(Ms. LANDRIEU), the Senator from Virginia (Mr. ALLEN) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. Res. 78, a resolution designating March 25, 2003, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy.''

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 580. A bill to authorize the extension of nondiscriminatory treatment (normal trad relations treatment) to the products of Russia; to the Committee on Finance.

Mr. LUGAR. Mr. President, I rise today to offer legislation to repeal the Jackson-Vanik amendment to Title IV of the 1974 Trade Act as it relates to Russia and to authorize the President to grant permanent normal trade relations to Russia.

Congress passed the 1974 Jackson-Vanik amendment to deny permanent normal trade relations to communist countries that restricted emigration rights. Over the years, it has been an effective tool to promote free emigration, but its continuing applicability to Russia no longer makes sense in the context of the many changes that have occurred since the fall of the Soviet Union.

Since 1994, successive Administrations have found Russia in full compliance with the requirements of freedom of emigration. Because Russia continues to be subject to Jackson-Vanik, the Administration must submit a semi-annual report to the Congress on Russia's continued compliance with freedom of emigration requirements. Since 1991, Congress has authorized the removal of Jackson-Vanik restrictions from Estonia, Latvia, Lithuania, the Czech Republic, the Slovak Republic, Hungary, Bulgaria, Romania, Kyrgyzstan, Albania, and Georgia. The conditions that have warranted these countries' removal from Title IV reporting apply equally to Russia.

For more than 8 years, Russia has satisfied the requirements of the Jackson-Vanik legislation. It has supported free emigration and it has signed a bilateral trade agreement with the United States allowing the application of normal trade relations status. Last year, the United States declared that Russia would no longer be considered a nonmarket economy for the purposes of trade remedies laws. Russia has made tremendous strides in the last decade. While Russia currently receives normal trade relations treatment with respect to its exports to the U.S., repealing Jackson-Vanik will remove the requirement of semi-annual reports that have been an irritant in U.S.-Russia relations. Granting permanent normal trade relations also will provide certainty that will improve the investment climate and promote enhanced economic relations between the U.S. and Russia. I urge my colleagues to support this legislation.

By Mr. BUNNING:

S. 582. A bill to authorize the Department of Energy to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity; to the Committee on Finance.

Mr. BUNNING. 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. 582

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Coal Energy Research Development and Demonstration Act of 2003''.

SEC. 2. TABLE OF CONTENTS.

TITLE I—ACCELERATED TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM FOR ADVANCED CLEAN COAL TECHNOLOGY

SEC. 101. DEFINITIONS.

In this title:

(a) COST AND PERFORMANCE GOALS.—The term ''cost and performance goals'' means the cost and performance goals established under section 102.

(b) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 102. COST AND PERFORMANCE GOALS.

(a) IN GENERAL.—The Secretary shall perform an assessment that identifies cost and performance goals of technologies that would permit the continued cost-competitive use of coal for electricity generation, as chemical feedstocks, and as transportation fuel in 2007, 2015 and the years after 2020.

(b) CONSULTATION.—In establishing the cost and performance goals, the Secretary shall—

(1) consider activities and studies undertaken to date by industry in cooperation with the Department of Energy in support of such assessment; and

(2) consult with interested entities, including coal producers, industries using coal, organizations to promote coal and advanced coal technologies, environmental organizations and organizations representing workers.

(c) TIMING.—The Secretary shall—

(1) Not later than 120 days after the date of enactment of this Act, issue a set of draft cost and performance goals for public comment; and

(2) not later than 180 days after the date of enactment of this Act, after taking into consideration any public comments received, submit to Congress the final cost and performance goals.

SEC. 103. STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and once every 2 years thereafter through 2016, the Secretary, in cooperation with other appropriate federal agencies, shall conduct a study to—

(1) identify technologies that, by themselves or in combination with other technologies, may be capable of achieving the cost and performance goals;

(2) assess the costs that would be incurred by, and the period of time that would be required for, the development and demonstration of technologies that, by themselves or in combination with other technologies, contribute to the achievement of the cost and performance goals;

(3) develop recommendations for technology development programs, which the Department of Energy could carry out in cooperation with industry, to develop and demonstrate technologies that, by themselves or in combination with other technologies, achieves the cost and performance goals; and

(4) develop recommendations for additional authorities required to achieve the cost and performance goals, and review and recommend changes, if any, to those cost and performance goals if the Secretary determines that such changes are necessary as a result of ongoing research, development and demonstration of technologies.

(b) COOPERATION—In carrying out this section, the Secretary shall give due weight to the expert advice of representatives of the entities described in section 102(b)(2).

SEC. 104. TECHNOLOGY RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a technology research, development and demonstration program to facilitate production and generation of coal-based power through methods and equipment under—

(1) this Title;

(2) the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.);

(3) the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); and

(4) title XVI of the Energy Policy Act of 1992 (42 U.S.C. 13381 et seq.).

(b) CONDITIONS.—The program described in subsection (a) shall be designed to achieve the cost and performance goals required by Section 102.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary $200,000,000 for fiscal year 2004, $210,000,000 for fiscal year 2005, and $220,500,000 for fiscal year 2006, to remain available until expended, for coal and related technologies research and development programs, which shall include—

(1) innovations for existing plants;

(2) integrated gasification combined cycle;

(3) advanced combustion systems;

(4) turbines for synthesis gas derived from coal;

(5) carbon capture and sequestration research and development;

(6) coal-derived transportation fuels and chemicals;

(7) solid fuels and feedstocks; and

(8) advanced coal-related research.

(b) LIMIT ON USE OF FUNDS.—

(1) Prior to the use of funds authorized by this section, the Secretary shall transmit to the Congress a report describing the proposed use of funds and containing a plan that includes—

(a) a detailed description of how proposals, if any, will be solicited and evaluated, including a list of all activities expected to be undertaken;

(b) a detailed list of technical milestones for each coal and related technology that will be pursued;

(c) a description of how the programs authorized in this section will be carried out so as to complement and not duplicate activities authorized under the Clean Coal Power Initiative authorized under Title II.

(2) Thirty days shall elapse from receipt of the report required by this subsection after which the Secretary may then use the authorization of appropriations provided by this section.

TITLE II—CLEAN COAL POWER INITIATIVE

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) CLEAN COAL POWER INITIATIVE.—Except as provided in subsection (b), there are authorized to be appropriated to the Secretary to carry out the activities authorized by this title $200,000,000 for each of the fiscal years 2003 through 2011, to remain available until expended.

(b) LIMIT ON USE OF FUNDS.—

(1) Notwithstanding subsection (a), the Secretary is authorized to obligate the use of funds prior to the date authorized herein, subject to appropriations.

(2) The Secretary shall transmit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, a report, with respect to subsection (a), containing—

(A) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(B) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(C) a detailed list of technical milestones for each coal and related technology that will be pursued; and

(D) a detailed description of how the program will avoid problems enumerated in General Accounting Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

(3) Thirty days elapse from receipt of the report required by this subsection after which the Secretary may then use the authorization of appropriations provided by this section.

(c) APPLICABILITY.—Subsection (b) shall not apply to any project begun before September 30, 2003.

SEC. 202. CLEAN COAL POWER INITIATIVE CRITERIA.

(a) IN GENERAL.—The Secretary shall not provide funding under this title for any project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in operation or have been demonstrated as of the date of the enactment of this Act.

(b) TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.—

(1) GASIFICATION.—

(A) In allocating the funds made available under section 201(a), the Secretary shall ensure that not less than 55 percent, but not more than 80 percent, of the funds are used for coal-based gasification technologies, coal based projects that includes the separation and capture of carbon dioxide, or coal based projects that include gasification combined cycle, gasification fuel cells, gasification coproduction, or hybrid gasification/combustion.

(B) The Secretary shall set technical milestones specifying emissions levels that coal gasification projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones shall be designed to achieve by 2020 coal gasification projects able—

(i) to remove 99 percent of sulfur dioxide;

(ii) to emit no more than .05 lbs of NO_x per million BTU;

(iii) to achieve substantial reductions in mercury emissions; and

(iv) to achieve a thermal efficiency of—

(I) 60 percent for coal of more than 9,000 Btu;

(II) 59 percent for coal of 7,000 to 9,000 Btu; and

(III) 57 percent for coal of less than 7,000 Btu.

(2) OTHER PROJECTS.—For projects not described in paragraph (1), the Secretary shall set technical milestones specifying emissions levels that the projects must be designed to and reasonably expected to achieve. The milestones shall get more restrictive through the life of the program. The milestones hall be designed to achieve by 2010 projects able—

(A) to remove 97 percent of sulfur dioxide;

(B) to emit no more than .08 lbs of NOx per million BTU;

(C) to achieve substantial reductions in mercury emissions; and

(D) to achieve a thermal efficiency of—

(i) 45 percent for coal of more than 9,000 Btu;

(ii) 44 percent for coal 7,000 to 9,000 Btu; and

(iii) 42 percent for coal of less than 7,000 Btu.

(3) CONSULTATION.—Before setting the technical milestones under paragraphs (1)(B) and (2), the Secretary shall consult with the Administrator of the Environmental Protection Agency and interested entities, including coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers.

(4) EXISTING UNITS.—In the case of projects at existing units, in lieu of the thermal efficiency requirements set forth in paragraph (1)(B)(iv) and (2)(D), the projects shall be designed to achieve an overall thermal design efficiency improvement compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7,000 Btu.

(c) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under this title unless the recipient has documented to the satisfaction of the Secretary that—

(1) the award recipient is financially viable without the receipt of additional Federal funding;

(2) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that meet the requirements of subsections (a), (b), and (c) and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities that use coal as the primary feedstock as of the date of the enactment of this Act.

(e) FEDERAL SHARE.—The Federal share of the cost of a coal or related technology project funded by the Secretary shall not exceed 50 percent. The Federal share may repaid over a reasonable period of time as agreed upon with the Secretary.

(f) APPLICABILITY.—No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act, achievable for purposes of section 169 of that Act, or achievable in practice for purposes of section 171 of that Act solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under this title.

SEC. 203. REPORT.

(a) Not later than 1 year after the date of the enactment of this Act, and once every 2 years thereafter through 2011, the Secretary, in consultation with other appropriate Federal agencies, shall transmit to the Committee on Energy and Commerce and the Committee on Science of the House of Representatives, and to the Senate, a report describing—

(1) the technical milestones set forth in section 202 and how those milestones ensure progress toward meeting the requirements of subsections (b)(1)(B) and (b)(2) of section 202; and

SEC. 204. CLEAN COAL CENTERS OF EXCELLENCE.

As part of the program authorized in section 201, the Secretary shall award competitive, merit-based grants to universities for the establishment of Centers of Excellence for Energy Systems of the Future. The Secretary shall provide grants to universities that can show the greatest potential for advancing new clean coal technologies.

TITLE III—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

SEC. 301. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A of chapter

1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 451. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.

''(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to the product of—

''(1) the applicable amount of clean technology production credit, multiplied by

''(2) the applicable percentage of the kilowatt hours of electricity produced and the equivalent heat value of other fuels or chemicals produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

''(b) APPLICABLE AMOUNT.—

''(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034 per kilowatt-hour of electricity produced and the equivalent heat value of other fuels or chemicals produced from not more than 300,000 kilowatts of nameplate capacity at the same qualifying clean coal technology unit.

''(2) INFLATION ADJUSTMENT.—For calendar years after 2003, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

''(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term ''qualifying clean coal technology unit'' means a clean coal technology unit of the taxpayer which—

''(A) on the date of the enactment of this section was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit;

''(B) has a nameplate capacity rating of not more than 300,000 kilowatts as of the date of enactment of this section;

''(C) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology, which nameplate capacity may then be greater than 300,000 kilowatts, during the 10-year period beginning on the date of the enactment of this section;

''(D) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy; and

''(E) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e), which shall not exceed 300,000 kilowatts.

''(2) CLEAN COAL TECHNOLOGY UNIT.—The term ''clean coal technology unit'' means a unit which—

''(A) uses clean coal technology, including advanced pulverized coal or atmosphere fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology for the production of electricity;

''(B) uses at least 75 percent coal to produce 50 percent or more of its thermal output as electricity;

''(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A);

''(D) has a maximum design net heat rate of not more than 9,500; and

''(E) meets the pollution control requirements of paragraph (3).

''(3) POLLUTION CONTROL REQUIREMENTS.—

''(A) IN GENERAL.—A unit meets the requirements of this paragraph if—

''(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

''(I) subparagraph (B), or

''(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

''(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) is effect at the time of the retrofitting, repowering, or replacement.

''(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

''(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

''(ii) in the case of nitrogen oxide emissions—

''(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

''(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

''(ii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

''(4) DESIGN NET HEAT RATE.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

''(A) shall be based on the design annual heat input to and the design annual net electrical power, fuels and chemicals output from such unit (determined without regard to such unit's co-generation of steam),

''(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate × [1–{((12,000-design coal heat content, Btu per pound)/1,000) × 0.013}],

''(C) shall be corrected for the site reference conditions of—

''(i) elevation above sea level of 500 feet,

''(ii) air pressure of 14.4 pounds per square inch absolute (psia),

''(iii) temperature, dry bulb of 63°F,

''(iv) temperature, wet bulb of 54°F, and

''(v) relative humidity of 55 percent, and

''(D) shall be adjusted (or credit given) for any qualifying unit that installs carbon capture controls that remove not less than 50 percent of the unit's carbon dioxide emissions up to the design heat rate level that would have resulted without installation of carbon capture controls.

''(5) HHV.—The term ''HHV'' means higher heating value.

''(6) APPLICATION OF CERTAIN RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

''(7) INFLATION ADJUSTMENT FACTOR.—

''(A) IN GENERAL.— The term ''inflation adjustment factor'' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2003.

''(B) GDP IMPLICIT PRICE DEFLATOR.—The term ''GDP implicit price deflator'' means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.

''(8) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

''(e) NATIONAL LIMITATION ON THE AGGREGATE CAPABILITY OF QUALIFYING CLEAN COAL TECHNOLOGY UNITS.—

''(1) IN GENERAL.—For purposes of subsection (d)(1)(E), the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

''(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3) provided, however, that such allocation shall not exceed 300,000 kilowatts per qualifying clean coal technology unit.

''(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

''(A) to carry out the purposes of this subsection,

''(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the combined megawatt capacity allocated to all such units under this subsection when all such units are placed in service during the 10-year period described in subsection (d)(1)(C), does not exceed 4,000 megawatts,

''(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

''(i) to encourage the units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and superior environmental performance compared to other proposals, be placed in service as soon as possible,

''(ii) to allocate capacity to taxpayers that have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

''(I) a site,

''(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

''(III) filings for all necessary preconstruction approvals,

''(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

''(V) such other factors that the Secretary determines are appropriate,

''(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

''(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units that become unlikely to meet the necessary conditions for qualifying can be reallocated by the

Secretary to other clean coal technology units, and

''(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following new paragraph:

''(20) the qualifying clean coal technology production credit determined under section 45I(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(16) NO CARRYBACK OF SECTION 45I CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45I may be carried back to a taxable year ending on or before the date of the enactment of section 45I.''.

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

''Sec. 45I. Credit for production from a qualifying clean coal technology unit.''.

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

Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies

SEC. 302. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) the qualifying advanced clean coal technology unit credit.''.

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

''SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

''(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the term ''q1ualifying advanced clean coal technology unit'' means an advanced clean coal technology unit of the taxpayer—

''(A)(i)(I) in the case of a unit first placed in service after the date of the enactment of this section, the original use of which commences with the taxpayer, or

''(II) in the case of the retrofitting or repowering of a unit first placed in service before such date of enactment, the retrofitting or repowering of which is completed by the taxpayer after such date, or

''(ii) which is acquired through purchase (as defined by section 179(d)(2)),

''(B) which is depreciable under section 167,

''(C) which has a useful life of not less than 4 years,

''(D) which is located in the United States,

''(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

''(F) which is not a qualifying clean coal technology unit, and

''(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

''(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

''(A) is originally placed in service by a person, and

''(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years, such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such as election, once made, may be revoked only with the consent of the Secretary.

''(3) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

''(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

''(d) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of this section—

''(1) IN GENERAL.—The term ''advanced clean coal technology unit'' means a new, retrofit, or repowering unit of the taxpayer which—

''(A) is—

''(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

''(ii) an eligible pressurized fluidized bed combustion technology unit,

''(iii) an eligible integrated gasification combined cycle technology unit, or

''(iv) an eligible other technology unit, and

''(B) meets the carbon emission rate requirements of paragraph (6).

''(2) ELIGIBLE ADVANCED PULVERIZED COAL OR ATMOSPHERIC FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term ''eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit'' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2015, and

''(B) has a design net heat of not more than 8,500 (8,900 in the case of units placed in service before 2011).

''(3) ELIGIBLE PRESSURIZED FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term ''eligible pressurized fluidized bed combustion technology unit'' means a clean coal technology unit using pressurized fluidized bed combustion technology which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2019, and

''(B) has a design net heat of not more than 7,720 (8,900 in the case of units placed in service before 2011, and 8,500 in the case of units placed in service after 2010 and before 2015).

''(4) ELIGIBLE INTEGRATED GASIFICATION COMBINED CYCLE TECHNOLOGY UNIT.—The term ''eligible integrated gasification combined cycle technology unit'' means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2019.

''(B) has a design net heat rate of not more than 7,720 (8,900 in the case of units placed in service before 2011, and 8,500 in the case of units placed in service after 2010 and before 2015) and

''(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 44.2 percent (38.4 percent in the case of units placed in service before 2011, and 40.2 percent in the case of units placed in service after 2010 and before 2015).

''(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—The term ''eligible other technology unit'' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2019.

''(6) CARBON EMISSION RATE REQUIREMENTS—

''A) IN GENERAL—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

''(i) in the case of a unit design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

''(ii) in the case of a unit design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

''(B) ELIGIBLE OTHER TECHNOLOGY UNIT.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting ''0.51'' and ''0.459'' for ''0.60'' and ''0.54'', respectively.

''(e) GENERAL DEFINITIONS.—Any term used in this section which is also used in section 45I shall have the meaning given such term in section 45I.

''(f) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS—

''(1) IN GENERAL.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

''(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2011),

''(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2011),

''(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 750 megawatts, or not more than one project with a design net heat rate greater than 8900 Btu per kilowatt hour, whichever is less, in the case of units placed in service before 2011), and

''(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2011).

''(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

''(3) Regulations.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

''(A) to carry out the purposes of this subsection and section 45J,

''(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts.

''(C) to provide a certification process described in section 45I(e)(3)(C)(i)–(ii),

''(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45I(e)(3), and

''(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

''(4) SELECTION CRITERIA.—For purposes of paragraph (3)(C), the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

''(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

''(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government,

''(C) shall include criteria for the selection of a unit(s) that achieves a thermal efficiency of lower than 8,900 Btu per kilowatt hour in that instance where two or more projects are otherwise eligible for the credit provided by this section, and have applied to the Secretary for selection at or near the same period in time, and

''(D) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

''(g) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term ''qualified investment'' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(i)(II), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

''(h) QUALIFIED PROGRESS EXPENDITURES—

''(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term ''progress expenditure property'' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

''(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term ''qualified progress expenditures'' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

''(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term ''qualified progress expenditures'' means the amount paid during the taxable year to another person for the construction of such property.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—The term ''self-constructed property'' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

''(B) NONSELF-CONSTRUCTED PROPERTY.—The term ''nonself-constructed property'' means property which is not self-constructed property.

''(C) CONSTRUCTION, ETC.—The term ''construction'' includes reconstruction and erection, and the term ''constructed'' includes reconstructed and erected.

''(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

''(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.

''(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.''.

(c) RECAPTURE.—Section 50(a) of the Internal Revenue Code of 1986 (relating to other special rules) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following shall apply:

''(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and whose denominator is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.

''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).

''(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.''.

(d) TRANSITIONAL RULE.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(17) NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology unit credit determined under section 48A may be carried back to a taxable year ending on or before the date of the enactment of section 48A.''.

(e) TECHNICAL AMENDMENTS—

(1) Section 49(a)(1)(C) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).''.

(2) Section 50(a)(4) of the Internal Revenue Code of 1986 is amended by striking ''and (2)'' and inserting ''(2), and (6)''.

(3) Section 50(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.''.

(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 48 the following new item:

''Sec. 48A. Qualifying advanced clean coal technology unit credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 2212. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45J. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.

''(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—

''(1) the applicable amount of advanced clean coal technology production credit, multiplied by

''(2) the applicable percentage (as determined under section 48A(c)) of the sum of—

''(A) the kilowatt hours of electricity, plus

''(B) each 3,413 Btu of fuels or chemicals,

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit during the 10-year period beginning on the date the unit was originally

placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

''(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:

''(1) Where the qualifying advanced clean coal technology unit is producing electricity only:

''(A) In the case of a unit originally placed in service before 2011, if—

''The design net heat rate is:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	$.0060	$.0038
More than 8,500 but not more than 8,750	$.0025	$.0010
More than 8,750 but less than 8,900	$.0010	$.0010.

''(B) In the case of a unit originally placed in service after 2010 and before 2015, if—

''The design net heat rate is:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	$.0105	$.0090
More than 7,770 but not more than 8,125	$.0085	$.0068
More than 8,125 but less than 8,350	$.0075	$.0055.

''(C) In the case of a unit originally placed in service after 2014 and before 2019, if—

''The design net heat rate is:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	$.0140	$.0115
More than 7,380 but not more than 7,720	$.0120	$.0090.

''(2) Where the qualifying advanced clean coal technology unit is producing fuel or chemicals:

''(A) In the case of a unit originally placed in service before 2011, if—

''The unit design net thermal efficiency (HHV) is:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent	$.0060	$.0038
Less than 40.6 but not less than 40 percent	$.0025	$.0010
Less than 40 but not less than 38.4 percent	$.0010	$.0010.

''(B) In the case of a nit originally placed in service after 2010 and before 2015, if—

''The unit design net thermal efficiency (HHV) is:	The applicable amount is: For the 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.6 percent	$.0105	$.0090
Less than 43.6 but not less than 42 percent	$.0085	$.0068
Less than 42 but not less than 40.2 percent	$.0075	$.0055.

''(C) In the case of a unit originally placed in service after 2014 and before 2019, if—

''The unit design net thermal efficiency (HHV) is:	The applicable amount is: For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent	$.0140	$.0115
Less than 44.2 but not less than 43.9 percent	$.0120	$.0090.

''(c) A qualifying clean coal technology facility originally placed in service before 2009 that has a design heat rate that meets a lower heat rate test in paragraphs (1)(A)(B) and (C) and (2) (A)(B) and (C) above or a qualifying clean coal technology facility originally placed in service before 2013 that has a design heat rate that meets a lower heat rate test in paragraphs (1)(C), or (2)(C) above shall receive the highest applicable amount with respect to a production tax credit for which it qualifies.

''(d) INFLATION ADJUSTMENT.—For calendar years after 2003, each amount in paragraphs (1) and (2) of subsection (b) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

''(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) IN GENERAL.—Any term used in this section which is also used in section 451 or 48A of the Internal Revenue Code of 1986 shall have the meaning given such term in such section.

''(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) of the Internal Revenue Code of 1986 shall apply.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by striking ''plus'' at the end of paragraph (19), by striking the period at the end of paragraph (2) and inserting '', plus'', and by adding at the end the following new paragraph:

''(21) the qualifying advanced clean coal technology production credit determined under section 45J(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) of the Internal Revenue Code of 1986 (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(18) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45J may be carried back to a taxable year ending on or before the date of the enactment of section 45J.''.

(d) DENIAL OF DOUBLE BENEFIT.—Section 29(d) of the Internal Revenue Code of 1986 (relating to other definitions and special rules) is amended by adding at the end the following paragraph:

''(9) DENIAL OF DOUBLE BENEFIT.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45J.''.

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

''Sec. 45J. Credit for production from a qualifying advanced clean coal technology unit.''.

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

Subtitle C—Treatment of Persons Not Able To Use Entire Credit

SEC. 2221. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) IN GENERAL.—Section 45I of the Internal Revenue Code of 1986, as added by this Act, is amended by adding at the end the following new subsection:

''(f) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT—

''(1) ALLOWANCE OF CREDITS—

''(A) IN GENERAL.—Any credit allowable under this section, section 45J, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(B) PERSONS DESCRIBED.—A person is described in this subparagraph if the person is—

''(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(ii) an organization described in section 1381(a)(2)(C),

''(iii) a public utility (as defined in section 136(c)(2)(B)),

''(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

''(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or ''(vi) the Tennessee Valley Authority.

''(2) TRANSFER OF CREDIT—

''(A) IN GENERAL.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

''(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

''(C) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

''(3) USE BY TVA.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

''(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall be applied first against the annual return on the appropriations investment.

''(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described in paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

''(5) CREDIT NOT INCOME.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).

''(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, sales among and between persons described in clauses (i),

(ii), (iii), and (v) of paragraph (1)(A) shall be treated as sales between unrelated parties.''.

''(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

By Mrs. HUTCHISON:

S. 583. A bill to require the provision of information to parents and adults concerning bacterial meningitis and the availability of a vaccination with respect to such disease; to the Committee on Health Education, Labor, and Pensions.

Mrs. HUTCHISON. Mr. President, I am pleased to be joined by Senators VOINOVICH, DEWINE, MIKULSKI and WARNER to offer health legislation that will bring great benefits to many of our Nation's families.

Bacterial meningitis affects 3,000 people across the United States each year. Approximately 10 percent of patients with bacterial meningitis die despite receiving antibiotics early in the course of the disease. Meningitis occurs most frequently in infants and young adults living in dormitory settings. The disease can result in permanent brain damage, hearing loss, learning disability, limb amputation, kidney failure or death.

In 2001, Lydia Evans entered her sophomore year at North Texas University as a healthy 20-year-old. Now she's lost both of her legs, parts of seven fingers and endured 15 surgeries and intensive physical therapy. She is a victim of a terrible, yet little-known disease called meningococcal meningitis.

Carolyn Waghorne of Dallas contacted me after the tragic death of her son, Carter, who contracted meningitis at boarding school in 1998. Mrs. Waghorne has led the battle in our State to create awareness about the dangers of the illness. After hearing her story, I knew we needed to help educate all Americans about this devastating—yet preventable—disease.

My bill would require the Secretary of Health and Human Services, in consultation with the Director of the Centers of Disease Control, CDC, to develop and make information available about bacterial meningitis. In addition, it would provide information about the availability and effectiveness of bacterial meningitis vaccinations for children and adults.

The information would be distributed at institutions, including child care centers, schools, universities, boarding schools, summer camps, detention facilities, and other entities that provide housing in a dorm-like setting.

Meningitis is spread through close contact such as coughing or sneezing and direct contact with persons infected with meningitis. The bacteria cannot live outside the body for very long, so the disease is not as easily transmitted as a cold virus. Many healthy people carry the bacteria, but if a person has a suppressed immune system they may contract the disease. A spinal tap procedure enables doctors to diagnose meningitis, and if the disease is discovered, it is treated with antibiotics.

The disease can result in permanent brain damage, hearing loss, learning disability, limb amputation, kidney failure or death.

The CDC reports that two-thirds of cases on college campuses could have been prevented with a vaccine. In fact, the Advisory Commission on Immunization Practices, part of the CDC, recommends what this bill provides.

I commend the Senators for their support and hope other Senators will join us in this effort to prevent the tragedies that befell Lydia Evans and Carolyn Waghorne as well as thousands of families every year.

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. 583

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 ''Meningitis Immunization Awareness Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Approximately 3,000 cases of meningococcal disease occur each year in the United States. Approximately 10 to 13 percent of patients with such disease die despite receiving antibiotics early in the disease. Of those individuals who survive, an additional 10 percent have severe after-effects of the disease, including mental retardation, hearing loss, and loss of limbs.

(2) There is a vaccine that protects individuals against some types of bacterium Neisseria meningitidis (also known as meningococcus), an important cause of bacterial meningitis and sepsis in children and young adults. A single dose of the vaccine is recommended, and vaccination will decrease the risk of the disease caused by Neisseria meningitidis.

(3) Currently, the only group of individuals that is vaccinated against bacterial meningitis is the members of the armed forces. The only other group of individuals that have been encouraged to get the vaccine are those individuals attending college.

SEC. 3. PROVISION OF INFORMATION.

(a) DEVELOPMENT OF INFORMATION.—The Secretary of Health and Human Services, in consultation with the Director of the Centers for Disease Control and Prevention, shall develop and make available to entities described in subsection (b) information concerning bacterial meningitis and the availability and effectiveness of vaccinations for individuals 2 years of age or older with respect to such disease.

(b) ENTITIES.—An entity is described in this subsection if the entity—

(1) is—

(A) a child care center or provider that is licensed or certified under an appropriate State law;

(B) an elementary or secondary school (as such terms are defined in the Elementary and Secondary School Act of 1965 (20 U.S.C. 6301 et seq.);

(C) a college or university;

(D) a boarding school or summer camp;

(E) a prison or other detention facility; or

(F) any other entity that provides for the housing of individuals in a dorm-like setting; and

(2) any other entity determined appropriate by the Secretary of Health and Human Services.

By Ms. LANDRIEU:

S. 584. A bill to direct the Consumer Product Safety Commission to promulgate a rule that requires manufacturers of certain consumer products to establish and maintain a system for providing notification of recalls of such products to consumers who first purchase such a product; to the Committee on Commerce, Science, and Transportation.

Ms. LANDRIEU. Mr. President, today I am happy to join my colleagues in the House of Representatives, Congressman MORAN and Congressman MCGOVERN, in re-introducing the Product Safety Notification and Recall Effectiveness Act. As my colleagues may recall, this legislation makes it easier for parents to learn when a product they bought may harm their children, so that they might take steps to return the item or have it repaired.

On January 6 of this year, the National Highway Traffic Safety Administration released a study that contained a lot of good news for parents. In its study, NHTSA found that its child safety seat registration program has been incredibly successful. NHTSA implemented this program in March of 1993, and the information that is starting to come in shows that nine times more child safety seats are now registered than before the program was launched. In fact, in 1993 only 3 percent of seats were registered; now 27 percent are. And this is significant, because this has directly led to more effective recalls of defective child seats—the recall repair rate has increased by more than half since 1993, from 13.8 percent to 21.5 percent.

The reason I mention this study to my colleagues is because NHTSA's program is very much like the one that this bill would establish. This legislation would require the Consumer Product Safety Commission to issue a rule requiring manufacturers to establish and maintain a system for notifying consumers of the recall of certain products that may cause harm to children. The database could be assembled through the use of shortened product registration cards, Internet registration, or other alternate means of encouraging consumers to provide vital contact information.

There is a very clear reason why such a database is necessary. As we all know, these products come with registration cards. The intent of these cards should be that customers will fill them out and send them in, which gives the companies a way to contact purchasers. Unfortunately, many times consumers do not return these cards, and there is a good reason behind this. These cards sometimes contain 40 to 50, or even more, different questions or boxes to fill out. They ask about marital status, salary information, and about what kind of products a person buys. Either a person does not wish to

reveal that much personal information, or they simply do not have time to fill out the card. In fact, the intent seems to be more to get personal marketing information from consumers than anything else. That is why its such a good idea to shorten the card and just ask for the basic information, like a customer's name, address, phone number, and e-mail address. Not only have studies done by companies like Mattel and BrandStamp shown that these methods increase the number of consumers who respond, NHTSA—working on almost ten years of real data—has clearly proven a dramatic increase in registration and, as a result, in the number of products successfully recalled.

But a card is not the only way to compile this information. For instance, many companies are now using online registration, where customers can log on to their website and quickly enter the information. For Americans with Internet connections, this is often much less of a hassle than filling out a card, attaching a stamp, and mailing it in. It's quick and easy. And this legislation allows for the use of alternate methods such as this in compiling this database.

I am sure that some of my colleagues might be concerned about the cost of setting up such a program. I say to my colleagues that I also have no desire to pass along more costs to the companies that make these products and, ultimately, to the consumer. However, let me again point to the NHTSA study. The indirect cost of consumers for the car seat program is 43 cents per seat sold. Forty-three cents. I do not know of a single parent who would not pay an extra forty-three cents to ensure the safety of their child. But I would say to my colleagues, don't take my word for it—ask the thousands of parents who have returned recalled car seats since 1993. I'm sure they would tell you that was the best 43 cents they had ever spent.

The need for this legislation is only highlighted by the CPSC's refusal to consider such a rule last Friday, despite intense efforts by consumer groups like the Consumer Federation of America and SAFE to highlight the importance of this change to the way recalls work. I world urge my colleagues to join me in sponsoring this important bill, and I hope that we can pass this legislation into law as soon as possible.

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. 584

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 ''Product Safety Notification and Recall Effectiveness Act of 2003''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Consumer Product Safety Commission conducts approximately 300 recalls of hazardous, dangerous, and defective consumer products each year.

(2) In developing comprehensive corrective action plans with recalling companies, the Consumer Product Safety Commission staff greatly relies upon the media and retailers to alert consumers to the dangers of unsafe consumer products, because the manufacturers do not generally possess contact information regarding the purchasing consumers. Based upon information received from companies maintaining customer registration lists, such contact information is known for generally less than 7 percent of the total consumer products produced and distributed.

(3) The Consumer Product Safety Commission staff has found that most consumers do not return purchaser identification cards because of requests for marketing and personal information on the cards, and the likelihood of receiving unsolicited marketing materials.

(4) The Consumer Product Safety Commission staff has conducted research demonstrating that direct consumer contact is one of the most effective ways of motivating consumer response to a consumer product recall.

(5) Companies that maintain consumer product purchase data, such as product registration cards, warranty cards, and rebate cards, are able to effectively notify consumers of a consumer product recall.

(6) The Consumer Product Safety Commission staff has found that a consumer product safety owner card, without marketing questions or requests for personal information, that accompanied products such as small household appliances and juvenile products would increase consumer participation and information necessary for direct notification in consumer product recalls.

(7) The National Highway Traffic Safety Administration has, since March 1993, required similar simplified, marketing-free product registration cards on child safety seats used in motor vehicles. The National Highway Traffic Safety Administration has found this requirement has increased recall compliance rates.

(b) PURPOSE.—The purpose of this Act is to reduce the number of deaths and injuries from defective and hazardous consumer products through improved recall effectiveness, by—

(1) requiring the Consumer Product Safety Commission to promulgate a rule to require manufacturers of juvenile products, small household appliances, and certain other consumer products, to include a simplified product safety owner card with those consumer products at the time of original purchase by consumers, or develop effective electronic registration of the first purchasers of such products, to develop a customer database for the purpose of notifying consumers about recalls of those products; and

(2) encouraging manufacturers, private labelers, retailers, and others to use creativity and innovation to create and maintain effective methods of notifying consumers in the event of a consumer product recall.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) TERMS DEFINED IN CONSUMER PRODUCT SAFETY ACT.—The definitions set forth in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) shall apply to this Act.

(2) COVERED CONSUMER PRODUCT.—The term ''covered consumer product'' means—

(A) a juvenile product;

(B) a small household appliance; and

(C) such other consumer product as the Commission considers appropriate for achieving the purpose of this Act.

(3) JUVENILE PRODUCT.—The term ''juvenile product''—

(A) means a consumer product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years; and

(B) includes, among other items—

(i) full-size cribs and nonfull-size cribs;

(ii) toddler beds;

(iii) high chairs, booster chairs, and hook-on chairs;

(iv) bath seats;

(v) gates and other enclosures for confining a child;

(vi) playpens;

(vii) stationary activity centers;

(viii) strollers;

(ix) walkers;

(x) swings;

(xi) child carriers;

(xii) bassinets and cradles; and

(xiii) children's toys.

(4) PRODUCT SAFETY OWNER CARD.—The term ''product safety owner card'' means a standardized product identification card supplied with a consumer product by the manufacturer of the product, at the time of original purchase by the first purchaser of such product for purposes other than resale, that only requests that the consumer of such product provide to the manufacturer a minimal level of personal information needed to enable the manufacturer to contact the consumer in the event of a recall of the product.

(5) SMALL HOUSEHOLD APPLIANCE.—The term ''small household appliance'' means a consumer product that is a toaster, toaster oven, blender, food processor, coffee maker, or other similar small appliance as provided for in the rule promulgated by the Consumer Product Safety Commission.

SEC. 4. RULE REQUIRING SYSTEM TO PROVIDE NOTICE OF RECALLS OF CERTAIN CONSUMER PRODUCTS.

(a) IN GENERAL.—The Commission shall promulgate a rule under section 16(b) of the Consumer Product Safety Act (15 U.S.C. 2065(b)) that requires that the manufacturer of a covered consumer product shall establish and maintain a system for providing notification of recalls of such product to consumers of such product.

(b) REQUIREMENT TO CREATE DATABASE.—

(1) IN GENERAL.—The rule shall require that the system include use of product safety owner cards, Internet registration, or an alternative method, to create a database of information regarding consumers of covered consumer products, for the sole purpose of notifying such consumers of recalls of such products.

(2) USE OF TECHNOLOGY.—Alternative methods specified in the rule may include use of on-line product registration and consumer notification, consumer information data bases, electronic tagging and bar codes, embedded computer chips in consumer products, or other electronic and design strategies to notify consumers about product recalls, that the Commission determines will increase the effectiveness of recalls of covered consumer products.

(c) USE OF COMMISSION STAFF PROPOSAL.—In promulgating the rule, the Commission shall consider the staff draft for an Advanced Notice of Proposed Rulemaking entitled ''Purchaser Owner Card Program'', dated June 19, 2001.

(d) EXCLUSION OF LOW-PRICE ITEMS.—The Commission shall have the authority to exclude certain low-cost items from the rule for good cause.

(e) DEADLINES.—

(1) IN GENERAL.—The Commission—

(A) shall issue a proposed rule under this section by not later than 90 days after the date of enactment of this Act; and

(B) shall promulgate a final rule under this section by not later than 270 days after the date of enactment of this Act.

(2) EXTENSION.—The Commission may extend the deadline described in paragraph (1) if the Commission provides timely notice to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

By Mr. NELSON of Florida (for himself, Mr. LIEBERMAN, Mrs. MURRAY, Mr. REID, Mr. DAYTON, Mr. ROCKEFELLER, and Mr. COLEMAN):

S. 585. A bill to amend title 10, United States Code, to repeal the requirement for reduction of SBP survivor annuities by dependency and indemnity compensation; to the Committee on Armed Services.

Mr. NELSON of Florida. 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. 585

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 ''Military Retiree Survivors Relief Act of 2003''.

SEC. 2. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—Section 1451(c) of title 10, United States Code, is amended by striking paragraph (2).

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date specified in subsection (c) by reason of the amendment made by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted, if later than the date specified in paragraph (1).

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Tuesday, March 11, 2003, at 2:30 p.m. in Room 485 of the Russell Senate Office Building to consider the Committee's Views and Estimates on the President's FY 2004 Budget Request for Indian Programs.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources. The purpose of this hearing is to conduct oversight on National Trail designations and the potential impact of National Trails on private lands, communities, and activities within the viewshed of the trails. In addition, the Subcommittee will receive testimony on S. 324, a bill to amend the National Trail System Act to clarify Federal authority relating to land acquisition from willing sellers for certain trails in the National Trails System.

The hearing will take place on March 25, 2003 at 2:30 PM in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact: Tom Lillie at (202) 224–5161 or Pete Lucero at (202) 224–6293.

AUTHORITY FOR COMMITTEES TO MEET

SPECIAL COMMITTEE ON AGING

Mr. CRAIG. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Monday, March 10, 2003 from 2:00 p.m.—5:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

PRIVILEGE OF THE FLOOR

Mr. CRAIG. Mr. President, I ask unanimous consent that Mark Carlson, a fellow in Senator HATCH's office, be given the privilege of the floor for the remainder of today's session.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g., as amended, appoints the Senator from Idaho (Mr. CRAPO) as Chairman of the Senate Delegation to the Canada to the Canada-U.S. Interparliamentary Group conference during the 108th Congress.

The Chair, on behalf of the Vice President, in accordance with 22 U.S. 1928a-1928d, as amended, appoints the Senator from Delaware (Mr. BINDEN) as Vice Chairman of the Senate Delegation to the NATO Parliamentary Assembly during the 108th Congress.

ORDERS FOR TUESDAY, MARCH 11, 2003

Mr. VOINOVICH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Tuesday, March 11. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of Calendar No. 19, S. 3, the partial-birth abortion bill; that at 11 a.m., the Senate return to executive session and resume consideration of the nomination of Miguel Estrada to be a circuit judge for the DC Circuit, and that the time until 12:30 p.m. be equally divided between the two leaders or their designees; that at 12:30 p.m., the Senate recess until the hour of 2:15 p.m. for the weekly party caucuses; and that upon reconvening at 2:15 p.m., the Senate return to legislative session and resume consideration of S. 3.

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

PROGRAM

Mr. VOINOVICH. Mr. President, for the information of all Senators, tomorrow the Senate will resume the consideration of S. 3, the partial-birth abortion bill. It is my understanding that Senator MURRAY will be prepared to offer an amendment first thing tomorrow morning. The leader has indicated it is his intention to finish this important legislation by the end of the week. Therefore, I encourage any Senators who wish to offer an amendment to the bill to work with the bill managers so they can arrange time for amendment consideration.

At 11 a.m., the Senate will return to the Estrada nomination and begin a critical debate on the judicial nominations process and the long-term implications the current filibuster will hold for this body. Members are encouraged to come to the Chamber and engage in this vital discussion.

Following the recess, the Senate will return to consideration of the partial-birth abortion bill. Additional amendments are expected, and therefore Members should anticipate votes during tomorrow's session.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. VOINOVICH. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:03 p.m., adjourned until Tuesday, March 11, 2003, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate March 10, 2003:

THE JUDICIARY

GREGORY L. FROST, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF OHIO.