Col. Robert W. Wagner, 000–00–0000
Col. Daniel R. Zanini, 000–00–0000

AIR FORCE

The following-named officers for promotion in the Regular Air Force of the United States to the grade indicated under title 10, United States Code, section 624:

To be major general

Brig. Gen. Thomas R. Case, 000–00–0000
Brig. Gen. Donald G. Cook, 000–00–0000
Brig. Gen. Charles H. Coolidge, Jr., 000–00–0000
Brig. Gen. John R. Dallager, 000–00–0000
Brig. Gen. Richard L. Engel, 000–00–0000
Brig. Gen. Marvin R. Esmond, 000–00–0000
Brig. Gen. Bobby O. Floyd, 000–00–0000
Brig. Gen. Robert H. Foglesong, 000–00–0000
Brig. Gen. Jeffrey R. Grime, 000–00–0000
Brig. Gen. John W. Hawley, 000–00–0000
Brig. Gen. Michael V. Hayden, 000–00–0000
Brig. Gen. William T. Hobbins, 000–00–0000
Brig. Gen. John D. Hopper, Jr., 000–00–0000
Brig. Gen. Raymond P. Huot, 000–00–0000
Brig. Gen. Timothy A. Kinnan, 000–00–0000
Brig. Gen. Michael C. Kostelnik, 000–00–0000
Brig. Gen. Lance W. Lord, 000–00–0000
Brig. Gen. Ronald C. Marcotte, 000–00–0000
Brig. Gen. Gregory S. Martin, 000–00–0000
Brig. Gen. Michael J. McCarthy, 000–00–0000
Brig. Gen. John F. Miller, Jr., 000–00–0000
Brig. Gen. Charles H. Perez, 000–00–0000
Brig. Gen. Stephen B. Plummer, 000–00–0000
Brig. Gen. David A. Sawyer, 000–00–0000
Brig. Gen. Terryl J. Schwalier, 000–00–0000
Brig. Gen. George T. Stringer, 000–00–0000
Brig. Gen. Gary A. Voellger, 000–00–0000

AIR FORCE

The following-named officers for appointment in the Air National Guard of the U.S. Air Force, to the grade indicated, under the provisions of Title 10, United States Code, Sections 8373, 8374, 12201, and 12212:

To be major general

Brig. Gen. James F. Brown, 000–00–0000
Brig. Gen. James McIntosh, 000–00–0000

To be brigadier general

Col. Gary A. Brewington, 000–00–0000
Col. William L. Fleshman, 000–00–0000
Col. Allen H. Henderson, 000–00–0000
Col. John E. Iffland, 000–00–0000
Col. Dennis J. Kerkman, 000–00–0000
Col. Stephen M. Koper, 000–00–0000
Col. Anthony L. Liguori, 000–00–0000
Col. Kenneth W. Mahon, 000–00–0000
Col. William H. Phillips, 000–00–0000
Col. Jerry H. Risher, 000–00–0000
Col. William J. Shondel, 000–00–0000

AIR FORCE

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be lieutenant general

Major Gen. Richard C. Bethurem, 000–00–0000

The following-named officer for appointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be general

Lt. Gen. Michael E. Ryan, 000–00–0000

The following-named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be general

Gen. Richard E. Hawley, 000–00–0000

ARMY

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under Title 10, United States Code, sections 3385, 3392 and 12203(a):

To be major general

Brig. Gen. Stanhope S. Spears, 000–00–0000

(The above nominations 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 time by unanimous consent, and referred as indicated:

By Mr. KOHL:

S. 1604. A bill to improve the Juvenile Justice and Delinquency Prevention Act requirements regarding separate detention and confinement of juveniles, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI (by request):

S. 1605. A bill to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. THURMOND, Mr. DEWINE, Mr. KOHL, and Mr. BIDEN):

S. 1606. A bill to control the use of biological agents that have the potential to pose a severe threat to public health and safety, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. GRASSLEY, Mr. REID, and Mr. KYL):

S. 1607. A bill to control access to precursor chemicals used to manufacture methamphetamine and other illicit narcotics, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 1608. A bill to extend the applicability of certain regulatory authority under the Indian Self-Determination and Education Assistance Act, and for other purposes; to the Committee on Indian Affairs.

By Mr. BIDEN:

S. 1609. A bill to provide for the rescheduling of flunitrazepan into schedule I of the Controlled Substances Act, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL:

S. Con. Res. 44. Concurrent resolution authorizing the use of the Capitol Grounds for an event sponsored by the Specialty Equipment Market Association; to the Committee on Rules and Administration.

By Mr. DOLE (for himself and Mr. HELMS):

S. Con. Res. 45. Concurrent resolution authorizing the use of the Capitol Rotunda on May 2, 1996, for the presentation of the Congressional Gold Medal to Reverend and Mrs. Billy Graham; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 1604. A bill to improve the Juvenile Justice and Delinquency Prevention Act requirements regarding separate detention and confinement of juveniles, and for other purposes; to the Committee on the Judiciary.

THE JUVENILE JAIL IMPROVEMENT ACT OF 1996

● Mr. KOHL. Mr. President, I introduce the Juvenile Jail Improvement Act of 1996.

We face a growing and frightening tide of juvenile violence. And that tide is threatening to swamp our rural sheriffs. It is increasingly common for rural sheriffs to face a terrible dilemma every time they arrest a juvenile—they either have to release a potentially violent juvenile on the street to await trial or they have to spend invaluable time and manpower chauffeuring the juvenile around their State to an appropriate detention facility. Either way, the current system makes little sense and needs to be changed.

Let me explain how this dilemma works. In most rural communities, the only jail available is built exclusively for adults. There are no special juvenile facilities. But sometimes, the community can create a separate portion of the jail for juveniles. However, under current law, a juvenile picked up for criminal activity can only be held in a separate portion of an adult facility for up to 24 hours. After that, the juvenile must be transported—often across hundreds of miles—to a separate juvenile detention facility, often to be returned to the very same jail 2 or 3 days later for a court date. This system often leaves rural law enforcement crisscrossing the State with a single juvenile—and results in massive expenses for law enforcement with little benefit for juveniles, who spend endless hours in a squad car. Such a process does not serve anyone's interests.

And that is not all that rural sheriffs face. Even qualifying for the 24-hour exception can be a nightmare. That's because juveniles can be kept in adult jails only under a very stringent set of rules. Keeping juveniles in an adult jail is known as collocation. It can only be done if there is strict sight and sound separation between the adults and the juveniles as well as completely separate staff. For many small communities, making these physical and staff changes to their jails is prohibitively expensive.

So sheriffs faced with diverting officers to drive around the State in search of a detention facility may chose to let the juvenile free while awaiting trial. This prospect should frighten anyone who is aware of the growing trend in juvenile violence.

Today, I am introducing legislation that is designed to cure this problem. My legislative solution is simple, straightforward and effective. It extends from 24 to 72 hours the time during which rural law enforcement may collocate juvenile offenders in an adult facility, as long as juveniles remain separated from adults. It also relaxes the requirements for acceptable collocation. After taking a hard look at how the collocation rules have

worked—and in what ways they have failed—this legislation comes to a reasonable compromise, and, as a result, it has the support of the Badger Sheriffs Association.

Mr. President, one of our most important goals is assuring that any changes to these rules does not sacrifice the safety and welfare of arrested juveniles. In addition to the growing fear about juvenile violence, we have witnessed a growing anger and frustration at juveniles. That frustration should not lead us to forget the painful lessons we learned many years ago about abusive and dangerous treatment of delinquent children. Twenty years ago, we learned about kids who were thrown in jail where they were victimized and abused by adult prisoners; or where, without proper supervision, they committed suicide; or, where, guarded by people who only had experience with adult prisoners, they were disciplined savagely. When we give in to the temptation to just throw juveniles in jail and teach them a tough lesson, we are often ill rewarded. So even as we loosen these collocation requirements, we must bear in mind that the juvenile justice system still has as its principle goal rehabilitation, not harsh retribution.

My conversations with administrators, sheriffs, and juvenile court judges have led me to conclude that we must bring greater flexibility—and less redtape—to the Juvenile Justice Act. It is my hope that this legislation—which offers greater flexibility while retaining important protections regarding the separation of juveniles from adults—will meet with strong support from the Senate.

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

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

S. 1604

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 ''Juvenile Jail Improvement Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) current Juvenile Justice and Delinquency Prevention Act rules and regulations concerning the separation of adults from juveniles during short periods of detention or confinement have proven unduly burdensome for rural law enforcement;

(2) altering requirements concerning the length of stay permitted in a State-approved portion of a county jail or secure detention facility, while retaining the separation of juveniles from adults, would diminish these burdens without harm to juveniles;

(3) the requirement of completely separate staffing during these short stays also creates large burdens yet yields little benefit for juveniles; and

(4) experience with shared staff indicates that juveniles are not harmed by the use of shared staff, so long as the staff members are appropriately trained and certified, and juveniles do not have regular contact with adults.

SEC. 3. CLARIFICATION OF CONTACT RULES.

Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(14)) is amended—

(1) by striking ''1997'' and inserting ''2001'';

(2) by striking ''pursuant to an enforceable State law requiring such appearances within twenty-four hours after being taken into custody (excluding weekends and holidays)'' and inserting ''and permit the detention or confinement of juveniles in a State approved portion of a county jail or secure detention facility for up to 72 hours''; and

(3) by striking ''such exceptions are'' and all that follows through the end of the paragraph and inserting the following: ''such exceptions—

''(A) are limited to areas that are in compliance with paragraph (13) and—

''(i) are outside a Standard Metropolitan Statistical Area; and

''(ii) have no existing acceptable alternative placement available that is easily accessible;

''(B) permit the same staff members to oversee both juveniles and adults only if such staff members have been properly trained and certified to supervise juveniles; and

''(C) ensure that juveniles have no regular contact with adult persons who are incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;''.●

By Mr. MURKOWSKI (by request):

S. 1605. A bill to amend the Energy Policy and Conservation Act to manage the strategic petroleum reserve more effectively and for other purposes; to the Committee on Energy and Natural Resources.

THE ENERGY POLICY AND CONSERVATION ACT AMENDMENTS ACT OF 1996

● Mr. MURKOWSKI. Mr. President, pursuant to an executive communication referred to the Committee on Energy and Natural Resources, at the request of the Secretary of Energy, I send to the desk a bill to amend and extend certain authorities in the Energy Policy and conservation Act which either have expired or will expire June 30, 1996.

Although I do not necessarily agree with all of the provisions of this bill, the reauthorization of the programs covered by the legislation, including the strategic petroleum reserve, is an important issue that must be fully considered by the committee and the Senate. Thus, I introduce this draft legislation today and ask unanimous consent that the executive communication and the bill be printed in the RECORD

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

S. 1605

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the ''Energy Policy and Conservation Act Amendments Act''.

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

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

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

SEC. 3. Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(a) by striking section 102 (42 U.S.C. 6211),

(b) in section 105 (42 U.S.C. 6213)—

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

''(a) The Secretary of the Interior shall prohibit the bidding for any right to develop crude oil, natural gas, and natural gas liquids on any lands located on the Outer Continental Shelf by any person if more than one major oil company, more than one affiliate of a major oil company, or a major oil company and any affiliate of a major oil company, has or have a significant ownership interest in that person, when the Secretary determines prior to any lease sale that this bidding would adversely affect competition or the receipt of fair market value.'', and

(2) by striking subsections (c) and (e).

(c) by striking section 106 (42 U.S.C. 6214),

(d) in section 151 (42 U.S.C. 6231)—

(1) in subsection (a) by striking ''limited'' and ''short-term'', and

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

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

(e) in section 152 (42 U.S.C. 6232)—

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

(2) in paragraph (11) by striking '', the Early Storage Reserve, and the Regional Petroleum Reserve '', and by adding a period after Industrial Petroleum Reserve.

(f) by striking section 153 (42 U.S.C. 6233),

(g) in section 154 (42 U.S.C. 6234)—

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

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

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

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

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

(h) by striking section 155 (42 U.S.C. 6235),

(i) in section 156(b) (42 U.S.C. 6236(b)), by striking ''To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the'' and inserting ''The''.

(j) by striking section 157 (42 U.S.C. 6237),

(k) by striking section 158 (42 U.S.C. 6238),

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

(m) in section 159 (42 U.S.C. 6239)—

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

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

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

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

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

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

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

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

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

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

''(8) require an importer of petroleum products or refiner to acquire and to store and maintain, in readily available inventories, petroleum products in the Industrial Petroleum Reserve, under section 156;

''(9) require the storage of petroleum products in the Industrial Petroleum Reserve, under section 156, on terms that the Secretary specifies, in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if those facilities are subject to audit by the United States;

''(10) require the maintenance of the Industrial Petroleum Reserve;

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

''(12) to the extent provided in an Appropriations Act, and not withstanding section 649(b) of the Department of Energy Organization Act (42 U.S.C. 7259(b)), the Secretary is authorized to store in unused SPR facilities by lease or otherwise petroleum product owned by a foreign government or its representative, petroleum product stored under this paragraph is not part of the Reserve, is not subject to part C of this title, and notwithstanding any provision of this Act, may be exported from the United States.''.

(3) in subsection (g)—

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

(B) by striking ''Plan''.

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

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

''(j) When the Secretary determines that a 750,000,000 barrel inventory can reasonably be expected to be reached in the Reserve within 5 years, a plan for expansion will be submitted to the Congress.'', and

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

''(l) During any period in which drawdown and distribution are being implemented, the Secretary may issue rules, regulations, or orders to implement the drawdown and distribution of the Strategic Petroleum Reserve in accordance with section 553 of title 5, United States Code, without regard to rulemaking requirements in section 523 of this Act, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

(n) in section 160 (42 U.S.C. 6240)—

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

''(a) To the extent funds are available under section 167(b) (2) and (3) and for the purposes of implementing the Strategic Petroleum Reserve, the Secretary may acquire place in storage, transport, or exchange.''.

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

(3) by striking subsections (c), (d), (e), and (g).

(o) in section 161 (42 U.S.C. 6241)—

(1) by striking subsections (b) and (c),

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

''(d)(1) No drawdown and distribution of the Strategic Petroleum Reserve may be made unless the President has found drawdown and distribution is required by a severe energy supply interruption or by obligations of the United States under the international energy program.'',

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

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

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

(4) in subsection (g)—

(A) in paragraph (1), by striking ''Distribution Plan'' and inserting ''distribution procedures'',

(B) by striking paragraphs (2) and (6), and

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

(p) by striking section 164 (42 U.S.C. 6244),

(q) by amending section 165 (42 U.S.C. 6245) to read as follows—

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

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

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

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

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

''(5) an identification of purchases of petroleum made in the preceding year and planned in the following year, including quantity, price, and type of petroleum;

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

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

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

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

''(10) any recommendation for supplemental legislation or policy or operational changes the Secretary considers necessary and appropriate to implement this part.''.

(r) in section 166 (42 U.S.C. 6246) by striking all after ''appropriated'' and inserting ''the funds necessary to implement this part.'',

(s) in section 167 (42 U.S.C. 6247)—

(1) in subsection (b)—

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

(B) by striking paragraph (1), and

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

(t) in section 171 (42 U.S.C. 6249)—

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

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

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

(v) by striking section 173 (42 U.S.C. 6249b), and

(w) in section 181 (42 U.S.C. 6251), by striking ''June 30, 1996'' each time it appears and inserting ''September 30, 2001''.

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

(a) by striking Part A (42 U.S.C. 6261 through 6264),

(b) by striking ''section 252(l)(1)'' in section 251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting ''section 252(k)(1)'',

(c) in section 252(42 U.S.C. 6272)—

(1) in subsections (a)(1) and (b), by striking ''allocation and information provisions of the international energy program'' and inserting ''international emergency response provisions'',

(2) in subsection (d)(3), by striking ''known'' and inserting after ''circumstances'' ''known at the time of approval'',

(3) in subsection (e)(2) by striking ''shall'' and inserting ''may'',

(4) in subsection (f)(2) by inserting ''voluntary agreement or'' after ''approved'',

(5) by amending subsection (h) to read as follows—

''(h) Section 708 of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—

''(1) the international energy program, or

''(2) any allocation, price control, or similar program with respect to petroleum products under this Act.'',

(6) in subsection (i) by inserting ''annually, or'' after ''least'' and by inserting ''during an international energy supply emergency'' after ''months'',

(7) in subsection (k) by amending paragraph (2) to read as follows—

''(2) The term ''international emergency response provisions'' means—

''(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program, and

''(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984, decision by the Governing Board on ''Stocks and Supply Disruptions'') for—

''(i) the coordinated drawdown of stocks of petroleum products held or controlled by governments, and

''(ii) complementary actions taken by governments during an existing or impending international oil supply disruption'', and

(8) by amending subsection (l) to read as follows—

''(l) The antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.''.

(d) by adding at the end of section 256(h). ''There are authorized to be appropriated for fiscal years 1996 through 2001, such sums as may be necessary.'',

(e) by striking Part C (42 U.S.C. 271 through 272), and

(f) in section 281 (42 U.S.C. 6285), by striking ''June 30, 1996'' each time it appears and inserting ''September 30, 2001''.

SEC. 5. (a) Title III of the energy Policy and Conservation Act (42 U.S.C. 6291–6325 and 6361–6374) is amended—

(1) in section 365(f) (42 U.S.C. 6325(f)) by amending paragraph (1) to read as follows:

''(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated $24,650,000 million for fiscal year 1996 and for fiscal years 1997 through 2001, such sums as may be necessary.'', and

(2) section 397 (42 U.S.C. 6371f) is amended to read as follows: ''For the purpose of carrying out this part, there are authorized $26,849,000 million to be appropriated for fiscal year 1996 and for fiscal years 1997 through 2001, such sums as may be necessary.''.

(b) in section 400BB(b) (42 U.S.C. 6374a(b)) by amending paragraph (1) to read as follows:

''(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1996 through 2001, to remain available until expended.''.

SEC. 6. Title V of the Energy Policy and Conservation Act (42 U.S.C. 6381–6422) is amended—

(1) by striking section 507 (42 U.S.C. 6385), and

(2) by striking section 522 (42 U.S.C. 6392).

SECTION-BY-SECTION

SECTION 2. AMENDMENTS TO THE STATEMENT OF PURPOSES

Section 2 of the bill would amend section 2 of the Energy Policy and Conservation Act (EPCA).

Paragraph (1) would strike language referring to standby energy conservation and rationing authorities in title II, part A, which expired June 30, 1985.

Paragraph (2) would strike paragraphs (3) and (6) of the Statement of Purposes to reflect the bill's elimination of sections 102 (incentives to develop underground coal mines) and 106 (Production of oil or gas at the maximum efficient rate and temporary emergency production rate).

SECTION 3. AMENDMENTS TO TITLE I OF EPCA

Subsection (a) would strike section 102 of EPCA.

Section 102 of EPCA provides a loan guaranty program to encourage the opening of underground coal mines. Coal supply, however, is abundant, and the loan guarantee program has been inactive since the early 1980s. Because there is no current or foreseeable need for the program authorized by section 102 of EPCA, it is appropriate to delete the section.

Subsection (b) would amend section 105(a) of EPCA by providing that the Secretary of the Interior may allow joint bidding by major oil companies unless the Secretary determines that this bidding would adversely affect competition or the receipt of fair market value. If the Secretary decides to prohibit joint bidding, it may be done without issuing a rule, as previously required. This change would render unnecessary the exemption process required in section 105(c). The report required in section 105(e) has been issued to Congress.

Subsection (c) would strike section 106 of EPCA.

Section 106 of EPCA directs the Secretary of the Interior to determine the maximum efficient rate of production and the temporary emergency rate of production, if any, for each field on Federal lands which produces or is capable of producing significant volumes of crude oil or natural gas. The President may then require production at those rates, and the owner may sue for damages if economic loss is incurred.

Subsection (d) would amend section 151 of EPCA to clarify the policy for establishing a strategic reserve of petroleum products, and delete references to the Early Storage Reserve, the objectives of which have been achieved.

Subsection (e) would amend section 152 of EPCA by deleting the definition of ''Early Storage Reserve'' and ''Regional Petroleum Reserve.'' Requirements for and all references to these parts of the program would be deleted by this bill.

Subsection (f) would strike section 153 of EPCA and amend section 154 to reflect the transfer of the Strategic Petroleum Reserve Office from the Federal Energy Administration to the Department of Energy.

Subsection (g) would amend section 154 of EPCA to eliminate requirements for a Strategic Petroleum Reserve Plan, and for specified fill rates and schedules, but would retain authority for a one billion barrel Reserve.

The Strategic Petroleum Reserve Plan is largely obsolete because the sites that are described for development in the Plan have now been developed. The need for the Drawdown and Distribution Plan, contained in Plan Amendment 4, is eliminated by the amendment to section 159, which would codify competitive sales as the drawdown and distribution policy and elimination allocation as a method of distribution.

Subsection (h) would delete section 155 of EPCA, which requires the establishment of an Early Storage Reserve. All of the volumetric goals for the Early Storage Reserve have been accomplished, and there is no longer a distinction between the Early Storage Reserve and any other facilities or petroleum that make up the Strategic Petroleum Reserve.

Subsection (i) would amend section 156(b) of EPCA on the Industrial Petroleum Reserve authority to remove references to the Early Storage Reserve and the Strategic Petroleum Reserve Plan, which are being deleted by other amendments.

Subsection (j) would delete section 157, Regional Petroleum Reserve. Section 157 of the Act requires the establishment of regional petroleum reserve of refined products in Federal Energy Administration regions that are dependent upon imports for more than 20 percent of their consumption. The Department determined to substitute crude oil for products and also determined that the Gulf Coast area is near enough to all areas to provide protection.

Subsection (k) would delete 158 of EPCA.

Section 158 requires reports to Congress on Utility Reserves, Coal Reserves, and Remote Crude Oil and Natural Gas Reserves within six months of passage of the original Act. This requirement has been fulfilled.

Subsection (l) would amend the heading for section 159 of EPCA to reflect amendment to its contents.

Subsection (m) would amend section 159 of EPCA.

Paragraph (1) would eliminate subsections (a) through (e) of section 159 of EPCA, which require Congressional review of the Strategic Petroleum Reserve Plan and provide for Plan amendments, to reflect the deletion of the requirement for a Strategic Petroleum Reserve Plan in subsection (g) of this amendment.

Paragraph (2) would amend subsection 159(f) of EPCA to eliminate references to the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan. This amendment also would clarify and make explicit the Secretary's discretionary authority to lease, sell, or otherwise dispose of underutilized Strategic Petroleum Reserve facilities. If necessary or appropriate, lease terms could exceed the five-year limitation of section 649(b) of the Department of Energy Organization Act. In addition, the Secretary is given authority to lease under-utilized Strategic Petroleum Reserve facilities to foreign governments or their representatives. These leases also may exceed the five-year limitation of section 649(b).

Paragraph (3) would remove references in subsection (g) of section 159 of EPCA to the Strategic Petroleum Reserve Plan.

Paragraph (4) would delete subsections 159(h) and (i) of EPCA. Subsection 159(h) deals with interim storage facilities which provide for storage of petroleum prior to the creation of Government-owned facilities. That authority is no longer needed since the Reserve has 592 million barrels of oil in storage and significant unutilized storage capacity Subsection 159(i) required the submission of a report to Congress within 18 months after enactment of the 1990 EPCA Amendments on the results of contract negotiations conducted pursuant to part C of EPCA. The Department did not conclude any contracts pursuant to part C and the reporting provision has expired by its own terms.

Paragrah (5) would amend subsection 159(j) of the EPCA to reflect the elimination of the statutory requirement for a Strategic Petroleum Reserve Plan by amendment of section 154 of the Act. This amendment would continue the requirement for submission to Congress of proposed plans for expansion of storage capacity following a determination by the Secretary that the Reserve can reasonably be expected to be filed to 750 million barrels within five years. This reflects the uncertain financing situation for filling available capacity in the Reserve and makes planning for capacity expansion beyond current capacity premature.

Paragraph (6) would amend subsection 159(l) to eliminate the reference to the Distribution Plan, but would retain the Secretary's authority, during drawdown and distribution of the Reserve, to promulgate regulations necessary to the drawdown and distribution without regard to rulemaking requirements in section 523 of this Act and section 501 of the Department of Energy Organization Act.

Subsection (n) would amend section 160 of EPCA.

Paragraph (1) would amend subsection 160(a) of EPCA to provide that the Secretary's authority to acquire petroleum products for the Strategic Petroleum Reserve is contingent on the availability of funds.

Paragraph (2) would amend subsection 160(b) of EPCA by striking the references to the Early Storage Reserve and the Regional Petroleum Reserve, which would be eliminated by this bill.

Paragraph (3) would strike subsections 160 (c), (d), (e), and (g) of EPCA.

Subsection 160(c) of EPCA requires minimum fill rates. These requirements have proved unrealistic given changes in oil markets and availability of financing. The proposed amendment gives the Secretary flexibility to fill the Reserve contingent upon the availability of funds.

Subsection 160(d) links sales authority for the United States' share of crude oil at Naval Petroleum Reserve Numbered 1 to a fill level of 750,000,000 barrels or a fill rate of 75,000 barrel per day. The requirement for Strategic Petroleum Reserve fill is dependent on the availability of financing for Strategic Petroleum Reserve acquisition, and the logistics of moving Naval Petroleum Reserve Numbered 1 crude oil to the Strategic Petroleum Reserve have proved to be very problematic.

Subsection 160(e) describes various exceptions to the linkage between the Naval Petroleum Reserve Numbered 1 crude oil sales authority and the Strategic Petroleum Reserve fill rate, which would be eliminated by this bill.

Subsection 160(g) requires a refined petroleum product reserve test in fiscal years 1992–94, and a report to Congress. The test was not conducted due to insufficient appropriations in fiscal year 1992 and fiscal year 1993 and was waived in fiscal year 1994. The required report has been submitted.

Subsection (o) would amend section 161 of EPCA.

Paragraph (1) would strike subsections 161 (b) and (c) of EPCA, because they refer to both the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan which would be eliminated by this bill.

Paragraph (2) would amend subsection 161(d)(1) of EPCA by eliminating the references to the Distribution Plan contained in the Strategic Petroleum Reserve Plan but would not change the existing conditions for Presidential decision to draw down and distribute the Reserve.

Paragraph (3) would amend subsection 161(e) of EPCA to require the Secretary to distribute oil from the Reserve via a public competitive sale to the highest qualified bidder. The amendment eliminates the Secretary's allocation authority.

The amendment also would make explicit the authority of the Secretary to cancel a sale in progress. This authority would enable the Secretary to respond to inordinately low bids, changes in market conditions, or a sudden reversal in the nature of the shortage or emergency.

Paragraph (4) would amend subsection 161(g) of EPCA.

Subparagraph (4)(A) would amend subsection 161(g)(1) of EPCA to substitute ''distribution procedures'' for ''Distribution Plan''.

Subparagraph (4)(B) would strike subsection 161(g)(2) of EPCA because it refers to the Distribution Plan eliminated by the bill, and subsection 161(g)(6) of EPCA because it refers to the minimum required fill rate eliminated by the bill.

Subparagraph (4)(C) would amend section 161(g)(4) of EPCA to prevent the Secretary from selling oil during a test sale of the Strategic Petroleum Reserve at a price less than ''95 percent'' of the sales price of comparable crude oil being sold in the same area at the time the Secretary is offering crude oil for sale rather than ''90 percent'' currently stipulated in this section. Since 10 percent of current prices upward of $1.50 per barrel, the Department believes a smaller range of difference in price would protect the Department from selling the oil below normal variations in market prices.

Subection (p) would strike section 164 of EPCA. Section 164 of EPCA required a study of the use of Naval Petroleum Reserve No 4 jointly by the Secretaries of Energy, the Interior and the Navy, with a report to Congress within 180 days of the passage of the original Act. The study and report were completed.

Subsection (q) would amend section 165 of EPCA by deleting the requirement for quarterly reports on the operation of the Strategic Petroleum Reserve, and requiring instead an annual report consistent with other parts of this amendment. Quarterly reports, considered important during the early growth period of the Strategic Petroleum Reserve to inform the Congress of progress in construction and the rate of fill, are now unnecessary, and their deletion would save administrative costs. Subsection (q) would also eliminate references to the Strategic Petroleum Reserve Plan, the Distribution Plan, and the Early Storage Reserve, which are eliminated by the bill and would change some of the requirements for information to be included in the annual report to reflect more accurately the current status of the Reserve.

Subsection (r) would amend section 166 of EPCA to authorize appropriations necessary to implement the Strategic Petroleum Reserve, and to delete year specific authorizations for the early years of the Reserve.

Subsection (s) would amend section 167 of EPCA to clarify that funds generated by test sales will be deposited in the SPR Petroleum Account. The amendment would remove language specific to fiscal year 1982 which limits the amount of money in the SPR Petroleum Account that year. The amendment also would delete reference to the use of funds for interim storage, which will not be needed because the permanent facilities are complete for the storage of 750 million barrels of oil.

Subsection (t) would amend section 171 of EPCA to eliminate the reference to a requirement for information identical to that in section 154(e) of EPCA. Section 154(e) describes information that is included in the Strategic Petroleum Reserve Plan, which is deleted in this legislation. Instead, when the Secretary notifies the Congress that the Department intends to contract for storage of petroleum under part C, the notification will include a requirement for information more pertinent to the contract.

Subsection (u) would amend section 172 of EPCA.

Paragraph (1) would delete subsections (a) and (b). The exemption in subsection (a) from the requirement for a Strategic Petroleum Reserve Plan amendment is no longer necessary because the bill eliminates the requirement for Plan amendments. Subsection (b) provides that, for purposes of meeting the fill rate requirement in section 160 (d)(1) of EPCA part C contract oil which is removed from the Reserve at the end of the contract agreement shall be considered part of the Reserve until the beginning of the fiscal year following the fiscal year in which the oil is removed. This subsection is unnecessary since the requirement for specific fill rates is deleted by amendment of section 160 of the Act.

Subsection (v) would delete section 173 of EPCA which requires congressional review and therefore, public scrutiny of the details of contracts even though no implementing legislation is needed, and requires a 30-day ''lie before'' period before the contract can go into effect. This requirement is a substantial impediment to acquisition of oil for the Reserve by ''leasing'' and other alternative financing methods authorized by EPCA, part C.

Subsection (w) would amend section 181 of EPCA by extending the expiration date of title I, parts B and C from June 30, 1996 to September 30, 2001.

Public Law 103–406 extended the expiration date to June 30, 1996.

SECTION 4. AMENDMENTS TO TITLE II OF EPCA

Subsection (a) would strike part A of EPCA title II, which contains the authorities for gasoline rationing and other mandatory energy conservation measures which expired on July 1, 1985.

Subsection (b) would amend section 251(e)(1) by striking section ''252(l)(l)'' and inserting in lieu thereof ''252(k)(1).''

Subsection (c) would amend section 252 of EPCA, which makes available to United States oil companies a limited antitrust defense and breach of contract defense for actions taken to carry out a voluntary agreement or plan of action to implement the ''allocation and information provisions'' of the Agreement on an International Energy Program (''IEP''). These limited defenses are now available only in connection with the companies' participation in planning for and implementation of the IEP's emergency oil sharing and information programs. The amendment would extend the section 252 antitrust defense (but not the breach of contract defense) to U.S. companies when they assist the International Energy Agency (''IEA'') in planning for and implementing coordinated drawdown of government-owned or government-controlled petroleum stocks. In 1984, largely at the urging of the United States, the IEA's Governing Board adopted a decision on ''Stocks and Supply Disruptions'' which established a framework for coordinating the drawdown of member countries' government-owned and government-controlled petroleum stocks in those oil supply disruptions that appear capable of causing severe economic harm, whether or not sufficient to activate the IEP emergency oil sharing and information programs. During the 1990–91 Persian Gulf crisis the IEA successfully tested the new coordinated stockdraw policy.

Paragraph 1 would amend subsections 252(a) and (b) of EPCA. These sections would be amended by substituting the term ''international emergency response provisions'' for the term ''allocation and information provisions of the international energy program.'' The new term establishes the scope of oil company activities covered by the antitrust defense and includes actions to assist the IEA in implementing coordinated drawdown of petroleum stocks.

Paragraph 2 would amend paragraph 252(d)(3) of EPCA to clarify that a plan of action submitted to the Attorney General for approval must be as specific in its description of proposed substantive actions as is reasonable ''in light of circumstances known at the time of approval'' rather than ''in light of known circumstances.''

Paragraph 3 would amend paragraph 252(e)(2) of EPCA to give the Attorney General flexibility in promulgating rules concerning the maintenance of records by oil companies related to the development and carrying out of voluntary agreements and plans of action.

Paragraph 4 would amend paragraph 252(f)(2) of EPCA to clarify that the antitrust defense applies to oil company actions taken to carry out an approved voluntary agreement as well as an approved plan of action.

Paragraph 5 would amend subsection 252(h) of EPCA to strike the reference to section 708(A) of the Defense Production Act of 1950, which was repealed by Public Law 102–558 (October 28, 1992), and the reference to the Emergency Petroleum Allocation Act of 1973, which expired in 1981.

Paragraph 6 would amend subsection 252(i) of EPCA to require the Attorney General and the Federal Trade Commission to submit reports to Congress and to the President on the impact of actions authorized by section 252 on competition and on small businesses annually rather than every six months, except during an ''international energy supply emergency,'' when the reports would be required every six months.

Paragraph 7 would amend paragraph 252(k)(2) of EPCA by substituting a definition of the term ''international emergency response provisions'' for the present definition of ''allocation and information provisions of the international energy program.'' The new term, which establishes the scope of company actions covered by the antitrust defense, covers (A) the allocation and information provisions of the IEP and (B) emergency response measures adopted by the IEA Governing Board for the coordinated drawdown of stocks of petroleum products held or controlled by governments and complementary actions taken by governments during an existing or impending international oil supply disruption, whether or not international allocation of petroleum products is required by the IEP.

Paragraph 8 would amend subsection 252(l) of EPCA to make clear that the antitrust defense does not extend to international allocation of petroleum unless the IEA's Emergency Sharing System has been activated.

Subsection (d) would amend subsection 256(h) of EPCA to authorize appropriations for fiscal years 1996 through 2001 for the activities of the interagency working group and interagency working subgroups established by section 256 of EPCA to promote exports of renewable energy and energy efficiency products and services.

Subsection (e) would strike EPCA part C, which was added to the EPCA by the Energy Emergency Preparedness Act of 1982 and which required the submission to Congress of reports on energy emergency legal authorities and response procedures. The reporting requirement was fulfilled in 1982.

Subsection (f) would amend section 281 of EPCA by extending the expiration date of title II from June 30, 1996 to September 30, 2001.

Public Law 103–406 extended the expiration date to June 30, 1996.

SECTION 5. AMENDMENTS TO TITLE III OF EPCA

Subsection (a) would amend sections 365 and 397 of EPCA, which provide authorization for appropriations for fiscal years 1991, 1992, and 1993 for State Energy Conservation programs and the Energy Conservation Program for Schools and Hospitals. The amendment would authorize appropriations of $24.651 million for section 365 and $26.849 million for section 397 for fiscal year 1996 and such funds as may be necessary for fiscal years 1997 through 2001.

Subsection (b) would amend section 400BB to extend the authorization for the appropriation of the Alternative Fuels Truck Commercial Application Program to fiscal year 2001.

SECTION 6. AMENDMENTS TO TITLE V OF EPCA

Paragraph 1 would delete section 507 of the Act, which provides that the Energy Information Administration must continue to gather the same data on pricing, supply and distribution of petroleum products as it did on September 1, 1981. This section hinders the flexibility of the Administrator to collect information that is currently meaningful. There is no reason to have a statutory prohibition against modifying and amending the types of data collected.

Paragraph 2 would delete section 522 of the Act, which provides conflict of interest disclosure requirements for the Federal Energy Administration. This section was superseded by the Department of Energy Organization Act.

SECRETARY OF ENERGY,
Washington, DC, October 10, 1995.

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

DEAR MR. PRESIDENT: Enclosed is a legislative proposal cited as the ''Energy Policy and Conservation Act Amendments Act of 1995.'' This proposal would amend and extend certain authorities in the Energy Policy and Conservation Act (Act) which either have expired or will expire June 30, 1996. Not all sections of the current act are proposed for extension.

The Act was passed in 1975. Title I authorizes the creation and maintenance of the Strategic Petroleum Reserve that would mitigate shortages during an oil supply disruption. Title II contains authorities essential for meeting key United States obligations to the International Energy Agency. This is our method of coordinating energy emergency response programs with other countries. The current antitrust defense available to American companies participating in the International Energy Agency would be clarified by the proposed legislation. Titles I and II are proposed for extension beyond their June 30, 1996 expiration date.

Title III contains authorities for certain energy efficiency and conservation programs. The authorization of appropriations has expired for these programs. These successful and very cost beneficial programs, designed to encourage and subsidize demand reducing investment and manufacturing, are proposed for extension without amendment. Title V contains residual provisions from the Federal Energy Administration pertaining to energy data bases and information, and general and administrative matters. Those provisions which hinder the flexibility of the Administrator of the Energy Information Administration to collect currently meaningful information are proposed for deletion.

The proposed legislation would extend the Strategic Petroleum Reserve, participation in the International Energy Program, and conservation and efficiency authorities to September 30, 2001. It would revise or delete certain provisions which are outdated or unnecessary.

The proposed legislation and a sectional analysis are enclosed.

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

Sincerely,

HAZEL R. O'LEARY.

Enclosures.

SECTION-BY-SECTION

SECTION 2. AMENDMENTS TO THE STATEMENT OF PURPOSES

Section 2 of the bill would amend section 2 of the Energy Policy and Conservation Act (EPCA).

Paragraph (1) would strike language referring to standby energy conservation and rationing authorities in title II, part A, which expired June 30, 1985.

Paragraph (2) would strike paragraphs (3) and (6) of the Statement of Purposes to reflect the bill's elimination of sections 102 (incentives to develop underground coal mines) and 106 (Production of oil or gas at the maximum efficient rate and temporary emergency production rate).

SECTION 3. AMENDMENTS TO TITLE I OF EPCA

Section (a) would strike section 102 of EPCA.

Section 102 of EPCA provides a loan guaranty program to encourage the opening of underground coal mines. Coal supply, however, is abundant, and the loan guarantee program has been inactive since the early 1980s. Because there is no current or foreseeable need for the program authorized by section 102 of EPCA, it is appropriate to delete the section.

Section (b) would amend section 105(a) of EPCA by providing that the Secretary of the Interior may allow joint bidding by major oil companies unless the Secretary determines that this bidding would adversely affect competition or the receipt of fair market value. If the Secretary decides to prohibit joint bidding, it may be done without issuing a rule, as previously required. This change would render unnecessary the exemption process required in section 105(c). The report required in section 105(e) has been issued to Congress.

Section (c) would strike section 106 of EPCA.

Section 106 of EPCA directs the Secretary of the Interior to determine the maximum efficient rate of production and the temporary emergency rate of production, if any, for each field on Federal lands which produces or is capable of producing significant volumes of crude oil or natural gas. The President may then require production at those rates, and the owner may sue for damages if economic loss is incurred.

Subsection (d) would amend section 151 of EPCA to clarify the policy for establishing a strategic reserve of petroleum products, and delete references to the Early Storage Reserve, the objectives of which have been achieved.

Subsection (e) would amend section 152 of EPCA by deleting the definition of ''Early Storage Reserve'' and ''Regional Petroleum Reserve.'' Requirements for and all references to these parts of the program would be deleted by this bill.

Subsection (f) would strike section 153 of EPCA and amend section 154 to reflect the transfer of the Strategic Petroleum Reserve Office from the Federal Energy Administration to the Department of Energy.

Subsection (g) would amend section 154 of EPCA to eliminate requirements for a Strategic Petroleum Reserve Plan, and for specified fill rates and schedules, but would retain authority for a one billion barrel Reserve.

The Strategic Petroleum Reserve Plan is largely obsolete because the sites that are described for development in the Plan have now been developed. The need for the Drawdown and Distribution Plan, contained in Plan Amendment 4, is eliminated by the amendment to section 159, which would codify competitive sale as the drawdown and distribution policy and eliminate allocation as a method of distribution.

Subsection (h) would delete section 155 of EPCA, which requires the establishment of an Early Storage Reserve. All of the volumetric goals for the Early Storage Reserve have been accomplished, and there is no longer a distinction between the Early Storage Reserve and any other facilities or petroleum that make up the Strategic Petroleum Reserve.

Subsection (i) would amend section 156(b) of EPCA on the Industrial Petroleum Reserve authority to remove references to the Early Storage Reserve and the Strategic Petroleum Reserve Plan, which are being deleted by other amendments.

Subsection (j) would delete section 157, Regional Petroleum Reserve. Section 157 of the Act requires the establishment of regional petroleum reserve of refined products in Federal Energy Administration regions that are dependent upon imports for more than 20 percent of their consumption. The Department determined to substitute crude oil for products and also determined that the Gulf Coast area is near enough to all areas to provide protection.

Subsection (k) would delete 158 of EPCA.

Section 158 requires reports to Congress on Utility Reserves, Coal Reserves, and Remote Crude Oil and Natural Gas Reserves within six months of passage of the original Act. This requirement has been fulfilled.

Subsection (l) would amend the heading for section 159 of EPCA to reflect amendment to its contents.

Subsection (m) would amend section 159 of EPCA.

Paragraph (l) would eliminate subsections (a) through (e) of section 159 of EPCA, which require Congressional review of the Strategic Petroleum Reserve Plan and provide for Plan amendments, to reflect the deletion of the requirement for a Strategic Petroleum Reserve Plan in subsection (g) of this amendment.

Paragraph (2) would amend subsection 159 (f) of EPCA to eliminate references to the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan. This amendment also would clarify and make explicit

the Secretary's discretionary authority to lease, sell, or otherwise dispose of underutilized Strategic Petroleum Reserve facilities. If necessary or appropriate, lease terms could exceed the five-year limitation of section 649(b) of the Department of Energy Organization Act. In addition, the Secretary is given authority to lease under-utilized Strategic Petroleum Reserve facilities to foreign governments or their representatives. These leases also may exceed the five-year limitation of section 649(b).

Paragraph (3) would remove references in subsection (g) of section 159 of EPCA to the Strategic Petroleum Reserve Plan.

Paragraph (4) would delete subsections 159(h) and (i) of EPCA. Subsection 159(h) deals with interim storage facilities which provide for storage of petroleum prior to the creation of Government-owned facilities. That authority is no longer needed since the Reserve has 592 million barrels of oil in storage and significant unutilized storage capacity. Subsection 159(i) required the submission of a report to Congress within 18 months after enactment of the 1990 EPCA Amendments on the results of contract negotiations conducted pursuant to part C of EPCA. The Department did not conclude any contracts pursuant to part C, and the reporting provision has expired by its own terms.

Paragraph (5) would amend subsection 159(j) of EPCA to reflect the elimination of the statutory requirement for a Strategic Petroleum Reserve Plan by amendment of section 154 of the Act. This amendment would continue the requirement for submission to Congress of proposed plans for expansion of storage capacity following a determination by the Secretary that the Reserve can reasonably be expected to be filled to 750 million barrels within five years. This reflects the uncertain financing situation for filling available capacity in the Reserve and makes planning for capacity expansion beyond current capacity premature.

Paragraph (6) would amend subsection 159(l) to eliminate the reference to the Distribution Plan, but would retain the Secretary's authority, during drawdown and distribution of the Reserve, to promulgate regulations necessary to the drawdown and distribution without regard to rulemaking requirements in section 523 of this Act and section 501 of the Department of Energy Organization Act.

Subsection (n) would amend section 160 of EPCA.

Paragraph (1) would amend subsection 160(a) of EPCA to provide that the Secretary's authority to acquire petroleum products for the Strategic Petroleum Reserve is contingent on the availability of funds.

Paragraph (2) would amend subsection 160(b) of EPCA by striking the references to the Early Storage Reserve and the Regional Petroleum Reserve, which would be eliminated by this bill.

Paragraph (3) would strike subsections 160(c), (d), (e), and (g) of EPCA.

Subsection 160(c) of EPCA requires minimum fill rates. These requirements have proved unrealistic given changes in oil markets and availability of financing. The proposed amendment gives the Secretary flexibility to fill the Reserve contingent upon the availability of funds.

Subsection 160(d) links sales authority for the United States' share of crude oil at Naval Petroleum Reserve Numbered 1 to a fill level of 750,000,000 barrels or a fill rate of 75,000 barrels per day. The requirement for Strategic Petroleum Reserve fill is dependent on the availability of financing for Strategic Petroleum Reserve acquisition, and the logistics of moving Naval Petroleum Reserve Numbered 1 crude oil to the Strategic Petroleum Reserve have proved to be very problematic.

Subsection 160(e) describes various exceptions to the linkage between the Naval Petroleum Reserve Numbered 1 crude oil sales authority and the Strategic Petroleum Reserve fill rate, which would be eliminated by this bill.

Subsection 160(g) requires a refined petroleum product reserve test in fiscal years 1992–94, and a report to Congress. The test was not conducted due to insufficient appropriations in fiscal year 1992 and fiscal year 1993 and was waived in fiscal year 1994. The required report has been submitted.

Subsection (o) would amend section 161 of EPCA.

Paragraph (1) would strike subsections 161 (b) and (c) of EPCA, because they refer to both the Strategic Petroleum Reserve Plan and the Early Storage Reserve Plan which would be eliminated by this bill.

Paragraph (2) would amend subsection 161(d)(1) of EPCA by eliminating the references to the Distribution Plan contained in the Strategic Petroleum Reserve Plan but would not change the existing conditions for Presidential decision to draw down and distribute the Reserve.

Paragraph (3) would amend subsection 161(e) of EPCA to require the Secretary to distribute oil from the Reserve via a public competitive sale to the highest qualified bidder. The amendment eliminates the Secretary's allocation authority.

The amendment also would make explicit the authority of the Secretary to cancel a sale in progress. This authority would enable the Secretary to respond to inordinately low bids, changes in market conditions, or a sudden a reversal in the nature of the shortage or emergency.

Paragraph (4) would amend subsection 161(g) of EPCA.

Subparagraph (4)(A) would amend subsection 161(g)(1) of EPCA to substitute ''distribution procedures'' for ''Distribution Plan.''

Subparagraph (4)(B) would strike subsection 161(g)(2) of EPCA because it refers to the Distribution Plan eliminated by the bill, and subsection 161(g)(6) of EPCA because it refers to the minimum required fill rate eliminated by the bill.

Subparagraph (4)(C) would amend section 161(g)(4) of EPCA to prevent the Secretary from selling oil during a test sale of the Strategic Petroleum Reserve at a price less than ''95 percent'' of the sales price of comparable crude oil being sold in the same area at the time the Secretary is offering crude oil for sale rather than ''90 percent'' currently stipuled in this section. Since 10 percent of current prices ranges upward of $1.50 per barrel, the Department believes a smaller range of difference in price would protect the Department from selling the oil below normal variations in market prices.

Subsection (p) would strike section 164 of EPCA. Section 164 of EPCA required a study of the use of Naval Petroleum Reserve No. 4 jointly by the Secretaries of Energy, the Interior and the Navy, with a report to Congress within 180 days of the passage of the original Act. The study and report were completed.

Subsection (q) would amend section 165 of EPCA by deleting the requirement for quarterly reports on the operation of the Strategic Petroleum Reserve and requiring instead an annual report consistent with other parts of this amendment. Quarterly reports considered important during the early growth period of the Strategic Petroleum Reserve to inform the Congress of progress in construction and the rate of fill, are now unnecessary, and their deletion would save administrative costs. Subsection (q) would also eliminate references to the Strategic Petroleum Reserve Plan, the Distribution Plan, and the Early Storage Reserve, which are eliminated by the bill and would change some of the requirements for information to be included in the annual report to reflect more accurately the current status of the Reserve.

Subsection (r) would amend section 166 of EPCA to authorize appropriations necessary to implement the Strategic Petroleum Reserve, and to delete year specific authorizations for the early years of the Reserve.

Subsection (s) would amend section 167 of EPCA to clarify that funds generated by test sales will be deposited in the SPR Petroleum Account. The amendment would remove language specific to fiscal year 1982 which limits the amount of money in the SPR Petroleum Account that year. The amendment also would delete reference to the use of funds for interim storage, which will not be needed because the permanent facilities are complete for the storage of 750 million barrels of oil.

Subsection (t) would amend section 171 of EPCA to eliminate the reference to a requirement for information identical to that in section 154(e) of EPCA. Section 154(e) describes information that is included in the Strategic Petroleum Reserve Plan, which is deleted in this legislation. Instead, when the Secretary notifies the Congress that the Department intends to contract for storage of petroleum under part C, the notification will include a requirement for information more pertinent to the contract.

Subsection (u) would amend section 172 of EPCA.

Paragraph (1) would delete subsections (a) and (b). The exemption in subsection (a) from the requirement for a Strategic Petroleum Reserve Plan amendment is no longer necessary because the bill eliminates the requirement for Plan amendments. Subsection (b) provides that, for purposes of meeting the fill rate requirement in section 160(d)(1) of EPCA, part C contract oil which is removed from the Reserve at the end of the contract agreement shall be considered part of the Reserve until the beginning of the fiscal year following the fiscal year in which the oil is removed. The subsection is unnecessary since the requirement for specific fill rates is deleted by amendment of section 160 of the Act.

Subsection (v) would delete section 173 of EPCA which requires congressional review and, therefore, public scrutiny of the details of contracts even though no implementing legislation is needed, and requires a 30-day ''lie before'' period before the contract can go into effect. This requirement is a substantial impediment to acquisition of oil for the Reserve by ''leasing'' and other alternative financing methods authorized by EPCA, part C.

Subsection (w) would amend section 181 of EPCA by extending the expiration date of title I, parts B and C from June 30, 1996 to September 30, 2001.

Public Law 103–406 extended the expiration date to June 30, 1996.

SECTION 4. AMENDMENTS TO TITLE II OF EPCA

Subsection (a) would strike part A of EPCA title II, which contains the authorities for gasoline rationing and other mandatory energy conservation measures which expired on July 1, 1985.

Subsection (b) would amend section 251(e)(1) by striking section ''252(l)(1)'' and inserting in lieu thereof ''252(k)(1).''

Section (c) would amend section 252 of EPCA, which makes available to United States oil companies a limited antitrust defense and breach of contract defense for actions taken to carry out a voluntary agreement or plan of action to implement the ''allocation and information provisions'' of the

Agreement on an International Energy Program (''IEP''). These limited defenses are now available only in connection with the companies' participation in planning for and implementation of the IEP's emergency oil sharing and information programs. The amendment would extend the section 252 antitrust defense (but not the breach of contract defense) to U.S. companies when they assist the International Energy Agency (''IEA'') in planning for and implementing coordinated drawndown of government-owned or government-controlled petroleum stocks. In 1984, largely at the urging of the United States, the IEA's Governing Board adopted a decision on ''Stocks and Supply Disruptions'' which established a framework for coordinating the drawdown of member countries' government-owned and government-controlled petroleum stocks in those oil supply disruptions that appear capable of causing severe economic harm, whether or not sufficient to activate the IEP emergency oil sharing and information programs. During the 1990–91 Persian Gulf crisis the IEA successfully tested the new coordinated stockdraw policy.

Paragraph 1 would amend subsections 252 (a) and (b) of EPCA. These sections would be amended by substituting the term ''international emergency response provisions'' for the term ''allocation and information provisions of the international energy program.'' The new term establishes the scope of oil company activities covered by the antitrust defense and includes actions to assist the IEA in implementing coordinated drawdown of petroleum stocks.

Paragraph 2 would amend paragraph 252(d)(3) of EPCA to clarify that a plan of action submitted to the Attorney General for approval must be as specific in its description of proposed substantive actions as is reasonable ''in light of circumstances known at the time of approval'' rather than ''in light of known circumstances.''

Paragraph 3 would amend paragraph 252(e)(2) of EPCA to give the Attorney General flexibility in promulgating rules concerning the maintenance of records by oil companies related to the development and carrying out of voluntary agreements and plans of action.

Paragraph 4 would amend paragraph 252(f)(2) of EPCA to clarify that the antitrust defense applies to oil company actions taken to carry out an approved voluntary agreement as well as an approved plan of action.

Paragraph 5 would amend subsection 252(h) of EPCA to strike the reference to section 708(A) of the Defense Production Act of 1950, which was repealed by Public Law 102–558 (October 28, 1992), and the reference to the Emergency Petroleum Allocation Act of 1973, which expired in 1981.

Paragraph 6 would amend subsection 252(i) of EPCA to require the Attorney General and the Federal Trade Commission to submit reports to Congress and to the President on the impact of actions authorized by section 252 on competition and on small businesses annually rather than every six months, except during an ''international energy supply emergency,'' when the reports would be required every six months.

Paragraph 7 would amend paragraph 252(k)(2) of EPCA by substituting a definition of the term ''international emergency response provisions'' for the present definition of ''allocation and information provisions of the international energy program.'' The new term, which establishes the scope of company actions covered by the antitrust defense, covers (A) the allocation and information provisions of the IEP and (B) emergency response measures adopted by the IEA Governing Board for the coordinated drawdown of stocks of petroleum products held or controlled by governments and complementary actions taken by governments during an existing or impending international oil supply disruption, whether or not international allocation of petroleum products is required by the IEP.

Paragraph 8 would amend subsection 252(1) of EPCA to make clear that the antitrust defense does not extend to international allocation of petroleum unless the IEA's Emergency Sharing System has been activated.

Subsection (d) would amend subsection 256(h) of EPCA to authorize appropriations for fiscal years 1996 through 2001 for the activities of the interagency working group and interagency working subgroups established by section 256 of EPCA to promote exports of renewable energy and energy efficiency products and services.

Subsection (e) would strike EPCA part C, which was added to the EPCA by the Energy Emergency Preparedness Act of 1982 and which required the submission to Congress of reports on energy emergency legal authorities and response procedures. The reporting requirement was fulfilled in 1982.

Subsection (f) would amend section 281 of EPCA by extending the expiration date of title II from June 30, 1996 to September 30, 2001.

Public Law 103–406 extended the expiration date of June 30, 1996.

SECTION 5. AMENDMENTS TO TITLE III OF EPCA

Subsection (a) would amend sections 365 and 397 of EPCA, which provide authorization for appropriations for fiscal years 1991, 1992, and 1993 for State Energy Conservation programs and the Energy Conservation Program for Schools and Hospitals. The amendment would authorize appropriations of $24,651 million for section 365 and $26,849 million for section 397 for fiscal year 1996 and such funds as may be necessary for fiscal years 1997 through 2001.

Subsection (b) would amend section 400BB to extend the authorization for the appropriation of the Alternative Fuels Truck Commercial Application Program to fiscal year 2001.

SECTION 6. AMENDMENTS TO TITLE V OF EPCA

Paragraph 1 would delete section 507 of the Act, which provides that the Energy Information Administration must continue to gather the same data on pricing, supply and distribution of petroleum products as it did on September 1, 1981. This section hinders the flexibility of the Administrator to collect information that is currently meaningful. There is no reason to have a statutory prohibition against modifying and amending the types of data collected.

Paragraph 2 would delete section 522 of the Act, which provides conflict of interest disclosure requirements for the Federal Energy Administration. This section was superseded by the Department of Energy Organization Act.●

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. THURMOND, Mr. DEWINE, Mr. KOHL, and Mr. BIDEN):

S. 1606. A bill to control the use of biological agents that have the potential to pose a severe threat to public health and safety, and for other purposes; to the Committee on the Judiciary.

THE BIOLOGICAL AGENTS ENHANCED PENALTIES AND CONTROL ACT

Mr. HATCH. Mr. President, I rise to introduce a bill that has a simple but important purpose: To decrease the opportunity for terrorists to use a biological weapons.

S. 1606 is cosponsored by Senators FEINSTEIN, THURMOND, DEWINE, KOHL, and BIDEN. I welcome this broad bipartisan support to respond quickly to this threat to the safety of Americans.

It may surprise the American people to know that very dangerous, indeed deadly, organisms that cause diseases and death in human beings are available for purchase across State lines—not only by legitimate users, but by those who may use them with criminal intent. These organisms include the agents that cause the bubonic plague, anthrax, and other diseases.

Perversely, the Federal Government has stricter regulations on the interstate transportation of biological agents causing disease in plants and animals than it has for the interstate transportation of agents that cause disease in humans.

I favor regulatory reform and a reduction in the Government's overall regulatory burden on the American people. But that is not to say that the Federal Government has no legitimate regulatory role to play. The interstate transport of dangerous biological agents should be regulated.

A recent Washington Post story reported that, in May 1995, an individual in Ohio faxed an order for three vials of the agent that causes the bubonic plague, a disease that killed one-third of the people of 14th century Europe, from the American Type Culture Collection [ATCC] in Maryland. The purchaser's letterhead appeared to be that of a laboratory.

When the purchaser called ATCC to complain about slow delivery, the sales representative became concerned about whether the caller was someone who should have the plague agent. Ohio police, public officials, the FBI, and emergency workers ultimately scoured the purchaser's home.

In the home they found nearly a dozen M–1 rifles, smoke grenades, blasting caps, and white separatist literature. The deadly micro-organisms were found in the glove compartment of the purchaser's automobile, still packed as shipped.

The purchaser was prosecuted under wire and mail fraud statutes. But these charges would not have been possible if the purchaser had not sent a false statement on the letterhead of a nonexistent laboratory stating that the laboratory assumed responsibility for the shipment, as the seller had required.

Unfortunately, both current laws and regulations are deficient in protecting Americans from the threat of the diversion of potentially dangerous biological agents. Gaps exist in current regulations that allow anyone to possess deadly biological agents, also referred to as human pathogens, and gaps exist in our criminal laws that make prosecution of people who attempt to obtain these agents for illegitimate purposes very difficult.

I would like to take a moment to discuss these problems with you.

Biological agents that cause disease in humans are available to several legitimate groups of users. First, small

quantities of biological agents can be found in patient samples that are analyzed by clinical laboratories. Second, biological agents are used in the conduct of legitimate basic and clinical science research by scientists across the country, both within and outside of Government. Third, the Department of Defense has facilities to investigate biological agents, not as weapons, but to develop protective strategies in the event of military use of these agents during war. Currently, however, anyone else can also obtain these agents under Federal law. The only limits on who may purchase deadly biological agents are those imposed by the sellers themselves.

There are many regulations in place with regard to the management of biological agents. These regulations come from many different governmental sources, including the CDC, the Postal Service, U.S. Department of Agriculture, Department of Commerce, Food and Drug Administration, and the Department of Transportation, among others. Unfortunately, the regulations were developed by these agencies with little or no apparent integration with other agencies, and with narrow purposes in mind. They were also developed in an era when domestic terrorism was not thought of as a real risk.

In addition to the lack of coordination of efforts in the regulation of biological agents, existing regulations have not kept up with advancing science. For instance, biological agents are currently classified by CDC into four classes, based on several criteria. This ranges from class 1 organisms, which are considered to be nonharmful to humans under ordinary circumstances, to class 4 organisms, which are considered to be highly harmful to humans. In the manual ''Biosafety in Microbiological and Biomedical Laboratories,''—hereafter Biosafety manual—CDC defines how legitimate laboratories should manage agents in these various classes.

Again, these biohazard levels are designed for the protection of laboratory personnel and to prevent the accidental release of these agents into the environment. They do not take into account potential theft of these agents, or attempt to prevent misdirection of these agents to terrorists. In addition, the biosafety manual that establishes biohazard levels was last revised in 1993. It has not kept up with classification changes, or with the new strains of organisms that are constantly being described by microbiologists.

Another example of how current regulation has not kept up with advancing scientific knowledge is the definition of what a biological agent actually is. The Centers for Disease Control and Prevention [CDC] defines a biological agent—human pathogen—as ''a viable micro-organism or its toxin which causes, or may cause, human disease'' [42 CFR 72]. This definition includes algae, bacteria, protozoa, fungi, and viruses.

Unfortunately, threats now exist that we did not even know about when this definition was written. For instance, we now are experiencing a rapid growth in the field of gene technology. This technology now gives scientists the ability to deliberately or accidentally insert genes into micro-organisms that could broaden their host range, alter their route of disease transmission to humans, make them more toxic, or make them more difficult to treat.

CDC has wide authority to regulate biological agents that pose a threat to human health, and could establish rules limiting who may possess these agents. Current regulations do not protect communities from intentional diversion of biological agents or the potential for these agents to be turned into weapons of mass destruction.

This fact was recognized by CDC testimony before the Senate Judiciary committee last week. Dr. James M. Hughes, the Assistant Surgeon General and Director of the National Center for Infectious Diseases for the CDC testified:

> The current safeguards governing the acquisition and distribution, in the United States, of infectious and/or toxic agents are not comprehensive. There is no single set of consistent regulations but rather a number of different departmental regulations that address the shipping and handling of infectious agents. Taken together, these are effective at controlling the packaging, labeling, and transport of infectious materials, but they are not completely effective at controlling the possession and transfer of human infectious agents within the United States.

Unfortunately, efforts by CDC and others have been slow. To date, there have been at least two multiagency task forces established to look at this issue. The first task force completed its work and made recommendations in July 1995. The second task force is well underway in the development of a regulatory system, but there does not appear to be a sufficient sense of urgency to get the job done.

According to CDC's March 6 testimony before the Judiciary Committee, CDC does not plan to release proposed regulations for at least another 6 months. That means that it might be another year before final rules regulating who may possess dangerous biological agents are in place and enforceable.

Why is that a problem? Current criminal law has gaps that prevent the prosecution of someone who obtains biological agents under false pretenses, or who possesses these agents with the intent to harm others. Under current Federal law, it is legal for anyone to possess biological agents—we must wait until they actually use it as a weapon before there is anything we can do about it.

These gaps in current criminal law were discussed in detail during the hearings before the Judiciary Committee. Mr. Mark M. Richard, the Deputy Assistant Attorney General, testified on behalf of the Department of Justice. Mr. Richard stated that the multiagency task force looking into this issue determined ''that there were no comprehensive Federal regulations governing the control of these dangerous organisms.''

My colleagues and I believe that current regulation and law have left us vulnerable to the potential use of biological agents as a terrorist weapon. We have not kept pace with science and technology, nor have we recognized that we live in a more dangerous world than we once did. We further believe that action must be taken sooner, rather than later, to avoid a potential disaster.

This bill strikes a balance between protecting citizens from the threat that biological agents will be used as a weapon of domestic terrorism and placing over-burdensome demands on legitimate users of biological agents.

The first title of our bill is directed at placing appropriate criminal provisions in place as requested by the Justice Department. Our provisions ensure that persons who develop or use biological organisms as a weapon will face severe and certain punishment.

Our bill does this by amending sections 175 to 178 of Title 18, which relate to prohibitions with respect to biological weapons. As it currently is written, this provision makes it criminal to knowingly develop, produce, transfer, acquire, or possess any biological agent, toxin, or delivery system for use as a weapon. It also prohibits knowingly assisting a foreign state or organization to do so. My bill will strengthen this provision to include an attempt, threat, and conspiracy prohibition within its scope. In addition, I broaden the definitions of biological agent, toxin, and vector in section 178 to cover biological products that can be engineered as a result of advances made in the field of biotechnology.

The second statute in Title 18 that we amend is section 2332a. That provision currently makes it a criminal offense to use a weapon of mass destruction. Under current law, a ''weapon of mass destruction'' is defined to include ''any weapon involving a disease organism.'' 18 U.S.C. §2332a(b)(2)(C). This bill will expand that definition to include in its coverage the biological agents and toxins, as defined in section 178, including bioengineered products, that can be used as a weapon of mass destruction. In addition, we add a threat provision to this statute.

The second title of our bill requires the Secretary of Health and Human Services to establish interim regulations within 90 days and to issue proposed rules within 180 days that regulate the transfer within the United States of biological agents which have the potential to pose a severe threat to the public health and safety.

I believe that the time limits required in our bill are reasonable and prudent, and allow the Secretary of Health and Human Services adequate time to develop appropriate regulations in this area. In fact, Dr. James

Hughes testified last week that this process is well underway.

The Judiciary Committee has been very concerned about the immediate potential for diversion of dangerous biological agents under the current law and regulation. In fact, at our hearing last week, we were disturbed to learn from agency representatives that no measures are in place to guard against reoccurrence of a situation like the Ohio case.

For this reason, on March 6, Senators FEINSTEIN, SPECTER, KOHL, and I sent a letter to the President urging that he:

* * * direct the Centers for Disease Control and Prevention to implement on a priority basis emergency procedures which will protect the American people against the threat of dangerous, diverted pathogenic materials.

In addition, our new legislation includes a requirement for the establishment of interim rules while the long-term rules are developed.

In closing, Mr. President, I believe that the threat for the intentional diversion of biological agents is real, and that these agents pose a threat for use as a weapon of domestic terrorism.

We are submitting a comprehensive bill that fixes the gaps in criminal code and requires the rapid development and implementation of a regulatory program that will limit the people who may possess these materials to those who have a legitimate need to possess them. Obviously, time is of the essence, and I hope that the Senate will act as quickly as possible on the Biological Agents Enforcement Enhancement and Control Act.

I ask unanimous consent that the text of S. 1606 be inserted in the RECORD.

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

S. 1606

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 ''Biological Agents Enhanced Penalties and Control Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) certain biological agents have the potential to pose a severe threat to public health and safety;

(2) such biological agents can be used as weapons by individuals or organizations for the purpose of domestic or international terrorism or for other criminal purposes;

(3) the transfer and possession of potentially hazardous biological agents should be regulated to protect public health and safety; and

(4) efforts to protect the public from exposure to such agents should ensure that individuals and groups with legitimate objectives continue to have access to such agents for clinical and research purposes.

SEC. 3. CRIMINAL ENFORCEMENT.

(a) BIOLOGICAL WEAPONS.—Chapter 10 of title 18, United States Code is amended—

(1) in section 175(a), by inserting ''or attempts, threatens, or conspires to do the same,'' after ''to do so,'';

(2) in section 177(a)(2), by inserting ''threat,'' after ''attempt,''; and

(3) in section 178—

(A) in paragraph (1), by striking ''or infectious substance'' and inserting ''infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product'';

(B) in paragraph (2)—

(i) by inserting ''the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule'' after ''means'';

(ii) by striking ''production—'' and inserting ''production, including—'';

(iii) in subparagraph (A), by inserting ''or biological product that may be engineered as a result of biotechnology'' after ''substance''; and

(iv) in subparagraph (B), by inserting ''or biological product'' after ''isomer''; and

(C) in paragraph (4), by inserting ''; or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology,'' after ''organism''.

(b) TERRORISM.—Section 2332a(a) of title 18, United States Code, is amended—

(1) by inserting '', threatens,'' after ''attempts''; and

(2) by inserting '', including any biological agent, toxin, or vector (as those terms are defined in section 178)'' after ''destruction''.

SEC. 4. REGULATORY CONTROL OF BIOLOGICAL AGENTS.

(a) LIST OF BIOLOGICAL AGENTS.—

(1) IN GENERAL.—The Secretary shall, through regulations promulgated under subsection (c), establish and maintain a list of each biological agent that has the potential to pose a severe threat to public health and safety.

(2) CRITERIA.—In determining whether to include an agent on the list under paragraph (1), the Secretary shall—

(A) consider—

(i) the effect on human health of exposure to the agent;

(ii) the degree of contagiousness of the agent and the methods by which the agent is transferred to humans;

(iii) the availability and effectiveness of immunizations to prevent and treatments for any illness resulting from infection by the agent; and

(iv) any other criteria the Secretary considers appropriate; and

(B) consult with scientific experts representing appropriate professional groups.

(b) REGULATION OF TRANSFERS OF LISTED BIOLOGICAL AGENTS.—The Secretary shall, through regulations promulgated under subsection (c), provide for—

(1) the establishment and enforcement of safety procedures for the transfer of biological agents listed pursuant subsection (a), including measures to ensure—

(A) proper training and appropriate skills to handle such agents; and

(B) proper laboratory facilities to contain and dispose of such agents;

(2) safeguards to prevent access to such agents for use in domestic or international terrorism or for any other criminal purpose;

(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of a biological agent in violation of the safety procedures established under paragraph (1) or the safeguards established under paragraph (2); and

(4) appropriate availability of biological agents for research, education, and other legitimate purposes.

(c) TIMES LIMITS.—The Secretary shall carry out subsections (a) and (b) by issuing—

(1) interim rules not later than 90 days after the date of the enactment of this Act;

(2) proposed rules not later than 180 days after the date of the enactment of this Act; and

(3) final rules not later than 360 days after the date of the enactment of this Act.

(d) DEFINITIONS.—For purposes of this section—

(1) the term ''biological agent'' has the same meaning as in section 178 of title 18, United States Code; and

(2) the term ''Secretary'' means the Secretary of Health and Human Services.

By Mrs. FEINSTEIN (for herself, Mr. GRASSLEY, Mr. REID and Mr. KYL):

S. 1607. A bill to control access to precursor chemicals used to manufacture methamphetamine and other illicit narcotics, and for other purposes; to the Committee on the Judiciary.

METHAMPHETAMINE CONTROL ACT OF 1996

Mrs. FEINSTEIN. Mr. President, I rise today to introduce, along with Senators GRASSLEY, REID, and KYL, the Methamphetamine Control Act of 1996. This is legislation that, first, increases the regulation of precursor chemicals necessary to produce methamphetamine, a dangerous narcotic also known as speed, crank or ice.

Second, it increases the penalties for possession of controlled chemicals or paraphernalia used to make methamphetamine.

This legislation has been drafted over the past 6 months with the input of the Drug Enforcement Agency, the California Attorney General's Bureau of Narcotics Enforcement, the California Narcotics Officers Association, and local, State, and Federal law enforcement and prosecutors. I have a particular interest in this issue because of the ravaging effects that methamphetamine has had in my own State and other States in the Southwest.

Let me, for just a moment, explain how serious this problem is today. Methamphetamine has been around for a long time. But what once was a small-scale drug operation run by motorcycle gangs has now been taken over by at least one Mexican drug cartel. According to DEA, it is a multibillion-dollar industry in America.

California has become the front line in this new and dangerous drug war. DEA has designated California as the ''source country,'' a source country for methamphetamine, much like Colombia is the source country for cocaine. It has identified that 93 percent of the methamphetamine seized nationwide has its point of origin in California.

The explosion of this drug is being documented in hospital emergency rooms around California, and the epidemic is spreading eastward. In Sacramento just 4 weeks ago, law enforcement made the largest seizure in county history—80 pounds; street value, $2.5 million.

Large-scale labs are now commonplace. Last year in the Central Valley, law enforcement convicted a man who manufactured in excess of 900 pounds with a street value of $5 million. Literally hundreds of illicit laboratories

exist throughout the State. In two counties alone, Riverside and San Bernardino, there were 589 methamphetamine labs discovered in 1995.

Labs can be in apartments, in mobile homes, in moving vehicles, and in hotel rooms. They can be dismantled in a matter of hours. They are explosive, toxic, and they burn. Law enforcement has indicated that drug dealers come in, set up, produce their drugs in hotels, and leave.

The California Environmental Protection Agency expects that 1,150 sites will require cleanup by the end of this year in California. Most of the chemicals—iodine, refrigerants, hydrochloric gas, sodium hydroxide—are toxic and, in the case of red phosphorous, one of the precursor chemicals, highly flammable and explosive.

Two months ago, a mobile home in Riverside used as a methamphetamine lab exploded, killing three small children. Incredibly enough, the mother of these children pleaded with neighbors that they not call for help. Before firefighters could find the children's burnt bodies, the woman walked away from the scene.

Police in Phoenix say methamphetamine is mainly responsible for the 40-percent jump in homicides the city is experiencing.

In Contra-Costa County, law enforcement reports that methamphetamine is involved in 89 percent of domestic disputes.

Last year in San Diego, rival methamphetamine smuggling rings were responsible for 26 homicides.

In 1994, among all adults arrested in the San Diego area, 42 percent of men and 53 percent of women tested positive for amphetamines. Sutter Memorial Hospital in Sacramento says that methamphetamine-affected babies now outnumber crack-addicted babies 7–1.

The Methamphetamine Control Act which we are introducing today is carefully crafted. It is a targeted piece of legislation. It is drafted with the help of Federal, State, and local law enforcement, and it is aimed at the supply side of the problem.

This bill would increase criminal penalties that can be applied to large-scale methamphetamine manufacturers throughout our Nation. It restricts access to the precursor chemicals used in mass quantities to produce methamphetamine.

It would increase the penalties for possession of controlled chemicals or specialized equipment like the triple-neck flasks used to make methamphetamine.

It would add chemicals used to make methamphetamine—iodine, red phosphorous, and hydrochloric gas—to the Chemical Diversion and Trafficking Act.

It imposes a civil ''three strikes and you're out'' law, for companies that are found to be selling chemicals used to make methamphetamine.

There are in our State about seven rogue chemical companies. Anyone with $100 and a mail order catalog can put themselves into business in manufacturing methamphetamine. They can buy large-scale quantities of those chemicals that go into making methamphetamine.

This bill would double the maximum criminal penalty for possession of a chemical identified under the Chemical Diversion and Trafficking Act in methamphetamine production and would increase the maximum criminal penalty from 4 to 10 years for those who possess the specialized equipment used to manufacture methamphetamine.

It would remove the loophole on pseudoephedrine in the Controlled Substances Act. Pseudoephedrine, a common ingredient in many over-the-counter medicines, is now used as a substitute for ephedrine to make methamphetamine.

I have met with retailers and manufacturers of over-the-counter medicines and I understand the concerns about regulations which the DEA has proposed to control the illicit diversion of pseudoephedrine to make methamphetamine. I intend to work with these groups over the coming weeks to ensure that the 37 million Americans who rely on these products continue to have access to them.

We are creating an informal advisory group comprised of executives of chemical manufacturers and supply house companies, DEA officials, and other law enforcement agencies to devise strategies to see that this law is responsibly and sensibly enforced.

This bill includes a sense-of-the-Congress resolution supporting efforts for global chemical control.

The point is that many chemicals used to make methamphetamine, such as ephedrine, are tightly controlled in the United States but are literally smuggled into the United States through countries with little or no control, like Mexico. This legislation would express the sense of the Congress that ephedrine-producing countries should require approval from the Mexican Government for shipments of ephedrine and pseudoephedrine to Mexico, where they then come into this country.

I am very pleased, Mr. President, that this is a bipartisan effort. I am delighted to have the cosponsorship of Senators GRASSLEY and KYL. I note that this bill is also being introduced in the House today by Congressman RIGGS and Congressman VIC FAZIO.

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. 1607

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 ''Methamphetamine Control Act of 1996''.

SEC. 2. REGULATION OF CHEMICAL SUPPLY HOUSES.

Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended by adding at the end the following new subsection:

''(d)(1) Any chemical supply house that sells a listed chemical, after having been provided a warning under paragraph (2) within the previous 10 years, to a person who uses, or intends or attempts to use, the listed chemical, or causes the listed chemical to be used or attempted to be used, to manufacture or produce methamphetamine shall—

''(A) be subject to a civil penalty of not more than $250,000; or

''(B) for the second violation of this subsection, be ordered to cease the production and sale of any chemicals.

''(2) The Attorney General, acting through the Administrator of the Drug Enforcement Administration, shall provide a written warning to each chemical supply house that violates paragraph (1).

''(3) For purposes of this subsection, the term 'chemical supply house' means any manufacturer, wholesaler, or retailer, who owns, or who represents the owner of, any operation or business enterprise engaging in regulated transactions.

''(4) All amounts received from enforcement of the civil penalty under paragraph (1) shall be used by the Administrator of the Environmental Protection Agency for the environmental cleanup of clandestine laboratories used, or intended or attempted to be used, to manufacture methamphetamine.''.

SEC. 3. INCREASED PENALTIES FOR POSSESSION AND DISTRIBUTION OF LISTED CHEMICALS.

(a) IN GENERAL.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended by striking ''10 years'' and inserting ''20 years in a case involving a list I chemical or 10 years in a case involving a list II chemical''.

(b) AMENDMENT OF SENTENCING GUIDELINES.—The United States Sentencing Commission shall amend the Federal Sentencing Guidelines to reflect the amendment made by subsection (a).

SEC. 4. INCREASED PENALTIES FOR MANUFACTURE AND POSSESSION OF EQUIPMENT USED TO MAKE METHAMPHETAMINE.

Section 403(d) of the Controlled Substances Act (21 U.S.C. 843(d)) is amended—

(1) by striking ''(d) Any person'' and inserting ''(d)(1) Except as provided in paragraph (2), any person''; and

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

''(2) Any person who, with the intent to manufacture methamphetamine, violates subsection (a) (6) or (7), shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than $30,000, or both.''.

SEC. 5. REGULATION OF PSEUDOEPHEDRINE.

Section 102(39)(A)(iv) of the Controlled Substances Act (21 U.S.C. 802(3(9)(A)(iv)) is amended by striking ''ephedrine'' each place it appears and inserting ''ephedrine or pseudoephedrine,''.

SEC. 6. ADDITION OF SUBSTANCES TO DEFINITION OF LISTED CHEMICALS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by adding at the end the following new subparagraph:

''(Y) Iodine.''; and

(2) in paragraph (35), by adding at the end the following new subparagraphs:

''(I) Red phosphorous.

''(J) Hydrochloric gas.''.

SEC. 7. SUPPORT FOR INTERNATIONAL EFFORTS TO CONTROL DRUGS.

It is the sense of the Congress that—

(1) the rise in manufacture and usage of the illegal narcotic methamphetamine is of major concern to the United States;

(2) a substantial portion of the ephedrine used to make methamphetamine is smuggled across the United States-Mexico border;

(3) the countries of China, India, the Czech Republic, Germany, and Slovenia are the largest manufacturers of ephedrine and pseudoephedrine;

(4) one means of preventing the international diversion of ephedrine and pseudoephedrine is the letter of nonobjection, which requires that the government of a country receiving a shipment of the chemical is aware of and approves the shipment, the quantity involved, the company receiving the shipment, and the ultimate use of the chemical;

(5) therefore, all ephedrine and pseudoephedrine producing countries should require letters of nonobjection from the Mexican government before exporting ephedrine or pseudoephedrine to that country; and

(6) all ephedrine and pseudoephedrine producing countries and Mexico should cooperate in any way possible to deter the smuggling of ephedrine and pseudoephedrine into the United States.

Mr. GRASSLEY. Mr. President, today I am pleased to introduce the Methamphetamine Control Act of 1996 with my colleague Senator FEINSTEIN. This bipartisan bill takes aim at a rapidly growing problem in America—the abuse of methamphetamine, known on the street as meth or crank.

I am from Iowa—a rural State which most people do not associate with rampant crime or drug use. But in Iowa today, meth use has increased dramatically. According to a report prepared by the Governor's alliance on substance abuse, seizures of methamphetamine in Des Moines increased an astounding 4,000 percent from 1993 to 1994. I repeat: meth seizures in Des Moines increased by 4,000 percent. The increase statewide was 400 percent. These numbers are scary, Mr. President. According to the Iowa Department of Public Health, 7.3 percent of Iowans seeking help from substance abuse treatment centers in 1995 cited meth as their primary addiction. That's up over 5 percent from 1994, when only 2.2 percent cited meth as their primary addiction.

Why has meth become such a problem? I do not think anyone knows definitively, but experts have been able to identify some of the reasons. Meth is cheap; a meth high lasts for a very, very long time, so you get more for your money; and perhaps most disturbingly, meth does not have the stigma associated with cocaine and crack. Kids know that crack is dangerous. But they have not yet learned that meth is.

In Waterloo, IA, though, people are beginning to learn this sad and painful lesson. According to the New York Times, a 17-year-old Iowan who had been a good boy, descended into meth addiction. His behavior changed for the worse. Last October, this young man checked himself into the hospital because he believed that he had the flu. He died only days later because meth had so destroyed his immune system that he developed a form of meningitis. I will never forget the words of this boy's mother: ''He made some wrong decisions and this drug sucked him away.'' I ask unanimous consent that this New York Times article be printed in the RECORD.

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

[From the New York Times, Feb. 22, 1996]

GOOD PEOPLE GO BAD IN IOWA, AND A DRUG IS BEING BLAMED

(By Dirk Johnson)

NEWTON, IA. Feb. 16.—In this small town surrounded by corn fields, nothing but Sunday morning church bells ever made much noise, and the jail sat three-quarters empty most of the time.

And then about a year or so ago, things started to go haywire.

Crime began to soar, coupled with an outbreak of irrational behavior; a man with a spotless record pulled a string of burglaries; some parents suddenly became so neglectful that their children were taken away; a man fled his workplace to get a gun, terrified that helicopters were coming after him; motorists in routine traffic stops greeted the police with psychotic tirades.

Prosecutors linked all of these cases and many more in this town of 15,000 people to the influx of the drug methamphetamine, and its frequent side-effects of paranoia and violent behavior.

A problem for several years in California and other Southwestern states, the drug is now making its way across America, ruining lives and families along the way and raising the concern of policy makers in Washington.

''Meth seems to have taken control of these people,'' said Steve Johnson, the prosecutor here in Jasper County, where the 24-bed jail is now overflowing, and 90 percent of the inmates have a problem with the drug. ''It's scary stuff. We're pretty frustrated and don't know exactly what to do to get it under control.''

The drug, also known as crank or ice, is a stimulant that is swallowed, snorted or injected. It is much cheaper than cocaine, and its high lasts longer, the authorities say. Users may stay awake for several days at a stretch, feeling euphoric and full of energy before finally plunging into terrible depression and paranoia.

''This is the most malignant, addictive drug known to mankind,'' said Dr. Michael Abrams of Broadlawn Medical Center in Des Moines, where more patients were admitted during the past year for abuse of methamphetamine than for alcoholism. ''It is often used by blue-collar workers, who feel under pressure to perform at a fast pace for long periods. And at first, it works. It turns you into wonder person. You can do everything—for a while.''

Crack, wicked as it is, cannot compare to the destructive power of methamphetamine, Dr. Abrams said, He said the drug, because of its molecular structure, is more stimulating to the brain than any other drug.

The effects of cocaine, whether snorted or smoked, might be gone from the brain in 5 or 10 minutes, Dr. Abrams said, while methamphetamine continues to work on receptors in the brain for 8 to 24 hours.

The price of the drug here might be $100 a gram, about the same as that for powdered cocaine, but would last a user for a week while the cocaine would probably be used in a day.

Cocaine, which comes from the coca plant, is a natural substance. Methamphetamine is purely synthetic. ''The body has enzymes that break down cocaine,'' he said, ''but not with methamphetamine.''

Methamphetamine causes psychotic and violent reactions, he said, because the drug throws out of control the production of the brain chemical dopamine, which plays an important part in movement, thought and emotion, as is the case with schizophrenia. Over time, the drug damages the brain.

''A person addicted to this stuff looks and acts exactly like a paranoid schizophrenic,'' he said. ''You cannot tell any difference.''

He said that a crack addict could reach the same point of psychotic behavior but that it would take ''much longer and much more of the drug.''

The drug, combined with the effects of sleep deprivation, can cause people to go mad, with ghastly consequences. In a case last July, a man in New Mexico, who was high on methamphetamine and alcohol, beheaded his 14-year-old son and tossed the severed head from his van window onto a busy highway.

The drug has already exacted a big death toll in Western states. In California, it was blamed for more than 400 deaths from overdose and suicide in 1994, the latest year with complete records on the drug. In Phoenix, it killed 122 people in 1994, the authorities said.

Here in Iowa, the ravages of the drug have reached what law-enforcement and health officials call an epidemic level. The police in Des Moines seized $4.5 million worth of methamphetamine in the last year alone.

And for the first time in Polk County, which includes Des Moines, arrests for drugs now surpass the number of arrests for drunken driving. Methamphetamine accounts for 65 percent of the drug arrests.

The drug is often manufactured in makeshift laboratories in rural areas, where the stench given off during its production is more likely to go undetected, and where law-enforcement agencies are more thinly spread.

Drug agents found seven such laboratories in Iowa last year. In the first six weeks of this year, they found five more. One of them, in a house trailer near the small town of Centerville, exploded and burned a man over 40 percent of his body.

The drug is also making its way into schools throughout Iowa, with some ghastly consequences.

One night about a year ago, 17-year-old Travis Swope of Waterloo sat down with his parents, Tim and Keely, and began to tremble. ''I'm scared,'' the boy told them. He said he could not eat or sleep, and that he had been taking a drug called crank.

His parents, who had never heard of the drug, were shocked, but supportive. Mr. Swope, a maintenance worker at the John Deere Company, said his union insurance would cover drug treatment. The next day, however, Travis said he would quit on his own. And his parents believed him.

''I was in denial,'' Mr. Swope said. ''I though it was something he'd get through.''

Travis, who was a first-rate athlete, seemed better for a while. But then he lost weight and looked pale, all the while insisting that he was not using drugs. Then this manner changed.

''He had never been disrespectful to us,'' his mother said. ''But all of a sudden, he'd be like, 'I'll be home when I decide to come home!' That wasn't Travis. It was like he was a different kid.''

At the end of September, there was a blowup with his father, and Travis was told to leave the house.

On Oct. 6, Travis checked into a hospital, feeling as if he had a terrible case of the flue. In fact, the drug had broken down his immune system and he had developed a form of meningitis. Ten days later, he was dead.

''Learn about this drug, and sit down with your sons and daughters,'' said Mrs. Swope, her voice breaking with emotion as she talked with a reporter. ''I learned way too

late, and I feel like I failed him. Travis was a really good kid—not a perfect kid. He made some wrong decisions, and this drug sucked him away.''

Mr. Swope said there were times he avoided discussions about drugs with his son, because he feared it would lead to a confrontation. ''But I would give everything to have him sitting here now,'' he said, ''being mad at me.''

While it seems puzzling why otherwise intelligent people would risk ruining their lives with this poison, drug counselors point out that stimulants have long held appeal in American culture. Going back more than a generation, students, athletes and workers have sought endurance by taking ''uppers'' or ''speed'' in tablets called Black Cadillacs or White Crosses.

The old country song by Dave Dudley, ''Six Days on the Road,'' spoke in the voice of a long-haul trucker in a big hurry: ''I'm taking little white pills, and my eyes are open wide.''

Methamphetamine made inroads among many blue-collar people because it did not carry the stigma of being a hard drug, the authorities said.

''Crack has the stigma of being an inner-city drug, and powder cocaine is thought to be for affluent people,'' said Mike Balmer, the chief deputy sheriff in Jasper County. ''But speed was a working-class drug. It's what people used to get them through a shift at the factory or keep up on a construction site.''

Indeed, the use of methamphetamine goes back many years, perhaps to the 20' or 30's. But today's form is farm more powerful, and deadly.

Years ago, the authorities said, a typical street does of methamphetamine consisted of perhaps 20 percent of ephedrine, the ingredient that delivers the kick. New methods that emerged in the late 1980's and early 90's often using a synthetic psuedoephedrine, have yielded a much more potent substance. Now the drug contains over 90 percent of the active ingredient.

Even before the big influx of methamphetamine, the use of stimulants was a problem in Iowa. A public health survey in 1993 found that the use of stimulants like amphetamines among Iowans was twice the national average, a finding that caused some scholars to wonder if an intense Midwestern work ethic was mainly to blame.

The latest statistics show that more than 35 percent of the people going to Iowa prisons last year reported using methamphetamine. And 90 percent of the people being committed to the mental health facilities in Polk County have used methamphetamine.

In some cases, the psychotic behavior provoked by the drug becomes permanent. The drug also causes body sores, which are worsened by the incessant scratching by users who feel like bugs are crawling over their bodies.

To fight the drug, Iowa has begun a radio and television advertising campaign to warn people of the dangers. A new prosecutor has been added to the United States Attorney's office in Des Moines, just to concentrate on drugs. At least five counties in Iowa have hired extra prosecutors to deal with the rising tide of methamphetamine cases.

''They haven't seen much of this in the East Coast,'' said Tom Murtha, the director of the First Step-Mercy Franklin Center, an alcohol and drug treatment center. ''But it's coming.''

Mr. GRASSLEY. Mr. President, what America is facing today is nothing short of an epidemic. Meth is cheap and easily manufactured from commonly available chemicals. Today, with Senator FEINSTEIN, we are striking at the root of the problem: chemical suppliers who sell chemicals to illegal meth labs. The harder it is for criminal chemists to get the raw material to make meth, the more difficult it will be to produce. This in turn will make it more expensive. And this will reduce consumption. And that will help keep our kids alive a little longer.

With the rapid increase of meth use among young people, unless we act quickly—and decisively—to pass this bill, I fear for an entire generation of Americans. Mr. President, in the 1980's, we almost lost a generation to crack and power cocaine. Let's not get that close to the edge again.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 1608. A bill to extend the applicability of certain regulatory authority under the Indian Self-Determination and Education Assistance Act, and for other purposes; to the Committee on Indian Affairs.

EXTENSION OF THE INDIAN SELF-DETERMINATION CONTRACT REFORM ACT OF 1994

Mr. MCCAIN. Mr. President, I rise today to introduce a measure that would extend for 60 days the authority Congress delegated in 1994 to the Secretary of the Interior and the Secretary of Health and Human Services to promulgate regulations implementing the Indian Self-Determination Contract Reform Act of 1994.

Under longstanding Federal-Indian policies favoring tribal self-determination, the United States has encouraged native American tribal governments and tribal organizations to assume the responsibility of carrying out essential governmental services previously performed by Federal employees of the Bureau of Indian Affairs [BIA] and the Indian Health Service [IHS]. Indian tribes have been waiting since 1988 for regulations that would guide the implementation of the act. The bill I am introducing today would elongate that delay by an additional 60 days, extending the authority to issue final regulations from April 25, 1996 to June 25, 1996.

Despite my initial hesitancy to sponsor such an extension, tribal governments have now convinced me of the need for this 60-day extension. The United South and Eastern Tribes, the National Congress of American Indians, and numerous tribal governments have asked me to support the extension. I respect their judgment and ask that the Congress honor their request. In addition, several days ago the Senate referred executive communication No. 1959 to the Committee on Indian Affairs, which I chair. EC 1959 forwards the request of the Department of Health and Human Services and the Department of the Interior that Congress enact the bill I am introducing today. The Departments argue that a 60-day extension is needed because winter weather conditions and recent Federal employee furloughs related to the budget impasse between the Congress and the administration have made it impossible for the administration to comply with the statutory deadline.

I remain, however, very concerned that further delay in issuing the regulations will erode the power Congress placed with Indian tribes in the negotiated rulemaking provisions of the 1994 act. A 60-day delay could potentially allow the Federal agencies more time to undermine tribal provisions in the negotiated regulations that were published in proposed form in late January.

My concern is based on history. On three occasions, the Congress has had to enact precise statutory directives—in 1988, 1990, and in 1994—to overcome the two Departments' entrenched resistance to the requirements in the original act. When, for example, in 1988 the two Secretaries were given a statutory 10-month timeframe to promulgate regulations with tribal participation, they cut off all tribal input and began a delaying process that extended to 6 years. After 6 years—not 10 months—the Clinton administration released proposed regulations in 1994 that sought in every conceivable way to retard, rather than enhance, tribal self-determination contracting. The Congress responded by promptly enacting the Indian Self-Determination Contract Reform Act of 1994. That act mandated, for the first time in the history of Federal-Indian legislation, that tribal governments be directly involved in the process of drafting the proposed regulations through a negotiated rulemaking format rather than the traditional process of being ''consulted'' on drafts prepared by Federal officials.

In the 1994 act, the Congress accepted the administration's request that the 12-month regulatory period, originally proposed by the Senate, be enlarged to 18 months. That 18-month period ends on April 25, 1996. The Clinton administration assured the Congress that this would be ample time to get the job done.

I am told that the proposed regulations prepared by the joint Federal-Tribal negotiated rulemaking committee were largely completed and ready for publication in October 1995. However, the draft regulations languished in the Office of Management and Budget, or OMB, for over 3 months before they were finally released for publication in the Federal Register on January 24, 1996. Soon after publication, the administration began to mount pressure for an extension.

Mr. President, I am very concerned about reports that OMB officials recently raised dozens of questions and issues after the joint Federal-Tribal negotiated rulemaking committee had finalized the proposed regulations. This is particularly disturbing, because I and other authors of the 1994 act expected the entire administration, including the OMB, to raise its concerns and questions during the negotiated

rulemaking committee's deliberations with the Indian tribes, not afterward. What is most troubling to me, is that tribal representatives on the joint Federal-Tribal negotiated rulemaking committee have informed me that many of these OMB questions reflected a basic lack of understanding of the act and the special statutory and historic context in which these regulations have been developed. It appears that the administration's negotiators did not release these OMB questions to the tribal representatives until late last month. The questions are of the type that could easily have been addressed during the Federal-Tribal negotiated rulemaking process. I am disturbed that the OMB has apparently elected not to participate directly in the negotiations, where the OMB officials could have openly aired their concerns and afforded tribal government representatives an opportunity to respond.

The apparent risk associated with extending the deadline for final promulgation of the regulations is that the OMB, and their allies within the Departments, will have more time to unilaterally undo much of what the joint Federal-Tribal negotiated rulemaking committee has achieved to date as a result of government-to-government negotiations, and more time to resolve, against the Indian tribes, the remaining areas in dispute set forth in the January 24, 1996, notice of proposed rulemaking.

I am deeply concerned that the Departments' resistance to the act has undercut the negotiated rulemaking process, as evidenced by the nature of the issues remaining in dispute. For instance, neither Department wants to use the negotiated rulemaking process to develop their agency procedures, despite the law's directive that they do so. The Interior Department insists on incomprehensible organizational conflict-of-interest provisions which can only serve to undermine the goal of tribal self-determination. The Interior Department insists that a standard contract renewal with no material change must be processed through the full contract application and declination process even though that is plainly not what Congress intended—as the IHS, to its credit, does recognize. The Departments both seek to preserve the right to impose on tribes unpublished requirements, despite the clear statutory prohibitions against doing so. And perhaps most distressingly, the Departments have resisted placing any language in the new regulations that would state that Federal laws and regulations will be interpreted liberally for the benefit of the Indian tribes in order to facilitate contracting activities under the act. This is the position of the Departments despite the fact that this language is a well-settled U.S. Supreme Court rule of statutory construction that applies to all remedial Indian legislation.

To sum it up, Mr. President, I and other Members of Congress in 1994 were persuaded by the Indian tribes to set a hard and fast publication deadline of April 25, 1996 in response to the delays tribes had experienced in getting final regulations under the 1988 amendments. Likewise, at the request of the Indian tribes, Congress mandated that the proposed regulations be developed by a joint, tribal-Federal negotiated rulemaking committee. Assuming substantial tribal involvement in that committee, and good faith on the part of the administration, it would be reasonable to expect that these timeframes could be met. But apparently, 60 more days is needed. Accordingly, I will support the extension with the warning to the administration that I do not want to learn at some later date that the expanded timeframe has allowed the administration additional advantage over tribal governments in the negotiation of the final regulations.

Despite my reservations, I remain hopeful that the ongoing negotiated rulemaking process can be successfully concluded within the extended timeframe. But the Departments and the OMB must commit themselves to this process, just as the Indian tribes have done, and they must resist the temptation to slide back into the paternalistic, adversarial, and bureaucratic thinking that has compelled the Congress since 1988 to micromanage the Departments in the area of tribal self-determination contracting.

I thank my friend, Senator INOUYE, for joining with me as an original cosponsor of the bill. I urge my colleagues to support the 60-day extension and to join me in ensuring that the administration does not, by reason of the 60-day delay, gain any negotiation advantage over the Indian tribes.

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

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

S. 1608

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

SECTION 1. EXTENSION OF APPLICABILITY OF CERTAIN REGULATORY AUTHORITY.

Section 107(a)(2)(B) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450k(a)(2)(B)) is amended by striking ''18 months'' and inserting ''20 months''.

By Mr. BIDEN:

S. 1609. A bill to provide for the rescheduling of flunitrazepan into schedule I of the Controlled Substances Act, and for other purposes; to the Committee on the Judiciary.

CONTROLLED SUBSTANCES ACT LEGISLATION

• Mr. BIDEN. Mr. President, the best time to target a new drug with uncompromising enforcement pressure is before abuse of that drug has overwhelmed our communities.

The advantages of doing so are clear—there are fewer pushers trafficking in the drug and, most important, fewer lives and fewer families will have suffered from the abuse of the drug.

Today, we are tracking the arrival of two new drugs—rohypnol and what is called ''special K''—as they begin to show popularity in several States. So, today is the time for action against these drugs.

Heightening this urgency is one stark fact—these new drugs are being used primarily by our children—our teens and young adults. One need not be unduly alarmist, but we must proceed with dispatch to do what we can to stop the spread of rohypnol and special K.

That is why I am today introducing legislation to make both these drugs subject to much stricter regulation. This can be accomplished by moving these drugs to different schedules under the Federal Controlled Substances Act.

This is not a step to be taken lightly, because there is a regulatory procedure in place for scheduling controlled substances. But, unfortunately, this regulatory procedure can take years to accomplish our goal, and what we need to do must be done in months, not years.

In the past decade, Congress has taken legislative action to change schedules in at least two other instances.

In 1984, in response to an alarming increase in illicit trafficking and nonmedical abuse of the drug, Congress enacted legislation to move quaaludes, a previously medically approved sedative, to schedule one of the Controlled Substances Act.

In the decade since this legislation took effect, quaalude abuse has decreased significantly, with emergency room quaalude overdose reports down 80 percent from 1985 to 1994.

And in legislation I sponsored, which was passed as part of the 1990 Crime Control Act, steroids were reclassified as a schedule three substance, subjecting them to more strict controls and penalties.

This change was also in response to an explosion of abuse—particularly by young athletes. The effects of this legislation has also been significant, with the rate of annual use of steroids down 42 percent in the first 2 years following the enactment of the legislation.

It is now time to legislate stricter controls for rohypnol and special K. The record high drug abuse rates of the 1970's were accompanied by a unique drug culture signified by the presence of ''club'' drugs—drugs that were popular with youth and young adults who frequented dance clubs and often mixed drugs with alcohol and other substances.

Recently, club drugs have made a resurgence in popularity, and they are often showing up at both bars and ''raves,'' all-night dance marathons popular with teens.

Club drugs are typified by the way they suddenly gain popularity and become the drug of choice, becoming trendy among youth. Often these drugs

are legally manufactured but are being used by youth in ways unintended by the manufacturer and unapproved by the Food and Drug Administration.

Rohypnol and special K are two of the drugs which have recently hit the youth scene and quickly become popular. Both of these drugs are very dangerous drugs whose current legal status does not reflect the dangers inherent in their abuse.

Rohypnol abuse was first documented in the United States in 1993. Although abuse was first noted in southern Florida, in the past 2 years abuse has spread rapidly, and rohypnol activity has now been reported in more than 30 States.

Without rapid and strong Government action, abuse will continue to spread to uncontrollable levels.

Teenagers find rohypnol attractive for a number of reasons. Frighteningly, one major reason is that youth do not see rohypnol as dangerous because it has a legitimate medical use in some areas of the world, and they mistakenly believe that if they are taking a drug which is in its original packaging from the manufacturer, it is both safe and unadulterated.

In addition, there are few existing means for testing and prosecuting youth for rohypnol possession and intoxication. The combination of rohypnol and alcohol makes it possible for youth to feel very intoxicated while still remaining under the legal blood-alcohol level for driving.

In addition to gaining attention for increasing rate of abuse, rohypnol has also been the focus of another social problem: crime, particularly date rape. In fact, in many areas and in a number of newspaper accounts, rohypnol has been referred to as a ''date rape drug.''

This connection between rohypnol and rape is due to the drug's disinhibitory effects and its likelihood of causing amnesia when combined with alcohol.

Unfortunately, this amnesiac effect is one of the reasons many people who abuse rohypnol are attracted to it. It is commonly reported that people taking rohypnol in combination with alcohol typically have blackouts, or memory losses lasting 8 to 24 hours.

The novelty of blackouts attract youth, particularly youth who are combining drugs with alcohol.

This has led to rohypnol being referred to as the ''forget me pill'' or the ''forget pill.'' Even more frightening, many people are finding the drug attractive as a way of creating blackouts in others.

The combination of disinhibition and memory loss caused by rohypnol mixed with alcohol makes women especially vulnerable to being victims of date rape by people who convince women to take rohypnol while drinking or put the drug in a woman's drink without her knowledge.

Recently, in Florida and Texas, there have been a number of investigations into these types of victimizations.

There have also been a number of reports of teens and young adults who have entered drug abuse treatment facilities in Florida, reporting rohypnol abuse and suicidal feelings they experienced while using rohypnol.

The most famous example of rohypnol overdose made the news with the attempted suicide of Kurt Cobain, lead singer of the rock band Nirvana. Cobain ultimately succeeded in committing suicide on March 18, 1994, but the rock singer had attempted suicide earlier in the month when he fell into a coma following a near fatal mixture of champagne and rohypnol. Cobain remained comatose for nearly 2 days before regaining consciousness after this drug experience.

Special K is also hitting the club scene at alarming rates. This drug is a hallucinogen very similar to PCP. Special K, or ketamine hydrochloride, has become popular as a new designer drug.

Although this drug has been in existence for several years, its abuse has rapidly become more prevalent in recent years.

Now many parties and raves at dance clubs are called bump parties, as a way of conveying special K is available. It is particularly attractive to kids at these types of events because along with its mind-altering effects, the drug gives a burst of energy, and it can be mixed with water so kids can take it in public without attracting attention.

In fact, a club in New Jersey was recently closed by police after it was discovered that teens were attending raves there where club employees distributed bottled water for this purpose.

In addition to seizures in New Jersey, recent newspaper articles have mentioned seizures in Maryland, New York, Pennsylvania, Arizona, California, and Florida. Drug tracking experts have also cited the presence of special K in Georgia and the District of Columbia, and in my home State of Delaware.

Special K is considered the successor to PCP—or angel dust, as it is known on the street—due to similarity of the two drugs' chemical compositions and mind-altering effects. There have also been reports of PCP being sold to people who think they are buying special K.

Ketamine is primarily a veterinary anesthetic. Although it has some limited use for human medical treatment, its use in this manner is not extensive due to the unpleasant and often dangerous side effects that can accompany its use.

It is clear that the current controls on rohypnol and ketamine do not reflect the dangers these drugs now pose to our society, particularly to women and children. In the United States rohypnol is classified under the Federal Controlled Substances Act as only a schedule four drug, and ketamine is not scheduled at all.

Last week, the Treasury Department announced that custom officials would begin seizing all rohypnol which is brought across U.S. borders. This is a step in the right direction. But this ban on all rohypnol is only the first step.

Further action is needed to make sure cracking down on the illegal trafficking of rohypnol is a high priority and that illegal traffickers of rohypnol are given tough sanctions.

That is why I am introducing legislation to increase the restrictions on both special K and rohypnol. By moving rohypnol to schedule one of the Federal Controlled Substances Act and adding special K to schedule two of the act, this legislation will subject both drugs to tighter controls, increased penalties for unlawful activity involving the two drugs, and will increase the attention and enforcement efforts directed at the drugs by Federal, State, and local law and drug enforcement officials.

In essence, these tighter regulations will mean that rohypnol will be subjected to the same restrictions and penalties as heroin, and special K will face the same controls as cocaine.

I hope my colleagues will join me in seeing to speedy passage of this legislation—taking action to make these drugs less available to our youth now.

I ask unanimous consent that a copy of the bill appear in the RECORD.

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

S. 1609

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

SECTION 1. RESCHEDULING.

Notwithstanding sections 201 and 202 (a) and (b) of the Controlled Substances Act (21 U.S.C. 811, 812 (a),(b)) respecting the scheduling of controlled substances, the Attorney General shall, by order—

(1) transfer flunitrazepam from schedule IV of such Act to schedule I of such Act; and

(2) add ketamine hydrochloride to schedule II of such Act.●

ADDITIONAL COSPONSORS

S. 942

At the request of Mr. BOND, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

S. 960

At the request of Mr. SANTORUM, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 960, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the