuant to a resolution of the dispute shall take effect retroactively as of that anniversary date.

''(e) NEW AND ENHANCED FACILITIES.—(1) If it is necessary for an owner of facilities to construct a new connecting track or interlocker or any other new facility or to improve a connecting track, interlocker, or other facility of that owner solely to accommodate the commencement of rail service by an alternative rail service provider under this section, the person requesting the rail service by the alternative rail service provider over those facilities shall pay the entire reasonable cost of the construction or improvement. The owner constructing the new facility or facilities shall own the newly constructed or improved facility or facilities, as the case may be.

''(2) If, at any time during the period of use of facilities by one or more alternative rail service providers pursuant to this section, it is necessary to construct or improve facilities to ensure the safe or efficient operation of rail service by the alternative rail service providers and all other rail carriers using the facilities to provide rail service, the reasonable cost of the construction or improvement shall be shared by the owner and each of the users of the facilities on such terms as those parties may agree. Any dispute concerning such terms shall be promptly resolved by the Board upon the request of any such user.

''(f) RELATIONSHIP TO OTHER AUTHORITIES.—This section may not be construed to provide an exclusive remedy, nor to limit the availability of any other remedy under this part, to users of rail transportation for the enhancement of intramodal rail competition.''.

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of such chapter is amended by inserting after section 11102 the following new item:

''11102a. Trackage rights.''.

**SEC. 907. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on January 1, 2002.

(b) EXCEPTIONS.—Section 906 and the amendment made by that section shall take effect on the date of enactment of this Act.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. 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 November 29, 2001, at 10 a.m., to conduct a hearing on ''Housing and Community Development Needs: The FY 2003 HUD Budget.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 29, 2001, at 10:30 a.m. to hold a nomination hearing.

Agenda

Nominees: John V. Hanford, III, of Virginia, to be Ambassador at Large for International Religious Freedom; Arthur E. Dewey, of Maryland, to be an Assistant Secretary of State (Population, Refugees, and Migration); and John D. Ong, of Ohio, to be Ambassador to Norway.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, November 29, 2001, at 10 a.m. in Dirksen room 226.

Agenda

I. Committee Business: Subcommittees.

II. Unfinished Business: S. 986, A bill to allow media coverage of court proceedings [Grassley/Schumer/Leahy/Smith/Allard/Feingold / Specter/Durbin/DeWine/Allen/Edwards/Cantwell].

III. Nominations: Harris L. Hartz to be United States Circuit Court Judge for the Tenth Circuit; John D. Bates to be United States District Court Judge for the District of Columbia; Kurt D. Engelhardt to be United States District Court Judge for the Eastern District of Louisiana; Joe L. Heaton to be United States District Court Judge for the Western District of Oklahoma; William P. Johnson to be United States District Court Judge for the District of New Mexico; Clay D. Land to be United States District Court Judge for the Middle District of Georgia; Frederick J. Martone to be United States District Court Judge for the District of Arizona; Danny C. Reeves to be United States District Court Judge for the Eastern District of Kentucky; Julie A. Robinson to be United States District Court Judge for the District of Kansas; James E. Rogan to be Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office at the Department of Commerce; and Thomas L. Sansonetti to be Assistant Attorney General for the Environment and Natural Resources Division.

To be United States Attorney: David R. Dugas for the Middle District of Louisiana; Edward H. Kubo for the District of Hawaii; James A. McDevitt for the Eastern District of Washington; David E. O'Meilia for the Northern District of Oklahoma; Sheldon S. Sperling for the Eastern District of Oklahoma; Johnny Keane Sutton for the Western District of Texas; and Richard S. Thompson for the Southern District of Georgia.

IV. Bills: S. 304, Drug Abuse Education, Prevention, and Treatment Act of 2001 [Hatch/Leahy/Biden/DeWine/Thurmond].

V. Resolutions:

S. Res. 140, A resolution designating the week beginning September 15, 2002, as ''National Civic Participation Week'' [Roberts/Feinstein/Reid/Warner].

H. Con. Res. 88, Expressing the sense of the Congress that the President should issue a proclamation recognizing a National Lao-Hmong Recognition Day.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 29, 2001 at 2:30 p.m. to hold a nomination hearing.

Agenda

Nominees: James McGee, of Florida, to be Ambassador to the Kingdom of Swaziland; Kenneth Moorefield, of Florida, to be Ambassador to the Gabonese Republic; and John Price, of Utah, to be Ambassador to the Republic of Mauritius, and to serve concurrently and without additional compensation as Ambassador to the Federal and Islamic Republic of The Comoros and Ambassador to the Republic of Seychelles.

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

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION AND FEDERAL SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on International Security, Proliferation and Federal Services be authorized to meet on Thursday, November 29, 2001 at 9:30 A.M. for a hearing entitled ''Combating Proliferation of Weapons of Mass Destruction (WMD) with Non-Proliferation Programs: Non-Proliferation Assistance Coordination Act of 2001, Part II.''

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

## UNANIMOUS CONSENT REQUEST—S. 180

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the

House on S. 180, that the Senate disagree to the House amendment, agree to the request for a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, with no intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. On behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Nos. 573, 574, 576, 577 through 582, and the nominations on the Secretary's desk; that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

The nominations considered and confirmed are as follows:

FEDERAL HOUSING FINANCE BOARD

John Thomas Korsmo, of North Dakota, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2002.

John Thomas Korsmo, of North Dakota, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2009. (Reappointment)

Franz S. Leichter, of New York, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2006.

Allan I. Mendelowitz, of Connecticut, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2007.

AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Bruce A. Wright, 5759

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be general*

Lt. Gen. Donald G. Cook, 6452

ARMY

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be brigadier general*

Col. Elder Granger, 1583
Col. George W. Weightman, 6988

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be brigadier general*

Colonel Byron S. Bagby, 3934
Colonel Leo A. Brooks, Jr., 5819
Colonel Sean J. Byrne, 2057
Colonel Charles A. Cartwright, 2898
Colonel Philip D. Coker, 7623
Colonel Thomas R. Csrnko, 1332
Colonel Robert L. Davis,2604
Colonel John DeFreitas, III, 7924
Colonel Robert E. Durbin, 9354
Colonel Gina S. Farrisee, 7084
Colonel David A. Fastabend, 5081
Colonel Richard P. Formica, 7015
Colonel Kathleen M. Gainey, 4227
Colonel Daniel A. Hahn, 0301
Colonel Frank G. Helmick, 8189
Colonel Rhett A. Hernandez, 7009
Colonel Mark P. Hertling, 3917
Colonel James T. Hirai, 5860
Colonel Paul S. Izzo, 1942
Colonel James L. Kennon, 4010
Colonel Mark T. Kimmitt, 8655
Colonel Robert P. Lennox, 8104
Colonel Douglas E. Lute, 2691
Colonel Timothy P. McHale, 0796
Colonel Richard W. Mills, 9267
Colonel Benjamin R. Mixon, 7168
Colonel James R. Moran, 2618
Colonel James R. Myles, 2299.
Colonel Larry C. Newman, 6949
Colonel Carroll F. Pollett, 9096
Colonel Robert J. Reese, 3946
Colonel Stephen V. Reeves, 2272
Colonel Richard J. Rowe, Jr., 5346
Colonel Edward J. Sinclair, 9044
Colonel Eric F. Smith, 3800
Colonel Abraham J. Turner, 5542
Colonel Volney J. Warner, 3024
Colonel John C. Woods, 4554
Colonel Howard W. Yellen, 3205

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be major general*

Brig. Gen. Lester Martinez-Lopez, 1323

NOMINATIONS PLACED ON THE SECRETARY'S DESK

AIR FORCE

PN1175 Air Force nominations (2) beginning CESARIO F. FERRER, JR., and ending RAYMOND Y. HOWELL, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 30, 2001.

ARMY

PN1165 Army nominations (4) beginning ROBERT A. JOHNSON, and ending JOHN T. WASHINGTON III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 25, 2001.

PN1176 Army nominations (12) beginning SAMUEL CALDERON, and ending FRANK E. WISMER, III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 30, 2001.

PN1203 Army nomination of Carol E. Pilat, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of November 8, 2001.

PN1204 Army nomination of Iluminada S. Calicdan, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of November 8, 2001.

PN1205 Army nomination of *James W. Ware, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of November 8, 2001.

PN1206 Army nomination of Mee S. Paek, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of November 8, 2001.

PN1224 Army nominations (8) beginning MARION S. CORNWELL, and ending GARY L. WHITE, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 15, 2001.

PN1225 Army nominations (30) beginning CHERYL A. ADAMS, and ending DEBBIE T. WINTERS, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 15, 2001.

PN1226 Army nominations (40) beginning WILLIE J. ATKINSON, and ending WILLEM P. VANDEMERWE, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 15, 2001.

PN1227 Army nominations (50) beginning DAVID S. ALLEMAN, and ending WILLIAM P. YEOMANS, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 15, 2001.

PN1228 Army nominations (112) beginning LYNN F. ABRAMS, and ending BURKHARDT H. ZORN, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 15, 2001.

PN1229 Army nominations (4) beginning CHARLES B. COLISON, and ending ARLENE SPIRER, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 15, 2001.

NAVY

PN1177 Navy nominations (39) beginning BRADFORD W. BAKER, and ending DAVID J. WICKERSHAM, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of October 30, 2001.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

## MEASURES INDEFINITELY POSTPONED—S. 1191, S. 1215, AND S. 1216

Mr. REID. Mr. President, I ask unanimous consent that the following calendar items be indefinitely postponed: Calendar No. 91, S. 1191; Calendar No. 95, S. 1215; and Calendar No. 97, S. 1216.

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

Mr. REID. For the information of the Senate, these items are Senate-numbered appropriations bills. The conference reports on the House-numbered bills are now public laws.

## NATIONAL COMMUNITY ANTIDRUG COALITION INSTITUTE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 159, H.R. 2291.

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

The legislative clerk read as follows:

A bill (H.R. 2291) to extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Antidrug Coalition Institute, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be considered, read a third time, passed, the motion to reconsider be laid on the table, and that any statements relating to this bill be printed in the RECORD.

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

The bill (H.R. 2291) was read the third time and passed.

## APPOINTMENT OF PATRICIA Q. STONESIFER

Mr. REID. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of S.J. Res. 26 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 26) providing for the appointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. REID. Mr. President, I ask unanimous consent that the joint resolution be read three times, passed, the motion to reconsider be laid on the table, and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

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

The resolution (S.J. Res. 26) was read the third time and passed, as follows:

S.J. RES. 26

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Dr. Homer Neal of Michigan on December 7, 2001, is filled by the appointment of Patricia Q. Stonesifer of Washington. The appointment is for a term of 6 years and shall take effect on December 8, 2001.

## MEASURE READ THE FIRST TIME—H.R. 2722

Mr. REID. Mr. President, it is my understanding that H.R. 2722, which was just received from the House, is at the desk. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2722) to implement effective measures to stop trade in conflict diamonds, and for other purposes.

Mr. REID. Mr. President, I now ask for its second reading and object to my own request on behalf of a number of my colleagues.

The PRESIDING OFFICER. Objection having been heard, the bill will be read the second time on the next legislative day.

## MEASURE READ THE FIRST TIME—H.R. 3189

Mr. REID. Mr. President, I understand that H.R. 3189, received from the House, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3189) to extend the Export Administration Act until April 20, 2002.

Mr. REID. I now ask for its second reading but object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

## ORDERS FOR FRIDAY, NOVEMBER 30, 2001

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Friday, November 30; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. REID. Mr. President, I remind the Senate that there have been three cloture motions filed with respect to H.R. 10. All first-degree amendments must be filed prior to 1 p.m. tomorrow, Friday.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:17 p.m., adjourned until Friday, November 30, 2001, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate November 29, 2001:

EXPORT-IMPORT BANK OF THE UNITED STATES

J. JOSEPH GRANDMAISON, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2005, VICE RITA M. RODRIGUEZ.

THE JUDICIARY

JEANETTE J. CLARK, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE GEORGE W. MITCHELL, DECEASED.

## CONFIRMATIONS

Executive nominations confirmed by the Senate November 29, 2001:

FEDERAL HOUSING FINANCE BOARD

JOHN THOMAS KORSMO, OF NORTH DAKOTA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2002.

JOHN THOMAS KORSMO, OF NORTH DAKOTA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2009.

FRANZ S. LEICHTER, OF NEW YORK, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2006.

ALLAN I. MENDELOWITZ, OF CONNECTICUT, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2007.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. BRUCE A. WRIGHT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

LT. GEN. DONALD G. COOK

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. ELDER GRANGER
COL. GEORGE W. WEIGHTMAN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COLONEL BYRON S. BAGBY
COLONEL LEO A. BROOKS, JR.
COLONEL SEAN J. BYRNE
COLONEL CHARLES A. CARTWRIGHT
COLONEL PHILIP D. COKER
COLONEL THOMAS R. CSRNKO
COLONEL ROBERT L. DAVIS
COLONEL JOHN DEFREITAS III
COLONEL ROBERT E. DURBIN
COLONEL GINA S. FARRISEE
COLONEL DAVID A. FASTABEND
COLONEL RICHARD P. FORMICA
COLONEL KATHLEEN M. GAINEY
COLONEL DANIEL A. HAHN
COLONEL FRANK G. HELMICK
COLONEL RHETT A. HERNANDEZ
COLONEL MARK P. HERTLING
COLONEL JAMES T. HIRAI
COLONEL PAUL S. IZZO
COLONEL JAMES L. KENNON
COLONEL MARK T. KIMMITT
COLONEL ROBERT P. LENNOX
COLONEL DOUGLAS E. LUTE
COLONEL TIMOTHY P. MCHALE
COLONEL RICHARD W. MILLS
COLONEL BENJAMIN R. MIXON
COLONEL JAMES R. MORAN
COLONEL JAMES R. MYLES
COLONEL LARRY C. NEWMAN
COLONEL CARROLL F. POLLETT
COLONEL ROBERT J. REESE
COLONEL STEPHEN V. REEVES
COLONEL RICHARD J. ROWE, JR.
COLONEL EDWARD J. SINCLAIR
COLONEL ERIC F. SMITH
COLONEL ABRAHAM J. TURNER
COLONEL VOLNEY J. WARNER
COLONEL JOHN C. WOODS
COLONEL HOWARD W. YELLEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIG. GEN. LESTER MARTINEZ-LOPEZ

AIR FORCE NOMINATIONS BEGINNING CESARIO F. FERRER, JR. AND ENDING RAYMOND Y. HOWELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 30, 2001.

ARMY NOMINATIONS BEGINNING ROBERT A. JOHNSON AND ENDING JOHN T. WASHINGTON III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 25, 2001.

ARMY NOMINATIONS BEGINNING SAMUEL CALDERON AND ENDING FRANK E. WISMER III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 30, 2001.

ARMY NOMINATION OF CAROL E. PILAT.

ARMY NOMINATION OF ILUMINADA S. CALICDAN.

ARMY NOMINATION OF *JAMES W. WARE.

ARMY NOMINATION OF MEE S. PAEK.

ARMY NOMINATIONS BEGINNING MARION S. CORNWELL AND ENDING GARY L. WHITE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING CHERYL A. ADAMS AND ENDING DEBBIE T. WINTERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING WILLIE J. ATKINSON AND ENDING WILLEM P. VANDEMERWE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING DAVID S. ALLEMAN AND ENDING WILLIAM P. YEOMANS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING LYNN F. ABRAMS AND ENDING BURKHARDT H. ZORN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

ARMY NOMINATIONS BEGINNING CHARLES B. COLISON AND ENDING ARLENE SPIRER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 15, 2001.

NAVY NOMINATIONS BEGINNING BRADFORD W. BAKER AND ENDING DAVID J. WICKERSHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 30, 2001.