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EDF PRAISES SENATE PLAN FOR EARLY REDUCTION OF GREENHOUSE GASES

(12 October, 1998 - - Washington) The Environmental Defense Fund (EDF) today praised three United States Senators for their introduction of a bill (S. 2617) which provides credit for companies who take early steps that reduce their overall emissions of domestic greenhouse gases. EDF has advocated incentives for early reductions for more than a year, and several key elements of EDF's proposal are reflected in the bill.

"This important action on the part of Sen. John Chafee, Sen. Connie Mack, and Sen. Joe Lieberman shows that common-sense bipartisan progress is possible on the issue of climate change," said EDF's executive director Fred Krupp. "By jointly introducing this bill to provide credit for voluntary actions that reduce greenhouse gases, these Senators have shown true leadership, and a willingness to work together toward meaningful solutions. This is a great first step toward progress in the next Congress."

Sen. Chafee, (R-RI), chairs the Senate Committee on Environment and Public Works. Sen. Lieberman, (D-CT), serves on Environment and Public Works, and is Deputy Minority Whip, and Sen. Mack, (R-FL), chairs the Senate Republican Conference, and is Vice Chair of the Joint Economic Committee.

"The introduction of this bill now will also send a strong message in advance of the international climate discussions in Buenos Aires next month," said Krupp. "The Congress of the United States is beginning to address climate change."

"American businesses are beginning to recognize that they can help solve the problem of global warming," said EDF senior economist Dan Dudek who, along with EDF senior attorney Joseph Goffman, helped develop the credit for early reductions approach. "Congressional approval of a program to give domestic credit to companies that take voluntary action to reduce their overall emissions can provide the certainty necessary to move forward with practical emission reductions now."

The proposed legislation would award credit to companies taking voluntary steps to reduce their overall domestic greenhouse gas emissions prior to the introduction of any mandatory domestic greenhouse gas regulatory requirements. These credits could be either saved for use in meeting future domestic emissions reduction requirements, or sold to other companies who might need them to help manage their own reduction schedule. The legislation would also provide strong incentives for American companies to move quickly on developing innovative technologies that can begin to slow the rate of buildup of greenhouse gases in the atmosphere.

"Just as economic debt accumulates interest, greenhouse pollution, with its long-lasting capacity to heat the climate, accumulates in the atmosphere," said Goffman. "If we postpone dealing with the risks of climate change, we may be hurtling toward a situation from which 'bailout' would be exceedingly difficult, and costly, if not impossible. Not only does the approach used in this bill promise to result in reductions sooner rather than later, but it also relies critically on harnessing the power of a market-based system to do so. We look forward to working with these Congressional leaders, businesses and our environmental colleagues towards passage of legislation in the next Congress."

The Environmental Defense Fund, a leading national, NY-based nonprofit organization, represents 300,000 members. EDF links science, economics, and law to create innovative, equitable, and economically viable solutions to today's environmental problems.

October 10, 1998

CONGRESSIONAL RECORD—SENATE

S12309

in negotiations on any treaty containing an arms control provision, United States negotiators should not agree to any provision that would have the effect of inhibiting the United States from withdrawing from the arms control provisions of that treaty in a timely fashion in the event that the supreme national interests of the United States have been jeopardized.

(7) **PROHIBITION ON DE FACTO IMPLEMENTATION OF THE OTTAWA CONVENTION.**—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(A) the President will not limit the consideration of alternatives to United States anti-personnel mines or mixed anti-tank systems solely to those that comply with the Ottawa Convention; and

(B) in pursuit of alternatives to United States anti-personnel mines, or mixed anti-tank systems, the United States shall seek to identify, adapt, modify, or otherwise develop only those technologies that—

(1) are intended to provide military effectiveness equivalent to that provided by the relevant anti-personnel mine, or mixed anti-tank system; and

(11) would be affordable.

(8) **CERTIFICATION WITH REGARD TO INTERNATIONAL TRIBUNALS.**—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that with respect to the Amended Mines Protocol, the Convention on Conventional Weapons, or any future protocol or amendment thereto, that the United States shall not recognize the jurisdiction of any international tribunal over the United States or any of its citizens.

(9) **TACTICS AND OPERATIONAL CONCEPTS.**—It is the sense of the Senate that development, adaptation, or modification of an existing or new tactic or operational concept, in and of itself, is unlikely to constitute an acceptable alternative to anti-personnel mines or mixed anti-tank systems.

(10) **FINDING REGARDING THE INTERNATIONAL HUMANITARIAN CRISIS.**—The Senate finds that—

(A) the grave international humanitarian crisis associated with anti-personnel mines has been created by the indiscriminate use of mines that do not meet or exceed the specifications on detectability, self-destruction, and self-deactivation contained in the Technical Annex to the Amended Mines Protocol; and

(B) United States mines that do meet such specifications have not contributed to this problem.

(11) **APPROVAL OF MODIFICATIONS.**—The Senate reaffirms the principle that any amendment or modification to the Amended Mines Protocol other than an amendment or modification solely of a minor technical or administrative nature shall enter into force with respect to the United States only pursuant to the treaty-making power of the President, by and with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(12) **FURTHER ARMS REDUCTIONS OBLIGATIONS.**—The Senate declares its intention to consider for approval an international agreement that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty-making power as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(13) **TREATY INTERPRETATION.**—The Senate affirms the applicability to all treaties of the constitutionally-based principles of treaty interpretation set forth in condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27,

1988, and condition (8) of the resolution of ratification of the CFE Flank Document, approved by the Senate on May 14, 1997.

(14) **PURMACE OF THE UNITED STATES CONSTITUTION.**—Nothing in the Amended Mines Protocol requires or authorizes the enactment of legislation, or the taking of any other action, by the United States that is prohibited by the Constitution of the United States, as interpreted by the United States.

SEC. 3. DEFINITIONS.

As used in this resolution:

(1) **AMENDED MINES PROTOCOL OR PROTOCOL.**—The terms "Amended Mines Protocol" and "Protocol" mean the Amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, together with its Technical Annex, as adopted at Geneva on May 3, 1996 (contained in Senate Treaty Document 105-11).

(2) **CFE FLANK DOCUMENT.**—The term "CFE Flank Document" means the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990, done at Vienna on May 31, 1996 (Treaty Document 105-5).

(3) **CONVENTION ON CONVENTIONAL WEAPONS.**—The term "Convention on Conventional Weapons" means the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, done at Geneva on October 10, 1980 (Senate Treaty Document 103-25).

(4) **OTTAWA CONVENTION.**—The term "Ottawa Convention" means the Convention on the Prohibition of the Use, Production, Stockpiling, and Transfer of Anti-Personnel Mines and on Their Destruction, opened for signature at Ottawa December 3-4, 1997 and at the United Nations Headquarters beginning December 5, 1997.

(5) **UNITED STATES INSTRUMENT OF RATIFICATION.**—The term "United States instrument of ratification" means the instrument of ratification of the United States of the Amended Mines Protocol.

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. CHAFEE (for himself, Mr. MACK, and Mr. LIEBERMAN):

S. 2617. A bill to amend the Clean Air Act to authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate greenhouse gas emissions; to the Committee on Environment and Public Works.

By Mr. MCCAIN:

S. 2618. A bill to require certain multilateral development banks and other lending institutions to implement independent third-party procurement monitoring, and for other purposes; to the Committee on Foreign Relations.

By Mr. DASCHLE:

S. 2619. A bill to amend title 38, United States Code, to improve access of veterans to emergency medical care in non-Department of Veterans Affairs medical facilities; to the Committee on Veterans Affairs.

By Mr. ROBB:

S. 2620. A bill to amend the Federal Water Pollution Control Act to establish a National Clean Water Trust Fund and to authorize the Administrator of the Environmental Protection Agency to use amounts in the Fund to carry out projects to promote the recovery of waters of the United States

from damage resulting from violations of that Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself and Mr. BIDNAMAN):

S. 2621. A bill to authorize the acquisition of the Valles Calders, currently managed by the Baco Land and Cattle Company, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture through the private sector, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROTH (for himself, Mr. MORNHAN, Mr. CHAFFE, Mr. BAUCUS, Mr. GRASSLEY, Mr. ROCKWELLER, Mr. HATCH, Mr. BREAU, Mr. D'AMATO, Mr. CONRAD, Mr. MURKOWSKI, Mr. GRAHAM, Mr. JEFFORDS, Mr. MOSELEY-BRAUN, Mr. MACK, Mr. BRYAN, and Mr. KERRY):

S. 2622. A bill to amend the Internal Revenue Code of 1955 to extend certain expiring provisions, and for other purposes; to the Committee on Finance.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. BROWBACK, Mr. ROTH, and Mr. STEVENS):

S. 2623. A bill to increase the efficiency and effectiveness of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DOMENICI:

S. 2624. A bill to establish a program for training residents of low-income rural areas for, and employing the residents in, new telecommunications industry jobs located in the rural areas, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself, Mr. MACK, and Mr. LIEBERMAN):

S. 2617. A bill to amend the Clean Air Act to authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate greenhouse gas emissions; to the Committee on Environment and Public Works.

CREDIT FOR EARLY ACTION ACT OF 1998

Mr. CHAFEE, Mr. President, I am proud to join with Senators MACK and LIEBERMAN today to introduce the Credit for Early Action Act of 1998. This bipartisan legislation is designed to encourage voluntary, meaningful, and early efforts by industry to reduce their emissions of greenhouse gases. This is a bill to address the threat of global climate change.

Before I get into the details of this legislative proposal, let me spend a few moments discussing the science of climate change.

Human influence on the global climate in an extraordinarily complex matter that has undergone more than a century of research. Indeed, in an 1898 lecture delivered to the Stockholm Physics Society by the Nobel Prize-winning chemist, Svante Arrhenius, it was predicted that large increases in carbon dioxide (CO₂) would result in a corresponding warming of the globe.

Professor Arrhenius was the first to predict that large increases in CO₂ would result in a warming of the globe. What have the world's scientists told

us at different intervals over the last one hundred years, since Mr. Arrhenius identified the warming effects of CO₂?

In 1924, a U.S. physicist speculated that industrial activity would double atmospheric CO₂ in five hundred years, around the year 2424. Current projections, however, call for a doubling sometime before 2030—some four hundred years earlier than predicted just seventy years ago!

In 1957, scientists from the Scripps Institute of Oceanography reported for the first time that much of the CO₂ emitted into the atmosphere is not absorbed by the oceans as some had argued, leaving significant amounts in the atmosphere. They are said to have called carbon dioxide emissions "a large-scale geophysical experiment" with the Earth's climate.

In 1967, the first reliable computer simulation calculated that global average temperatures may increase by more than four degrees Fahrenheit when atmospheric CO₂ levels are double that of preindustrial times. In 1985, a conference sponsored by the United Nations Environment Program (UNEP), the World Meteorological Organization (WMO), and the International Council of Scientific Unions forged a consensus of the international scientific community on the issue of climate change. The conference report warned that some future warming appears inevitable due to past emissions, regardless of future actions, and recommended consideration of a global treaty to address climate change.

In 1987, an ice core from Antarctica, analyzed by French and Russian scientists, revealed an extremely close correlation between CO₂ and temperature going back more than one hundred thousand years. In 1990, an appeal signed by forty-nine Nobel prize winners and seven hundred members of the National Academy of Science stated, "There is broad agreement within the scientific community that amplification of the Earth's natural greenhouse effect by the buildup of various gases introduced by human activity has the potential to produce dramatic changes in climate . . . only by taking action now can we ensure that future generations will not be put at risk."

Also in 1990, seven hundred and forty-seven participants from one hundred sixteen countries took part in the Second World Climate Conference. The conference statement reported that, "If the increase of greenhouse gas concentrations is not limited, the predicted climate change would place stresses on natural and social systems unprecedented in the past ten thousand years."

Finally, Mr. President, in 1995, the Intergovernmental Panel on Climate Change, representing the consensus of climate scientists worldwide, concluded that " . . . the balance of evidence suggests that there is a discernible human influence on global climate."

This last development is significant, because the overwhelming majority of

climate scientists concluded, for the first time, that man is influencing the global climate system. That conclusion, while controversial in some quarters, was endorsed unanimously by the governments of the ninety-six countries involved in the panel's efforts.

Are these forecasted outcomes a certainty? They are not. The predictions of climate change are indeed based on numerous variables. Although scientists are improving the state of their knowledge at a rapid pace, we still have a lot to learn about the role of the sun, clouds and oceans, for example.

The question is, will we ever have absolute certainty? Will we ever be able to eliminate all of the variables? The overwhelming majority of independent, peer-reviewed scientific studies indicate that we do not have such a luxury. By the time we finally attain absolute certainty, it would likely take centuries to reverse atmospheric damage and oceanic warming.

Mr. President, I am not alone in this thinking. There are an increasing number of business leaders in our country who have arrived at the same conclusion that we need to act swiftly.

In a "dear colleague" letter sent out this week under my signature, I repeated a remarkable statement issued by an impressive group of companies that have joined with the newly established Pew Center on Climate Change. American Electric Power, Boeing, BP America, Enron, Lockheed Martin, 3M, Sun, United Technologies, Toyota, Weyerhaeuser, and several others said that, "We accept the views of most scientists that enough is known about the science and environmental impacts of climate change for us to take actions to address its consequences."

The legislation to be introduced today by Senator Mack, Senator LUBBERMAN and I proposes an exciting framework that would appropriately recognize real and immediate action to combat climate change. While the climate debate will indeed continue over the next few years, we strongly believe that there is a voluntary, incentive-based approach which can be implemented now. Congressional approval of this approach, which the three of us and others will work for early next year, will provide the certainty necessary to encourage companies to move forward with practical, near-term emission reductions.

Specifically, this legislation would provide a mechanism by which the President can enter into binding greenhouse gas reduction agreements with entities operating in the United States. Once executed, these agreements will provide credits for voluntary greenhouse-gas reductions effected by those entities before 2008, or whenever we might have an imposition of any domestic or international emission reduction requirements.

Importantly, this program is designed to work within the framework of whatever greenhouse gas control requirement may eventually become ap-

plicable within the United States. The credits would be usable beginning in the first five-year budget period (2008-2012) under the Kyoto Protocol, if the Kyoto Protocol is ratified. If the Protocol is not ratified, and we end up with a domestic program to regulate or otherwise control greenhouse gas emissions, the credits would be usable in that program.

This sort of approach makes sense for a wide variety of reasons. Encouraging early reductions can begin to slow the rate of buildup of greenhouse gases in the atmosphere, helping to minimize the potential environmental risks of continued warming. Given the longevity of many climate gases, which continue to trap heat in the atmosphere for a century or more, it just makes sense to encourage practical actions now.

By guaranteeing companies credit for voluntary early reductions, the bill would allow companies to protect themselves against the potential for steep reduction requirements or excessive costs in the future. For companies that want to reduce their greenhouse gas emissions, providing credit for action now adds years to any potential compliance schedule, allowing companies to spread costs over broader time periods. A focus on early reductions can help stimulate the American search for strategies and technologies that are needed worldwide. Development of such strategies and technologies can improve American competitiveness in the \$300 billion dollar global environmental marketplace.

This "credit" program may also make the greenhouse gas reductions achieved before regulations are in place financially valuable to the companies who make such reductions. Given the likely inclusion of market based approaches to any eventual domestic regulatory requirements, similar to the successful acid rain program of the 1990 Clean Air Act, credit earned could be traded or sold to help other companies manage their own reduction efforts.

Under a "no credit" approach, the status quo, it is more likely that early reduction companies will be penalized if greenhouse gas reductions are ultimately required, because their competitors who wait to reduce will get credit for later reductions. Such a "no credit" approach could even create perverse incentives to delay investments until emissions reductions would be credited.

In anticipation of a potential global emissions market, decisions are being made now by entrepreneurial companies and countries. For example, Russia and Japan have already concluded a trade of greenhouse gas emission credits. Private companies such as Niagara Mohawk and Canada-based Suncor are moving forward with cross-boundary trades. Aggressive global energy companies, such as British Petroleum, AEP, and PacifiCorp are already implementing agreements in Central and

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South America—sequestering carbon and developing credits against emissions—by protecting rain forests.

Mr. President, America can and should reward companies that take such positive steps to position themselves, and the US, for the environmental and economic future.

On the international side, passage by the U.S. Congress of a program to help stimulate early action will be clear example of American leadership and responsibility. Developing countries currently argue that nations such as the United States, with huge advantages in quality of life and dramatically higher per capita emissions of greenhouse gases, should take a leadership role in the reduction of greenhouse gas emissions. And they argue that developing countries should not be asked to take steps until the U.S. begins to move forward. This bill can work directly to change that situation, therefore removing a barrier to essential developing country progress.

There it is, Mr. President. We are here today because we believe that climate change presents a serious threat. We believe it makes sense to get started now. And, as many leading American companies do, we believe that there are sensible, fair and voluntary methods to get on the right track.

We encourage our colleagues to use the time between now and next January to review this legislation carefully. We are open to suggestions. Most importantly, we are looking for others to join us in this effort.

• Mr. MACK. Mr. President, as an original cosponsor of the Credit for Early Action Act, I rise to congratulate Senator CHAFFET on its introduction, as well as the other original cosponsors, Senator LIEBERMAN, and to make several points about the bill.

The purpose of the act is simple: It is to encourage and reward voluntary actions which businesses may take to reduce emissions of "greenhouse gases" such as carbon dioxide. It would not require actions, but it would provide encouragement in the form of credit, credit that could be used by companies to manage future regulatory requirements, or in a market-based approach, traded or sold to other companies as they worked to meet their own obligations.

Given the uncertainty that surrounds the discussion of greenhouse gases and global warming, I can understand why some may question the need for such a bill. As one who is not convinced that we understand this issue well enough, I can understand that question. In fact, it is precisely because of the uncertainty that I think such a bill makes sense.

Of course there is a great deal of uncertainty surrounding such possible results, and frankly, as I said, I am not convinced that we know enough yet. The complexities and uncertainties associated with trying to understand the vast interactions of our climate, our atmosphere and our human impact on

both, are enormous. And the consequences of actions targeted at changing our patterns of energy use can be dramatic.

But uncertainty cuts two ways, and the possibility always exists that some of these projections about impacts could be more right than wrong. Perhaps then it makes sense to provide some appropriate encouragement, so that those who want to invest in improved efficiency, those who want to find ways to make cars and factories and power production cleaner, those companies can receive some encouragement, not based on government fiat or handout, but based on getting credit for their own initiative and actions. The environmental result will likely be some lessening of the potential problems associated with possible global warming, and that just makes sense.

There is, of course, another uncertainty that gives me pause as well, and that serves as another strong reason for my interest in this bill. It is clear to me today that there is no desire on the part of this Congress to legislate requirements on carbon dioxide or any of the other "greenhouse gases." I think that is the correct position.

But we cannot know today what some future Congress, perhaps a decade away, might decide to do. Perhaps the science will become more compelling. Perhaps the majority will shift back to a more regulatory minded party. Perhaps a future Senate will decide to ratify the Kyoto Protocol. Perhaps a future administration and a future majority will combine to put a regulatory structure in place that will require substantial reductions of these gases. And while we may oppose such action today, we cannot know the outcome of this future debate.

Given this regulatory uncertainty, I think a compelling argument can be made to provide protection for companies today, so that they are protected against the possibility of future requirements. What this bill will do is just that. By allowing companies to earn credit for actions that they take over the next few years, the bill will make sure that if a regulator comes to see them in the future, they can say, "I already did my part." Companies can make decisions based on their own best interest, they can work to improve efficiency and reduce waste. And if this bill becomes law, they can get credit for those actions against any future regulatory controls on greenhouse gases. That seems like a good idea to me.

In closing, Mr. President, I again want to congratulate Senator CHAFFET, along with our other original cosponsor, Senator LIEBERMAN, for this thoughtful, balanced approach to the uncertainty presented by the climate change issue. I am proud to be an original cosponsor of this bill, and I want to urge my colleagues to take a good look at this approach so that we can begin to move forward in earnest in the next Congress.

• Mr. LIEBERMAN. Mr. President, I am delighted to join today with my colleagues Senator CHAFFET, the chairman of the Environment and Public Works Committee, and Senator MACK in introducing this legislation. It will provide credit, under any future greenhouse gas reduction systems we may adopt, to companies who act now to reduce their emissions of greenhouse gases. This is a voluntary, market-based approach which is a win-win situation for both American businesses and the environment. Enactment of this legislation will provide the certainty necessary to encourage companies to move forward with emission reductions now. I'm particularly pleased that the legislation grows out of principles developed in a dialog between the Environmental Defense Fund and a number of major industries.

The point of this legislation is simple. Many companies want to move forward now to reduce their greenhouse gas emissions. They don't want to wait until legislation requires them to make these reductions. For some companies reducing greenhouse gases makes good economic sense because adopting cost-effective solutions can actually save them money by improving the efficiency of their operations. Companies recognize if they reduce their greenhouse gas emissions now they will be able to add years to any potential compliance schedule, allowing companies to spread their costs over broader time periods. Acting now can help U.S. companies protect themselves against the potential for significant reductions that may be required in the future. This bill ensures they will be credited in future reduction proposals for action now.

Early action by U.S. companies will also have an enormous benefit for the environment. Early reductions can begin to slow the rate of buildup of greenhouse gases in the atmosphere, helping to minimize the environmental risks of continued global warming. Given that once emitted, many climate change gases continue to trap heat for a century or more in the atmosphere, it just makes sense to encourage practical action now.

Climate change is neither an abstraction nor the object of a science fiction writer's imagination. It is real and affects us all. More than 2,500 of the world's best scientific and technical experts have linked the increase of greenhouse gases to at least some of the increase in sea level temperature and rainfall experienced worldwide in this century. Last year was the warmest year on record, and 9 of the last 11 years were among the warmest ever recorded.

The point of this legislation is to provide an incentive for companies that want to make voluntary early reduction in emissions of greenhouse gases by guaranteeing that these companies will receive credit, once binding requirements begin, for voluntary reductions they have made before 2008. These

credits will enable US companies to add years to any potential compliance schedule for reductions, allowing them to spread costs over broader time periods. These credits may also be financially valuable to companies who make the reductions. Credits earned likely could be traded or sold to help other companies manage their own reduction requirements. A focus on early reductions can also help stimulate the search for and use of new, innovative strategies and technologies that are needed to help companies both in this country and worldwide meet their reduction requirements in a cost-effective manner. Development of such strategies and technologies can improve American competitiveness in the more than \$300 billion global environmental marketplace.

I'm pleased that this legislation builds on section 1805(b) of the Energy Policy Act which allowed companies to voluntarily record their emissions in greenhouse gas emissions, which I worked hard to include in the Energy Policy Act.

Mr. President, the debate about climate change is too often vested—and I believe wrongly so—in false choices between scientific findings, common sense, business investments and environmental awareness. The approach of this bill again demonstrates that these are not mutually exclusive choices, but highly compatible goals.

By Mr. McCADN.

S. 2518, a bill to require certain multilateral development banks and other leading institutions to implement independent third party procurement monitoring, and for other purposes; to the Committee on Foreign Relations.

THE FAIR COMPETITION IN FOREIGN COMMERCE ACT OF 1998

Mr. McCADN. Mr. President, I am proud to introduce the Fair Competition in Foreign Commerce Act of 1998, to address the serious problem of waste, fraud and abuse, resulting from bribery and corruption in international development projects. This legislation will set conditions for U.S. funding through multilateral development banks. These conditions will require the country receiving aid to adopt substantive procurement reforms, and independent third-party procurement monitoring of their international development projects.

During the cold war, banks and governments often looked the other way as pro-western leaders in developing countries treated national treasuries as their personal treasure troves. Information technologies and the resulting global economy have transformed the world in which we live into a smaller and smaller community. For example, economic turmoil in Indonesia hits home on Wall Street. Allegations of misconduct in the White House negatively impact Wall Street, which causes capital flight to other nation's stock exchanges. In today's increasingly interdependent global economy,

nations are ill-advised to ignore corruption and wrongdoing in neighboring countries.

The U.S. is a vital part of the global economy. We cannot afford to look the other way when we see bribery and corruption running rampant in other countries. Bribery and corruption abroad undermine the U.S. goals of promoting democracy and accountability, fostering economic development and trade liberalization, and achieving a level playing field throughout the world for American businesses. Developing nations desperately need foreign economic assistance to break the devastating cycle of poverty and dependence.

The United States is increasingly called upon to lead multilateral assistance efforts through its participation in various lending institutions. However, it is critical that we take steps to ensure that the American taxpayer dollars are being used appropriately. The Fair Competition in Foreign Commerce Act of 1998 is designed to decrease the stifling effects of bribery and corruption in international development contracts. The Act will achieve this objective by mandating that multilateral lending institutions require that nations receiving U.S. economic assistance subject their international development projects to independent third-party procurement monitoring, and other substantive procurement reforms.

By decreasing bribery and corruption in international development procurements, this legislation will (1) enable U.S. businesses to become more competitive when bidding against foreign firms which secure government contracts through bribery and corruption; (2) encourage additional direct investment to developing nations, thus increasing their economic growth, and (3) increase opportunities for U.S. businesses to export to these nations as their economies expand and mature.

Multilateral lending efforts are only effective in spurring economic development if the funds are used to further the intended development projects. The American taxpayers make substantial contributions to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Fund. These contributions provide significant funding for major international development projects. Unfortunately, these international development projects are often plagued by fraud and corruption, waste and inefficiency, and other misuse of funding.

This inefficient use of valuable taxpayer dollars is bad for the U.S. and the nation receiving the economic assistance. When used for its intended

purpose, foreign economic aid yields short and long term benefits to U.S. businesses. Direct foreign aid assists developing nations to develop their infrastructure. A developed infrastructure is vital to creating and sustaining a modern dynamic economy. Robust new economies create new markets for U.S. businesses to export their goods and services. Exports are key to the U.S. role in the constantly expanding and increasingly competitive global economy. Emerging economies of today become our trading partners of tomorrow. However, foreign economic assistance will only promote economic development if it is used for its intended purpose, and not to line the pockets of foreign bureaucrats and their well-connected political allies.

The current laws and procedures designed to detect and deter corruption after the fact are inadequate and meaningless. This bill seeks to ensure that U.S. taxpayers' hard-earned dollars contributed to international projects are used appropriately, by detecting and eliminating bribery and corruption before they can taint the integrity of these vital international projects. Past experience illustrates that it is ineffective to attempt to reverse waste, fraud, and abuse in large scale foreign infrastructure projects, once the abuse has already begun. Therefore, it is vital to detect the abuses before they occur.

The Fair Competition in Foreign Commerce Act of 1998 requires the United States Government, through its participation in the multilateral lending institutions and in its disbursement of non-humanitarian foreign assistance funds, to: (1) require the recipient international financial institution to adopt an anti-corruption plan that requires the aid recipient to use independent third-party procurement monitoring services, at each stage of the procurement process, to ensure openness and transparency in government procurements, and (2) to require the recipient nation to institute specific strategies for minimizing corruption and maximizing transparency in procurements at each stage of the procurement process.

If these criteria are not met, the legislation directs the Secretary of the Treasury to instruct the United States Executive Directors of the various International Development Banks to use the voice and vote of the United States to oppose the lending institution from providing the funds to the nations requesting economic aid which do not satisfy the procurement reforms criteria. This Act has two important exceptions. First, it does not apply to assistance to meet urgent humanitarian needs such as providing food, medicine, disaster, and refugee relief. Second, it also permits the President to waive the funding restrictions with respect to a particular country if making such funds available is important to the national security interest of the United States.

105TH CONGRESS
2D SESSION**S. 2617**

IN THE SENATE OF THE UNITED STATES

Mr. CHAFEE (for himself, Mr. MACK, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Clean Air Act to authorize the President to enter into agreements to provide regulatory credit for early action to mitigate greenhouse gas emissions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Credit for Early Action
5 Act".

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to encourage voluntary
8 greenhouse gas emission mitigation actions by authorizing
9 the President to enter into binding agreements under

1 which entities operating in the United States will receive
2 credit, usable in any future domestic program that re-
3 quires mitigation of greenhouse gas emissions, for vol-
4 untary emission reductions or net carbon sequestration
5 made before 2008.

6 **SEC. 3. CREDIT FOR VOLUNTARY GREENHOUSE GAS EMIS-**
7 **SION MITIGATION ACTIONS.**

8 The Clean Air Act (42 U.S.C. 7401 et seq.) is amend-
9 ed by adding at the end the following:

10 **"TITLE VII—CREDIT FOR VOL-**
11 **UNTARY GREENHOUSE GAS**
12 **EMISSION MITIGATION AC-**
13 **TIONS**

14 **"SEC. 701. DEFINITIONS.**

15 "In this title:

16 "(1) **DOMESTIC.**—The term 'domestic' means
17 within the territorial jurisdiction of the United
18 States.

19 "(2) **DOMESTIC GREENHOUSE GAS REGU-**
20 **LATORY STATUTE.**—The term 'domestic greenhouse
21 gas regulatory statute' means a Federal statute that
22 imposes a quantitative limitation on domestic green-
23 house gas emissions, or taxes such emissions.

1 “(3) EARLY ACTION AGREEMENT.—The term
2 ‘early action agreement’ means an agreement with
3 the United States entered into under section 702(a).

4 “(4) EXISTING SOURCE.—The term ‘existing
5 source’ means a source that emitted greenhouse
6 gases in the participant’s base period determined
7 under section 704.

8 “(5) FIRST COMPLIANCE PERIOD.—The term
9 ‘first compliance period’ means the first period dur-
10 ing which a domestic greenhouse gas regulatory stat-
11 ute enacted after the date of enactment of this title
12 takes effect.

13 “(6) GREENHOUSE GAS.—The term ‘greenhouse
14 gas’ means—

15 “(A) carbon dioxide; and

16 “(B) to the extent provided by an early ac-
17 tion agreement, methane, nitrous oxide,
18 hydrofluorocarbons, perfluorocarbons, and sul-
19 fur hexafluoride.

20 “(7) GREENHOUSE GAS EMISSION REDUCTION
21 CREDIT.—The term ‘greenhouse gas emission reduc-
22 tion credit’ means an authorization under a domestic
23 greenhouse gas regulatory statute to emit 1 metric
24 ton of greenhouse gas (expressed in terms of carbon
25 dioxide equivalent) that is provided because of a

1 greenhouse gas emission reduction or carbon seques-
2 tration carried out before the first compliance pe-
3 riod.

4 "(8) NEW SOURCE.—The term 'new source'
5 means a source other than an existing source.

6 "(9) OWN.—The term 'own' means to have di-
7 rect or indirect ownership of an undivided interest in
8 an asset.

9 "(10) PARTICIPANT.—The term 'participant'
10 means a person that enters into an early action
11 agreement with the United States under this title.

12 "(11) PERSON.—The term 'person' includes a
13 governmental entity.

14 "(12) SINK.—The term 'sink' means **[TO BE**
15 **SUPPLIED]**.

16 "(13) SOURCE.—The term 'source' means a
17 source of greenhouse gas emissions.

18 "SEC. 702. AUTHORITY FOR EARLY ACTION AGREEMENTS.

19 "(a) AUTHORITY.—

20 "(1) IN GENERAL.—The President may enter
21 into a legally binding early action agreement with
22 any person under which the United States agrees to
23 provide greenhouse gas emission reduction credit us-
24 able beginning in the first compliance period, if the
25 person takes an action that reduces greenhouse gas

1 “(i) reduces greenhouse gas emissions
2 or sequesters carbon before January 1,
3 2008; and

4 “(ii) under any applicable inter-
5 national agreement, will result in an addi-
6 tion to the United States quantified emis-
7 sion limitation for the first compliance pe-
8 riod.

9 “(B) UNITED STATES INITIATIVE FOR
10 JOINT IMPLEMENTATION.—

11 “(i) IN GENERAL.—Subject to clause
12 (ii), an early action agreement may provide
13 that a participant shall be entitled to re-
14 ceive greenhouse gas emission reduction
15 credit for a greenhouse gas emission reduc-
16 tion or carbon sequestration that—

17 “(I) is not creditable under sub-
18 paragraph (A); and

19 “(II) is for a project accepted be-
20 fore 2000 under the United States
21 Initiative for Joint Implementation.

22 “(ii) LIMITATION ON PERIOD IN
23 WHICH CREDIT MAY BE EARNED.—No
24 greenhouse gas emission reduction credit

1 may be earned under this subparagraph
2 after the earlier of—

3 “(I) the earliest date on which
4 credit may be earned for a greenhouse
5 gas emission reduction, carbon seques-
6 tration, or comparable project under
7 an applicable international agreement;
8 or

9 “(II) December 31, 2007.

10 “(2) DOMESTIC ACTIVITIES.—

11 “(A) SOURCES.—A participant shall re-
12 ceive greenhouse gas emission reduction credit
13 under an early action agreement if, during the
14 1999 through 2007 period—

15 “(i) the participant's aggregate green-
16 house gas emissions from domestic sources
17 that are covered by the early action agree-
18 ment; are less than

19 “(ii) the sum of the participant's an-
20 nual source baselines during that period as
21 determined under section 704.

22 “(B) SINKS.—For the purpose of receiving
23 greenhouse gas emission reduction credit under
24 subparagraph (A), the amount by which aggre-
25 gate net carbon sequestration for the 1999

1 through 2007 period in a participant's domestic
2 sinks covered by an early action agreement ex-
3 ceeds the sum of the participant's annual sink
4 baselines for calendar years 1999 through 2007
5 shall be treated as a greenhouse gas emission
6 reduction.

7 "(C) SECTION 1605 ACTIVITY.—An early
8 action agreement may provide that a partici-
9 pant shall be entitled to receive 1 ton of green-
10 house gas emission reduction credit for each ton
11 of greenhouse gas emission reductions or car-
12 bon sequestration for the 1991 through 1998
13 period from domestic activities that—

14 "(i) are—

15 "(I) reported before January 1,
16 1999, under section 1605 of the En-
17 ergy Policy Act of 1992 (42 U.S.C.
18 13385); or

19 "(II) carried out under a Federal
20 agency program to implement the Cli-
21 mate Change Action Plan; and

22 "(ii) are verified (in accordance with
23 section 706) as—

24 "(I) being accurately reported;

1 “(II) not being double-counted;
2 and
3 “(III) representing actual reduc-
4 tions in greenhouse gas emissions or
5 in actual net carbon sequestration.

6 “(3) EXTENSION.—The parties to an early ac-
7 tion agreement may extend the 1999 through 2007
8 period during which greenhouse gas emission reduc-
9 tion credit may be earned under the early action
10 agreement, if Congress permits such an extension by
11 law enacted after the date of enactment of this title.

12 “(b) AWARD OF GREENHOUSE GAS EMISSION RE-
13 DUCTION CREDIT.—

14 “(1) NOTIFICATION OF PROVISIONAL CREDIT.—
15 The President shall annually notify each participant
16 of the quantity of greenhouse gas emission reduction
17 credit provisionally earned under an early action
18 agreement.

19 “(2) AWARD OF FINAL CREDIT.—Effective on
20 December 31, 2007, a participant shall be entitled
21 to receive 1 ton of greenhouse gas emission reduc-
22 tion credit for each 1 ton that is creditable under
23 subsection (a).

1 "SEC. 704. BASELINE AND BASE PERIOD.

2 "(a) SOURCE BASELINE.—A participant's annual
3 source baseline for any of calendar years 1999 through
4 2007 shall be equal to the participant's average annual
5 greenhouse gas emissions from domestic sources covered
6 by the participant's early action agreement during a 1996
7 through 1998 base period, adjusted for the calendar year
8 as provided in subsections (a)(2), (c)(1), and (c)(2) of sec-
9 tion 705.

10 "(b) SINK BASELINE.—A participant's annual sink
11 baseline for any of calendar years 1999 through 2007
12 shall be equal to the average level of carbon stocks in sinks
13 covered by the participant's early action agreement for a
14 1996 through 1998 base period, adjusted for the calendar
15 year as provided in section 705(c)(1).

16 "(c) ALTERNATIVE BASE PERIODS.—

17 "(1) IN GENERAL.—The regulations promul-
18 gated under section 702(c) may—

19 "(A) specify a base period other than 1996
20 through 1998 that will be applicable if adequate
21 data are not available to determine a 1996
22 through 1998 baseline or if such data are un-
23 representative; and

24 "(B) permit a participant to elect a base
25 period earlier than 1996 through 1998 (not to
26 include any year earlier than 1990) to reflect

1 voluntary reductions made before January 1,
2 1996.

3 “(2) SECTION 1605 ACTIVITY.—Except as other-
4 wise provided by the regulations promulgated under
5 section 702(c), if an election is made for a base pe-
6 riod earlier than 1996 through 1998, no greenhouse
7 gas emission reduction credit shall be available
8 under section 703(a)(2)(C).

9 “SEC. 705. SOURCES AND SINKS COVERED BY EARLY AC-
10 TION AGREEMENTS.

11 “(a) SOURCES.—

12 “(1) IN GENERAL.—

13 “(A) COVERED SOURCES.—Except as oth-
14 erwise provided in this subsection, a partici-
15 pant's early action agreement shall cover all do-
16 mestic greenhouse gas sources that the partici-
17 pant owns as of the date on which the early ac-
18 tion agreement is entered into.

19 “(B) EXCLUSIONS.—The regulations pro-
20 mulgated under section 702(c) (or the terms of
21 an early action agreement) may exclude from
22 coverage under an early action agreement—

23 “(i) small or diverse sources owned by
24 the participant; and

1 “(ii) sources owned by more than 1
2 person.

3 “(2) NEW SOURCES.—

4 “(A) IN GENERAL.—The regulations pro-
5 mulgated under section 702(c) may provide that
6 an early action agreement may provide for an
7 annual addition to a participant's source base-
8 line to account for new sources owned by the
9 participant.

10 “(B) AMOUNT OF ADDITION.—The amount
11 of an addition under subparagraph (A) shall re-
12 flect the emission performance of the most effi-
13 cient commercially available technology for
14 sources of the same type as a new source (de-
15 termined as of the date on which the early ac-
16 tion agreement is entered into).

17 “(b) OPT-IN PROVISIONS.—

18 “(1) OPT-IN FOR OTHER OWNED SOURCES.—
19 Domestic sources owned by a participant that are
20 not required to be covered under subsection (a) may
21 be covered under an early action agreement at the
22 election of the participant.

23 “(2) OPT-IN FOR SINKS.—

24 “(A) IN GENERAL.—An early action agree-
25 ment may provide that domestic sinks owned by

1 a participant may be covered under the early
2 action agreement at the election of the partici-
3 pant.

4 "(B) COVERAGE.—Except in the case of
5 small or diverse sinks owned by the participant
6 (as provided in the regulations promulgated
7 under section 702(c)), if a participant elects to
8 have domestic sinks covered under the early ac-
9 tion agreement, all of the participant's domestic
10 sinks shall be covered under the early action
11 agreement.

12 "(3) OPT-IN FOR SOURCES AND SINKS NOT
13 OWNED BY PARTICIPANT.—Any source or sink not
14 owned by the participant, or any project that de-
15 creases greenhouse gas emissions from or sequesters
16 carbon in such a source or sink, may be covered by
17 an early action agreement, with the consent of each
18 owner of the source or sink and in accordance with
19 the regulations promulgated under section 702(c).

20 "(c) ACCOUNTING RULES.—

21 "(1) TRANSFERS.—If ownership of a source or
22 sink covered by an early action agreement is trans-
23 ferred to or from the participant—

24 "(A) in the case of a source, the source's
25 emissions shall be adjusted for the base period

and each year for which greenhouse gas emission reduction credit is claimed; and

“(B) in the case of a sink—

“(i) the sink’s carbon stocks shall be adjusted for the base period; and

“(ii) the sink’s net carbon sequestration shall be adjusted for each year for which greenhouse gas emission reduction credit is claimed.

“(2) DISPLACEMENT OF EMISSIONS.—An early action agreement shall contain effective and workable provisions that ensure that only net emission reductions will be credited under section 703 in circumstances in which emissions are displaced from sources covered by an early action agreement to sources not covered by an early action agreement.

“(3) PERIOD OF COVERAGE.—Emissions from sources and net carbon sequestration in sinks shall be covered by an early action agreement for the 1999 through 2007 period, except as provided under paragraph (1) or by the regulations promulgated under section 702(c).

“(4) PARTIAL YEARS.—An early action agreement shall contain appropriate provisions for any partial year of coverage of a source or sink.

1 **"SEC. 706. MEASUREMENT AND VERIFICATION.**

2 "An early action agreement shall provide that the
3 participant, in accordance with the regulations promul-
4 gated under section 702(c)—

5 "(1) shall annually measure, track, and publicly
6 report greenhouse gas emissions for the term of the
7 early action agreement; and

8 "(2) shall establish procedures for measurement
9 and reporting of emissions, emission reductions, and
10 carbon sequestration by qualified independent third
11 party entities.

12 **"SEC. 707. AUTHORITY TO ENTER INTO AGREEMENTS THAT**
13 **ACHIEVE COMPARABLE REDUCTIONS.**

14 "In the case of a participant that manufactures or
15 constructs for sale to end-users equipment or facilities
16 that emit greenhouse gases, the President may enter into
17 an early action agreement that does not meet the require-
18 ments of sections 703 through 705, if the President deter-
19 mines that—

20 "(1) an early action agreement that meets the
21 requirements of those sections is infeasible;

22 "(2) an alternative form of agreement would
23 better carry out this title; and

24 "(3) an agreement under this section would
25 achieve tonnage reductions of greenhouse gas emis-
26 sions that are comparable to reductions that would

1 be achieved under an agreement that meets the re-
2 quirements of those sections.

3 **"SEC. 708. TRADING AND POOLING.**

4 **"(a) TRADING.—**A participant may—

5 **"(1)** purchase earned greenhouse gas emission
6 reduction credit from and sell the credit to any other
7 participant; and

8 **"(2)** sell the credit to any person that is not a
9 participant.

10 **"(b) POOLING.—**The regulations promulgated under
11 section 702(c) may permit pooling arrangements under
12 which a group of persons agree to act as a single person
13 for the purpose of entering into an early action agreement.

14 **"SEC. 709. RELATIONSHIP TO FUTURE DOMESTIC GREEN-**
15 **HOUSE GAS REGULATORY STATUTE.**

16 **"An** early action agreement shall not bind the United
17 States to adopt (or not to adopt) any particular form of
18 domestic greenhouse gas regulatory statute, except that
19 an early action agreement shall provide that—

20 **"(1)** greenhouse gas emission reduction credit
21 earned by a participant under an early action agree-
22 ment shall be provided to the participant in addition
23 to any otherwise available rights of the participant
24 to emit greenhouse gases under applicable domestic
25 greenhouse gas emission regulation; and

1 “(2) if the allocation of rights under a domestic
2 greenhouse gas regulatory statute to emit green-
3 house gases in the first compliance period is based
4 on the level of a participant’s emissions in a historic
5 period that is later than the participant’s base pe-
6 riod under the participant’s early action agreement,
7 any greenhouse gas emission reduction credit to
8 which the participant was entitled under the early
9 action agreement for domestic greenhouse gas reduc-
10 tions during that historic period shall, for the pur-
11 pose of that allocation of rights, be added back to
12 the participant’s greenhouse gas emissions level for
13 the historic period.”.

FACT SHEET
H xxx
THE CREDIT FOR VOLUNTARY ACTION ACT OF 1999

What are the goals of this program?

- This bill encourages reduction of greenhouse gases by authorizing the President to provide credit, (i.e., emissions reduction credit) for early voluntary action (pre-2008) to reduce greenhouse gas emissions such as carbon dioxide.

Why do we need this program?

- The global warming threat. Many view global warming as the most profound and important environmental threat, whether it be in the form of severe weather, the spread of disease, or devastating ecosystem disruption, to name some of the impacts from global warming.
- Reducing emissions now. Greenhouse gases do their damage by staying in the atmosphere for long periods of time, typically a century or more. That is why preventing their release in the first place is so important.
- Technology and innovation. Awarding emissions reductions creates an affirmative financial incentive for businesses to go forward to make, and implement, the discovery of technological innovations that ultimately benefit the economy.
- Regulatory insurance for business. The opportunity to earn emissions reduction credits allows companies to invest in a type of insurance program against the cost of possible future regulation. Even for those who remain deeply skeptical of the Kyoto Protocol, the very uncertainty that characterizes the politics, and ultimate policy outcomes, of the climate debate, poses serious risks – that they will have to bear the economic burden of effecting abrupt change to meet new obligations dictated either by the Protocol or a growing sense of public urgency about the climate change problem. Because credits earned through voluntary reductions are, by definition, cost-effective for those who make them, they can provide a low-cost compliance alternative in the event of future regulation. As a result, they offer companies a strategy for managing current uncertainty about the future of climate policy.

Who can participate?

Anyone – a group of individuals, small businesses, large power plants or manufacturing facilities, local governments, or car and other end-use appliance makers.

How does the program work?

- This bill uses as a model the acid rain program. The acid rain provisions in the Clean Air Act show the benefits, both environmental and economic, of deploying a market based system to achieve significant early emission reductions. That program operates through a trading market, similar, in principle, to the mechanism in this bill, to reduce emissions of sulfur dioxide (SO₂), a major cause of acid rain. Electric power plants that reduce their emissions below the mandatory level during the

program's first phase, between 1995 and 2000, can save those extra reductions to use or sell after the year 2000, when additional reduction requirements are fully implemented. These incentives for early reductions have led utilities to cut SO₂ emissions by about 35% more than required in 1995 and 1996. The incentives have also created competition among pollution-reduction methods, driving down the cost of the reductions to less than one-tenth of the predicted cost.

- **General Overview:** In this bill, the credit would be one-for-one, based on actual reductions below an emissions baseline specified in the legislation (i.e., annual average emissions in 1997-99). The credit could apply against the participant's future domestic regulatory requirements, or be sold or traded to others. The credits issued under the program would be subtracted from total emissions allowed under future regulatory emissions requirements.
- **Measurement and Verification:** Participants would agree to annually measure, track and publicly report greenhouse gas emissions.
- **Baseline:** Participants would accept a baseline of current emissions (annual average of 1997-99 emissions, or earlier, through 1990) and would receive credit for voluntary reductions below that level, multiplied by the number of years in the program (e.g., if '97-'99 baseline = 100, and the program begins in 2000, the baseline would be 100 x 8, 8 being the number of years between 2000 and 2008).
- **Accounting for Growth:** This bill recognizes that some participants' businesses will grow faster than the U.S. economy has, and will continue to, grow. Those companies' growth will be added to their baselines.
- **Preventing displacement of emissions:** Since this is a voluntary program, there is legitimate concern that some companies may just move their emissions, i.e., through outsourcing or dispatching to companies not participating in the program, rather than actually reducing them. The bill contains provisions to this problem, including provisions that require companies whose economic activity is shrinking relative to the overall economy to adjust their emissions baseline downward.

What activities qualify?

This bill does not predetermine for any business the best way to achieve greenhouse gas reductions. The driver is beating the company's own baseline, and creating real, verifiable emission reductions. A wide array of options is then open for companies. Sample activities would include: converting a coal fired power plant to a combined cycle gas turbine plant, increasing the amount of carbon stored in forests, increasing energy efficiency in industrial processes, installation and use of energy efficient light fixtures in buildings, and increasing fuel efficiency in cars and energy efficiency in consumer products.

What about past actions?

Subject to verification, accurate reporting and protections against double counting, credit

could include reductions that have occurred since 1990 and before the date of this bill and have been reported under federal programs included in the U.S. Climate Change Action Plan (e.g., section 1605 of EPAAct).

What about new companies, or mergers or sales?

The baseline adjustment provisions included to account for economic change, growth and shrinkage would account for these activities.

Voluntary Action Proposal Changes to Senate Bill

In introducing S. 547, all senate sponsors acknowledged the bill was a work in progress and pledged changes in response to a continuing debate. In crafting the introduction of the House companion bill, the House leads took advantage of that continuing debate on the issue, and even created new forums for that debate, to improve critical elements.

Several areas of the bill were modified to reflect this continuing debate.

We could not allow the bill to be introduced without attempting to address the issue of growth. We are quite proud of the advances in the U.S. economy and are not convinced that environmental protection is inconsistent with that growth continuing. The bill as introduced in the Senate resulted in a static baseline with a clumsy approach to growth, with new source provisions reminiscent of permitting procedures in the Clean Air Act. The changes are designed to provide a systematic approach to baseline adjustments, with direct ties between a company's output and emissions baseline. To guard against continually escalating emissions, these baselines are compared with the overall changes to the U.S. economy, with only the net above or below the Gross Domestic Product reflected in the baseline adjustments. The changes in the House bill also address the issue of how "contracting out" is to be handled in calculating these baselines.

We needed to strengthened provisions for bringing in consumer use products. Consumer use products such as appliances or automobiles represent a significant portion of the overall greenhouse gas emissions. A large emphasis in climate change has been to encourage more energy efficient products. The overriding approach in S. 547 is to reward entities which reduce emissions of greenhouse gases. However, providing baselines and credit procedures for the widely diverse population of consumers is impractical. Thus, the changes in the House bill would provide specific guidance for these types of products which provide the credit to the manufacturer. The manufacturer would then be able to reflect this benefit in marketing their products.

The issue of carbon sequestration justified the most scientifically acceptable approach. Carbon sequestration is considered a method of reducing the overall load of excess carbon in the atmosphere. However, a number of questions exist on how much of a contribution such a strategy should play in the overall greenhouse gas reduction strategy, in addition to questions on what constitutes good sequestration. For some companies, further reduction of emissions may be extremely difficult, thus eliminating them from the voluntary program. Therefore, the need to ensure the U.S. has every available tool to address the climate change problems, coupled with the desire to ensure the widest potential participation in the program, demands that the House provide a more scientifically acceptable approach.

We got a lot of suggestions to improve the verification provisions to ensure the credits were provided for "real" reductions in greenhouse gas emissions. Projects covered by the "Past

actions” provisions of the bill, primarily those covered under Section 1605(b) of the Energy Policy Act, were of the most concern. Both industry and environmental groups share the concern that these credits reflect real reductions. Industry wants assurances that the credits that they buy in a trading program have real value. The changes in the bill focus on these past actions.

We felt options should be kept open for future Congresses to address the overall issue of a domestic regulatory regime. Concerns were raised that if significant credits were to be awarded, future Congresses would have options foreclosed on the design of a future domestic regulatory program, should one be legislated. Some have argued for a cap on this program to forestall such an occurrence; others have argued that a cap would send the wrong message to companies. For introduction, the House leads preferred to provide a Congressional notification when the amount of credits issued became relatively substantial, 350 mmtce.

Analysis

Credit for Voluntary Action

Section 1 - Title and Table of Contents

Section 2 - Purpose

To encourage voluntary actions to mitigate potential environmental impacts of greenhouse gas emissions by authorizing credits for voluntary mitigation actions which would be usable in any future domestic greenhouse gas emission program.

The purpose is to encourage voluntary actions, not to encourage a future domestic program. The bill is not tied to Kyoto or any specific international greenhouse gas agreement. Credits would be usable in any domestic program.

Section 3 - Definitions

A number of terms are defined. In previous Senate iterations of this bill, several of these definitions closely tracked those in the Kyoto protocol. This bill incorporates the current Senate language which has deleted these references; it also includes a number of new terms specific to the carbon sequestration portion of the bill.

Section 4 - Authority for Voluntary Action Agreements

This section provides the authority for entering into these agreements to the President and allows delegation to any federal department or agency.

Section 5 - Entitlement to Greenhouse Gas Reduction Credit for Early Action

Provides authority for credits for:

1. international projects;
2. certain projects under the Initiative for Joint Implementation program;
3. prospective domestic actions (includes a significantly revised sequestration); and
4. retrospective past actions

This bill has added a third party verification provision to the past actions at the request of both industry and the environmental groups.

This section also includes a Congressional notification provision when the amount of credits equals 350 million metric tons carbon equivalent. This provision is designed to preserve future Congress' options.

Section 6 - Baseline and Base Period

This section provides guidance on developing baselines from which reductions are measured. This section updates the Senate proposal by referring to a three year average from the year of enactment rather than specifying 1996-1998.

Section 7 - Sources and Carbon Reservoirs Covered by Early Action Agreements

This section explains how sources are calculated. This bill substantially revised the provision on growth. This section allows baseline adjustments to reflect a company's increased (or decreased) output, net of the general economic growth of the country. Thus, in effect, companies with major growth are rewarded by having their baselines increased, while the environment is protected by offsets from companies which are not growing. This section also includes guidance on "outsourcing", where companies contract out portions of their work, thus reducing their emissions (but increasing the contractor's emissions) while increasing their production (thus raising their baselines).

Section 8 - Measurement and Verification

This section provides the reporting responsibilities of participants. This is one area where the Senate made great improvements this past Spring.

Section 9 - Participation by Manufacturers and Adopters of End-Use, Consumer and Similar Technologies

This section provides guidance for manufacturers of products sold to consumers, such as autos, refrigerators, and computers. Use of these products contribute substantially to the overall green house gas emissions. However, without this section, energy efficiency improvements in these areas would not be captured in the voluntary program. This section was totally revised to provide incentives for manufacturers of these products to increase their energy efficiency and other emission reductions efforts in the products they produce.

Section 10 - Trading and Pooling

This provides authority for trading credits and arranging pooling agreements among participants. The pooling authority can provide a means for small businesses and others to participate.

Section 11 - Relationship to Future Domestic Greenhouse Gas Regulatory Statute

This provision gives the companies the guarantees they need that these actions will be applicable to any future program authorized by the Congress.

Lazio/Dooley

Credit for Voluntary Action Proposal

Purpose: To authorize private parties to make voluntary agreements with the Federal government to provide regulatory certainty for those companies which take voluntary action to mitigate potential environmental impacts from greenhouse gas emissions. The major impact of the bill is to take the Federal government out of the private sector's voluntary investment decisionmaking process.

What it does: First and foremost, it eliminates a major disincentive for companies to take voluntary action to address potential climate change. Those companies will be provided protection for their emission baselines. The bill will also provide some incentives for companies to take action. These incentives are grounded in a market-based approach: private parties and third party brokers can potentially trade regulatory credits. The bill also provides credits for companies which voluntarily recognize the potential positive impact of forests and other so-called "carbon sequestration" efforts on the levels of excess carbon in the atmosphere.

What it does not do: It does not authorize any federal agency to develop a regulatory regime for greenhouse gases. The bill does not assume or call for any international treaties which have not formally been approved by the Senate.

Significance: Many companies have identified the current stalemate on climate change as having a chilling effect on their investment decisions. Their concern is that making a voluntary business decision to invest in projects which reduce greenhouse gas emissions now could set them back if a Federal regulatory regime is ever established. This concern also eliminate projects from the drawing board which would be made for other investment reasons, i.e. lower costs or improved productivity, but would have greenhouse gas reductions as a byproduct. The incentives are modest.

106TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. GREENWOOD (for himself and Mr. DOOLEY) introduced the following bill;
which was referred to the Committee on _____

A BILL

To **[to be provided]**

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Second Generation of
5 Environmental Improvement Act of 1999”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) While existing environmental statutes have
9 been effective at reducing pollution even as the pop-
10 ulation and economy have grown, new approaches

1 are needed to address remaining and emerging envi-
2 ronmental problems, to make the regulatory system
3 more efficient, and to better enable communities to
4 solve their environmental problems.

5 (2) Numerous studies have recommended ex-
6 perimenting with performance-based regulatory ap-
7 proaches that provide regulated entities with greater
8 flexibility in determining how to meet environmental
9 standards and that, in return, require greater ac-
10 countability through enhanced monitoring and data
11 reporting.

12 (3) Federal performance-based approaches can
13 take advantage of many technical advances made
14 over the past 30 years, including the growth of the
15 Internet, the creation of environmental management
16 systems and the development of pollution prevention
17 strategies, such as life-cycle management and re-
18 source stewardship; and can build on successful
19 State and local initiatives.

20 (4) While the Environmental Protection Agency
21 has begun to experiment with such approaches, it
22 has been hampered by an inadequate information
23 system, and lack of clear statutory authority and
24 congressional direction.

1 **SEC. 3. PURPOSES.**

2 The purposes of this Act are to—

3 (1) improve the quality of, and streamline the
4 collection, management, and dissemination of envi-
5 ronmental information to ensure that the informa-
6 tion is a useful gauge of environmental conditions,
7 is valuable to regulators and to the general public,
8 and is accurate and up-to-date; and

9 (2) provide the Environmental Protection Agen-
10 cy with additional authority and incentives to experi-
11 ment with performance-based regulatory approaches
12 in dealing with States, communities, and the private
13 sector to improve the state of the environment and
14 the efficiency of the regulatory system.

15 **SEC. 4. DEFINITIONS.**

16 In this Act—

17 (1) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Environ-
19 mental Protection Agency.

20 (2) AGENCY.—The term “Agency” means the
21 Environmental Protection Agency.

22 (3) ENVIRONMENTAL INDICATOR.—The term
23 “environmental indicator” means a quantitative per-
24 formance measure designed to measure the quality
25 of the environment over time. Such term may in-
26 clude measurements of ambient conditions in air and

1 water, measurements of emissions, wastes, and en-
2 ergy and resource use, and measurements of ecologi-
3 cal and human health.

4 (4) INNOVATIVE STRATEGY AGREEMENT.—The
5 term “innovative strategy agreement” means an
6 agreement entered into pursuant to title II of this
7 Act that allows flexibility in meeting environmental
8 standards in return for stricter accountability.

9 (5) PERSON.—The term “person” means an in-
10 dividual, trust, firm, joint stock company, corpora-
11 tion (including a government corporation), partner-
12 ship, or association.

13 **TITLE I—INFORMATION** 14 **MANAGEMENT**

15 **SEC. 101. CHIEF INFORMATION OFFICER.**

16 The Administrator shall designate a Chief Informa-
17 tion Officer for the Agency at the level of an Assistant
18 Administrator. The Administrator may create an addi-
19 tional Assistant Administrator for such purposes or add
20 to the portfolio of any existing Assistant Administrator.
21 The Chief Information Officer shall be responsible for car-
22 rying out the authorities and responsibilities of the Admin-
23 istrator under this title.

1 **SEC. 102. ENVIRONMENTAL INDICATORS.**

2 (a) **PRELIMINARY REPORT.**—The Administrator, in
3 consultation with the States and other interested parties,
4 shall prepare a report proposing a set of national environ-
5 mental indicators designed for the following purposes:

6 (1) Focusing Agency resources on the most
7 critical environmental problems.

8 (2) Informing the public of progress toward
9 meeting environmental goals.

10 (3) Evaluating the success of innovative envi-
11 ronmental strategies.

12 The report shall identify which indicators will be based
13 on data the Agency will collect itself, which will be based
14 on data collected by the States directly and which will be
15 based on data reported to the States, the Agency, or other
16 governmental entities. The report shall be submitted to the
17 Congress and published in the Federal Register within 2
18 years after the date of enactment of this Act.

19 (b) **NATIONAL ACADEMY OF SCIENCES.**—The Ad-
20 ministrator shall contract with the National Academy of
21 Sciences to provide recommendations regarding which in-
22 dicators should be included in the report under subsection
23 (a). The Academy shall provide its recommendations no
24 later than 1 year after the date of enactment of this Act.
25 The Academy report shall identify both indicators that are
26 currently feasible and those that are not feasible without

1 additional scientific research or development of tech-
2 nologies. For those that are not yet feasible, the report
3 shall identify the necessary additional research or develop-
4 ment and the likely time needed to conduct such research
5 and development.

6 (c) FINAL REPORT.—Within 3 years after the date
7 of enactment of this Act, and after consultation with
8 States, other Federal agencies, the private sector, and
9 public interest groups, the Administrator shall publish in
10 the Federal Register a final description of the environ-
11 mental indicators to be used for the purposes specified in
12 subsection (a).

13 (d) ANNUAL REPORT.—Beginning with the first Jan-
14 uary 31 after the publication of the report required by
15 subsection (c) and at least annually thereafter, the Admin-
16 istrator shall issue a State of the Environment Report pre-
17 senting and analyzing the measured levels of each environ-
18 mental indicator described in the report required by sub-
19 section (c). The Administrator shall submit the report to
20 Congress and shall make the report available to the public
21 in print and electronic form.

22 (e) CHANGES IN INDICATORS.—After publication of
23 the first report required by subsection (c), the Adminis-
24 trator may modify, add or eliminate indicators after pub-

1 lishing a notice in the Federal Register and allowing at
2 least 90 days for comment.

3 **SEC. 103. RESTRUCTURING OF ENVIRONMENTAL REPORT-**
4 **ING.**

5 (a) INVENTORY.—Within 2 years after the date of en-
6 actment of this Act, the Administrator, in consultation
7 with the States and other interested parties, shall inven-
8 tory all of the Agency's data bases and all of the monitor-
9 ing, reporting, and recordkeeping requirements in Agency
10 statutes, regulations, policies, and guidance and review
11 them to identify each of the following:

12 (1) Data gaps, particularly those that impede
13 the development of environmental indicators.

14 (2) Redundancy and overlaps.

15 (3) Conflicts among definitions.

16 (4) Inconsistencies or other weaknesses in the
17 required frequency and timing of reports, including
18 inconsistencies between requirements imposed by the
19 Agency's regions, its headquarters and the States.”

20 (5) Requirements that fail to contribute to pub-
21 lic awareness or Agency decisionmaking.

22 (6) Inconsistencies in the treatment of exemp-
23 tions from reporting.

24 (b) PLAN.—(1) Within 3 years after the date of en-
25 actment of this Act, the Administrator shall submit to the

1 Congress, and publish in the Federal Register for com-
2 ment, a plan identifying how the Agency will remedy the
3 deficiencies outlined in the inventory. The Administrator
4 shall consult with the Agency's Small Business Ombuds-
5 man to ensure that the plan addresses the needs of small
6 businesses.

7 (2) At a minimum, under the plan, the Administrator
8 shall—

9 (A) streamline reporting requirements by elimi-
10 nating any redundant or unnecessary requirements
11 and by adding any requirements needed to fill gaps
12 or to compile the indicators required by section 102;

13 (B) create standard data formats for informa-
14 tion management;

15 (C) establish a system for indexing, locating,
16 and obtaining the information the Agency has so the
17 public can retrieve it sorted by industrial sector,
18 company, facility, geography, type of emission and
19 level of environmental performance;

20 (D) ensure that the public has easy access to all
21 Agency information on any regulated entity along
22 with background to help the public make sense of
23 the information; and

24 (E) facilitate small business compliance with
25 the plan.

1 (3) The plan shall—

2 (A) describe the steps that will be taken to ac-
3 comply the requirements in paragraph (2);

4 (B) recommend any statutory changes needed
5 to remedy the deficiencies identified in the inventory
6 in subsection (a);

7 (C) describe how the Agency will ensure that
8 data it disseminates is accurate, timely and secure;

9 (D) describe how the electronic collection and
10 dissemination of data will be facilitated;

11 (E) review State reporting requirements and
12 identify any Federal reporting requirements that
13 could be delegated to the States, and identify any
14 State forms or procedures that could be used to ful-
15 fill Federal reporting requirements; and

16 (F) build on voluntary industry reporting meas-
17 ures, such as those organized by the International
18 Organization for Standardization and the Coalition
19 for Environmentally Responsible Economies.

20 (c) IMPLEMENTATION.—Within 4 years after the date
21 of enactment of this Act, the Administrator shall promul-
22 gate any final regulations that are needed to implement
23 the plan required by subsection (b) and shall take any
24 other steps necessary to implement the plan.

1 (d) UPDATE.—After completing the activities re-
2 quired by subsection (c), the Administrator shall, periodi-
3 cally, but no less frequently than every other year, review
4 the plan issued under subsection (b) and publish in the
5 Federal Register any changes to the plan.

6 (e) CONSISTENCY.—The Administrator shall ensure
7 that actions under this section are consistent with, and
8 assist with the compilation of the indicators required by
9 section 102.

10 **SEC. 104. INFORMATION MANAGEMENT.**

11 (a) INFORMATION MANAGEMENT PROGRAM.—Within
12 2 years after the date of enactment of this Act, the Admin-
13 istrator shall establish an Information Management Pro-
14 gram, to provide financial assistance to States, and rel-
15 evant local entities, including Publicly Owned Treatment
16 Works on a competitive basis, through grants, cooperative
17 agreements, or contracts, to improve the accuracy and
18 timeliness of environmental reporting and to meet the
19 goals of the plan published under section 103(b).

20 (b) EXISTING STATE ASSISTANCE PROGRAMS.—Be-
21 ginning 6 years after the enactment of this Act, the Ad-
22 ministrator may withhold funding under any program ad-
23 ministered by the Agency from any State that fails to con-
24 form to data and reporting requirements issued pursuant
25 to the plan in section 103(b). Any funding withheld under

1 this subsection shall be placed in escrow and released once
2 the Administrator determines the State is meeting such
3 requirements.

4 (c) **SMALL BUSINESSES.**—Within 4 years after the
5 date of enactment of this Act, the Administrator, acting
6 through the Small Business Ombudsman, shall create a
7 program to provide technical and financial assistance to
8 small businesses (individually or through trade associa-
9 tions) to help them meet the requirements of the plan pub-
10 lished under section 103(b). The Administrator shall pub-
11 lish the guidelines for the program in the Federal Register
12 and shall publicize them widely. Any financial assistance
13 provided under this program shall require a matching re-
14 quirement of at least one-third from the small business
15 or trade association.

16 (d) **PUBLIC RECOGNITION.**—The Administrator may
17 establish a program to publicly recognize regulated entities
18 that most speedily and fully report information electroni-
19 cally to the Agency.

20 **SEC. 105. BUDGET REPORT.**

21 Beginning with the President's second budget sub-
22 mission to Congress after the enactment of this Act and
23 with every submission thereafter, the President shall in-
24 clude in the budget submission a comprehensive analysis
25 of the activities in each Federal agency devoted to measur-

1 ing ambient environmental conditions and trends either di-
2 rectly or through providing funds to other entities for that
3 purpose. The analysis shall also examine the extent to
4 which the activities contribute to, and are consistent with,
5 the indicators published pursuant to section 102.

6 **SEC. 106. INCENTIVES FOR IMPROVED MONITORING.**

7 (a) RECOGNITION.—The Administrator shall estab-
8 lish a program to publicly recognize persons who—

9 (1) develop environmental monitoring tech-
10 nologies that substantially improve the ability to
11 track ambient environmental conditions or resource
12 use, or substantially improve the accuracy, acces-
13 sibility, or reliability of monitoring data;

14 (2) deploy, or promote the use of, existing mon-
15 itoring technologies that have not been adequately
16 deployed or commercialized;

17 (3) utilize monitoring technologies that are able
18 to increase the precision, timeliness and accuracy of
19 monitoring data;

20 (4) develop technologies that reduce the costs of
21 collecting or disseminating monitoring data.

22 (b) MONITORING.—Within 6 months of the date of
23 enactment of this Act, the Administrator shall submit to
24 the Congress a report analyzing the length of time the

1 Agency has taken over the 10 prior years to approve mon-
2 itoring technologies and recommending ways—

3 (1) to reduce that time to more quickly get reli-
4 able monitoring information to the Agency and the
5 public; and

6 (2) to increase the deployment of existing mon-
7 itoring technologies, particularly those that would
8 enable the Agency to make determinations about
9 better environmental performance under section
10 203(c).

11 (c) IMPLEMENTATION.—Not later than 6 months
12 after the submission of the report required by subsection
13 (b), the Administrator shall implement the recommenda-
14 tions in that report.

15 **SEC. 107. SAVINGS PROVISIONS.**

16 (a) IN GENERAL.—Nothing in this title shall be con-
17 strued to alter the authority of the Administrator to ob-
18 tain or make available information.

19 (b) CONFIDENTIAL BUSINESS INFORMATION.—Noth-
20 ing in this title shall be construed to change the definition
21 of, or require the public release of confidential business
22 information.

23 (c) GPRA.—Agency activities under this title shall
24 be consistent with, and included in the Agency's plans

1 under the Government Performance and Results Act of
2 1993 (Public Law 103-62; 107 Stat. 285).

3 **SEC. 108. REPORTS TO CONGRESS ON THE MODERNIZA-**
4 **TION OF REPORTING.**

5 Within 1 year after the date of enactment of this Act,
6 the Administrator, in consultation with appropriate Fed-
7 eral agencies, shall submit to the Congress a report ana-
8 lyzing whether the Administrative Procedures Act (5
9 U.S.C. chapters 5 and 7) should be amended to apply to
10 information reporting requirements. In the report, the Ad-
11 ministrator shall analyze whether the Act could be amend-
12 ed to set forth more open processes for setting reporting
13 requirements and to ensure that information disseminated
14 by the Agency is widely available, accurate and presented
15 in a form that is useful to the general public. The report
16 shall include any specific recommendations the Adminis-
17 trator may have for amending the Act and any other stat-
18 ute to promote a more open and accurate information sys-
19 tem.

20 **SEC. 109. AUTHORIZATION OF APPROPRIATIONS.**

21 There are authorized to be appropriated such sums
22 as may be necessary in each fiscal year through fiscal year
23 2005 to carry out the activities in this title.

1 **TITLE II—INNOVATIVE**
2 **STRATEGIES**

3 **SEC. 201. INNOVATIVE STRATEGY AGREEMENTS.**

4 (a) **AUTHORITY.**—The Administrator is authorized to
5 enter into innovative strategy agreements under this title
6 to experiment with new approaches to regulation.

7 (b) **ELIGIBLE APPLICANTS.**—The Administrator may
8 enter into innovative strategy agreements with any person,
9 State, Indian tribe, commission, political subdivision of a
10 State, interstate body, or department, agency or instru-
11 mentality of the United States that the Administrator de-
12 termines has a good overall record of meeting statutory
13 environmental standards.

14 (c) **TIME FOR SUBMISSION.**—Applicants may submit
15 proposals to enter into innovative strategy agreements be-
16 ginning 270 days after the date of enactment of this Act.

17 **SEC. 202. PROCEDURES.**

18 (a) **GENERAL GUIDANCE.**—Within 180 days after the
19 enactment of this Act, the Administrator, in consultation
20 with the States and other interested parties, shall publish
21 in the Federal Register each of the following:

22 (1) A list of environmental concerns that will be
23 given priority when reviewing proposed innovative
24 strategy agreements and ensure that the list gives
25 priority to environmental problems—

1 (A) for which conventional approaches to
2 regulation have already proven to be less than
3 fully successful, such as nonpoint source pollu-
4 tion or reducing pollution from small sources
5 that have a large cumulative effect;

6 (B) that present significant public health
7 or ecological risks that have not yet been ad-
8 dressed by regulation; or

9 (C) that are of particular concern to an in-
10 dividual community.

11 (2) Guidelines specifying the form and require-
12 ments for submitting a proposal to enter into an in-
13 novative strategy agreement, including the appro-
14 priate points of contact within the Agency. At a
15 minimum a proposal submission shall—

16 (A) identify its expected environmental
17 benefits and any other expected benefits to the
18 public;

19 (B) identify any Agency rule, requirement,
20 policy, or practice for which a modification or
21 waiver is sought and any alternative require-
22 ment that is proposed.

23 (3) Guidelines as to how the Administrator will
24 determine whether the eligible applicant has con-
25 sulted adequately with interested national, State,

1 and community groups and the general public in de-
2 veloping the proposal.

3 (b) INITIAL REVIEW.—No later than 90 days after
4 the submission of a proposal to enter into an innovative
5 strategy agreement, the Administrator shall complete an
6 initial review of the proposal to determine if the proposal
7 meets the criteria in section 203 and is sufficiently likely
8 to accomplish its objectives to merit further review. If the
9 proposal is rejected, the Administrator shall clearly state
10 the reasons for the rejection in writing to the applicant.
11 Any decision the Administrator makes during the initial
12 review under this subsection shall be within the Adminis-
13 trator's sole discretion.

14 (c) REVIEW TIMETABLE.—Immediately upon comple-
15 tion of the initial review, if the Administrator determines
16 the proposal merits further review, the Administrator
17 shall—

18 (1) enter into negotiations with the applicant
19 with the intent of bringing the agreement to comple-
20 tion within 120 days; and

21 (2) publish a notice in the Federal Register re-
22 questing public comment on the proposal.

23 If negotiations are continuing beyond 120 days, the Ad-
24 ministrator shall issue to the applicant a 1-page summary

1 of the progress of negotiations and a revised schedule for
2 the completion of negotiations.

3 (d) FINAL DECISION.—If, after negotiations, the Ad-
4 ministrator and the applicant decide to enter into an inno-
5 vative strategy agreement, the Administrator shall publish
6 the text of the agreement in the Federal Register no later
7 than 7 days after the agreement has been signed. If the
8 Administrator terminates negotiations at any point, the
9 Administrator shall provide an explanation in writing to
10 the applicant and to the committees of jurisdiction in the
11 Congress as to why negotiations were terminated.

12 **SEC. 203. CRITERIA.**

13 (a) APPROVAL.—The Administrator may enter into
14 a proposed innovative strategy agreement only if the Ad-
15 ministrator determines that the agreement—

16 (1) can reasonably be expected to produce bet-
17 ter environmental results as defined in subsection
18 (c);

19 (2) includes a detailed, feasible monitoring plan
20 that will be used to determine if the agreement is
21 meeting its environmental goals as detailed pursuant
22 to section 204(b)(2) and will provide the Agency and
23 the public with better data to gauge the state of the
24 environment; and

1 (3) reflects the results of a stakeholder process
2 in conformance with the guidelines issued under sec-
3 tion 202(a)(3) that demonstrates that the proposal
4 has community support and that its environmental
5 implications are fully understood by all interested
6 parties.

7 (b) PREFERENCE.—In reviewing proposed innovative
8 strategy agreements, the Administrator shall give pref-
9 erence to that address priorities listed in the guidelines
10 issued under section 202(a)(1) and are most likely to
11 produce better environmental results as defined in sub-
12 section (c)(1) or (2), and also—

13 (1) address priorities listed in the guidelines
14 issued under section 202(a)(1);

15 (2) are most likely to produce better environ-
16 mental results as defined in subsection (c);

17 (3) are designed to demonstrate the efficacy of
18 new methods of regulation, pollution prevention or
19 abatement, reducing the use of land, water, or other
20 resources, or monitoring that are most likely to have
21 wide applicability;

22 (4) provide enhanced accountability through
23 such means as monitoring systems that will provide
24 data for the environmental indicators issued pursu-
25 ant to section 102;

1 (5) are likely to result in greater cost savings
2 for the Federal Government, States, or the appli-
3 cant;

4 (6) have the broadest community support as
5 demonstrated through an inclusive and thorough
6 stakeholder process; or

7 (7) are proposed by applicants with effective en-
8 vironmental management programs.

9 The Administrator shall give the greatest preference to
10 proposals that have the greatest number of characteristics
11 enumerated in this subsection.

12 (c) BETTER ENVIRONMENTAL RESULTS.—The Ad-
13 ministrator shall consider that an innovative strategy
14 agreement can reasonably be expected to produce better
15 environmental results only if the Administrator determines
16 the innovative strategy agreement is likely to—

17 (1) in the case of a facility, reduce the actual
18 emissions per unit of output of any pollutants cov-
19 ered by the agreement;

20 (2) in the case of a State or other applicant for
21 which the condition in paragraph (1) is inapplicable,
22 reduce the actual level of emissions of a pollutant or
23 set of pollutants; or

24 (3) in the case of any applicant, demonstrate
25 new—

1 (A) methods of pollution prevention, con-
2 trol of nonpoint source pollution, or resource
3 conservation; or

4 (B) monitoring and reporting measures
5 that would provide greater certainty and public
6 information about the actual levels of emissions
7 in a more timely manner.

8 **SEC. 204. CONTENT.**

9 (a) IN GENERAL.—(1) Under innovative strategy
10 agreements, the Administrator may—

11 (A) modify, waive, or replace otherwise applica-
12 ble agency rules, requirements, policies, or practices;

13 (B) allow a tiered approach under which mon-
14 itoring and reporting requirements are loosened ini-
15 tially when emissions are significantly below those
16 allowable under the agreement and then those re-
17 quirements increase as actual environmental per-
18 formance gets closer to the emission, discharge, and
19 other limitations stipulated in the agreement;

20 (C) extend permit terms, expedite permit re-
21 views, or provide multi-media permits;

22 (D) establish facility-wide limitations on overall
23 allowable emissions and discharges;

24 (E) allow third-party or self-certification in lieu
25 of frequent inspection, provided the sponsor has a

1 credible environmental management program in
2 place; and

3 (F) employ market-based strategies, including
4 pollution trading credits.

5 (2) In entering into innovative strategy agreements,
6 the Administrator shall require stricter monitoring, or
7 take other appropriate steps, for proposals with greater
8 uncertainty of meeting their stated environmental goals.

9 (b) SPECIFICATIONS.—A final innovative strategy
10 agreement approved under section 202(d) shall specify—

11 (1) any otherwise applicable rules, require-
12 ments, policies, or practices modified, waived or re-
13 placed;

14 (2) the specific environmental goals of the
15 agreement and the criteria for determining whether
16 the agreement is meeting those goals;

17 (3) a description of how compliance with the
18 agreement will be monitored and enforced, including
19 any penalties that may be imposed for failure to
20 carry out the terms of the agreement;

21 (4) the duration of the agreement and terms for
22 renewal or extension;

23 (5) a transition plan for returning to otherwise
24 applicable rules, policies, requirements, or practices
25 if the agreement is terminated by the applicant for

1 any reason or by the Administrator for failure to
2 meet the agreement's stated environmental goals,
3 despite good faith efforts;

4 (6) a plan for integrating into the agreement
5 any relevant regulations that are promulgated dur-
6 ing the duration of the agreement; and

7 (7) a plan for integrating the innovations in the
8 agreement into the Agency's standard practices to
9 the extent practicable, if the agreement accomplishes
10 its environmental goals.

11 **SEC. 205. ENFORCEMENT.**

12 (a) IN GENERAL.—The Administrator may terminate
13 an innovative environmental strategy agreement, after 30
14 days' notice to all parties to the agreement, if the Admin-
15 istrator determines that there has been noncompliance
16 with the terms of the agreement. Upon termination, the
17 parties to the agreement shall be subject immediately to
18 all Agency statutes and regulations, including their en-
19 forcement provisions.

20 (b) FAILURE TO COMPLY.—

21 (1) IN GENERAL.—Any person may commence
22 a civil action in the United States District Court for
23 the District of Columbia against any party who is in
24 violation of an innovative strategy agreement to re-
25 quire compliance with such agreement.

1 (2) TIMING.—No action may be commenced
2 under paragraph (1) before the date that is 60 days
3 after the date on which the plaintiff gives notice to
4 the Administrator of the intent of the plaintiff to
5 commence the action.

6 **SEC. 206. JUDICIAL REVIEW.**

7 A person other than a signatory to an innovative envi-
8 ronmental strategy agreement may bring an action in the
9 appropriate United States Court of Appeals for judicial
10 review of a decision by the Administrator to enter into
11 an innovative strategy agreement in any case in which the
12 agreement was entered into in violation of any provision
13 of this Act. Such an action must be brought no later than
14 90 days after the publication of the agreement pursuant
15 to section 202(d). A decision by the Administrator not to
16 enter into an agreement shall not be subject to judicial
17 review.

18 **SEC. 207. GENERAL PROVISIONS.**

19 (a) PROHIBITIONS.—The Administrator shall not
20 enter into any innovative strategy agreement that would—

21 (1) violate or waive any specific statutory provi-
22 sion;

23 (2) waive any rule or regulation under title IV
24 of the Clean Air Act or under subtitle B of the

1 Emergency Planning and Community Right to Know
2 Act of 1986;

3 (3) result in an increase in emissions, dis-
4 charges, or other releases above those allowable
5 under the otherwise applicable regulatory require-
6 ments; or

7 (4) address past or ongoing violations or non-
8 compliance by a participating entity.

9 (b) EFFECT OF DECISIONS BY THE ADMINIS-
10 TRATOR.—A decision by the Administrator to enter into
11 an agreement under this Act shall not—

12 (1) affect the validity or applicability of any
13 rule, requirement, policy, or practice, that is modi-
14 fied or waived in the agreement with respect to any
15 entity other than the entity which is subject to the
16 agreement;

17 (2) be used as a legal or equitable defense by
18 any entity not party to the agreement, or by a party
19 to the agreement as a defense in an action unrelated
20 to any requirement imposed under the agreement;

21 (3) limit or affect the Administrator's authority
22 to issue new generally applicable regulations or to
23 apply regulations to the entity that is the subject of
24 the agreement;

1 (4) give rise to any claim for damages or com-
2 pensation in the event of a change in statutes or ap-
3 plicable regulations; or

4 (5) be admissible for any purpose in any judi-
5 cial proceeding other than a proceeding to challenge,
6 defend, or enforce the agreement.

7 (c) OTHER AUTHORITY.—Nothing in this Act shall
8 be construed to affect any authority the Administrator has
9 through other statutes to experiment with innovative ap-
10 proaches to regulation. Nothing in this Act shall be con-
11 strued to affect any innovative approaches in place prior
12 to the enactment of this Act, including those approved
13 pursuant to the agreement between the Agency and the
14 Environmental Council of the States and any rules pro-
15 mulgated under Project XL.

16 (d) OTHER FEDERAL AGENCIES.—Nothing in this
17 Act affects the regulatory or enforcement authority of any
18 other Federal agency under the laws implemented by the
19 Federal agency except to the extent provided in an agree-
20 ment to which the other Federal agency is a party.

21 (e) GPRA.—Agency activities under this title shall
22 be consistent with, and included in the Agency's plans
23 under the Government Performance and Results Act of
24 1993 (Public Law 103–62; 107 Stat. 285).

25 (f) CONSULTATION.—

1 (1) IN GENERAL.—The Administrator shall con-
2 sult with States, and other interests, in carrying out
3 each provision of this Act.

4 (2) SHARING OF INFORMATION.—For purposes
5 of this Act, Federal documents that are otherwise
6 privileged may be shared with State co-regulators
7 without losing their privilege under the Freedom of
8 Information Act (5 U.S.C. 552).

9 (3) REGIONAL OFFICES.—Provisions for the
10 handling of innovative strategy agreements shall be
11 incorporated into memoranda of agreement between
12 Agency regional offices and headquarters.

13 (g) CONFIDENTIALITY.—Information may be shared
14 in stakeholder discussions, including those with non-
15 governmental members, subject to an enforceable con-
16 fidentiality agreement providing that such information can
17 still be claimed as confidential business information in
18 other contexts.

19 **SEC. 208. ANNUAL REPORT.**

20 (a) TIMING.—No later than the first January 31 oc-
21 curring after the issuance of guidance under Section
22 202(a), and no later than January 31 in every year there-
23 after, the Administrator shall submit to the Congress a
24 report evaluating innovative strategy agreements entered
25 into under this Act.

1 (b) CONTENT.—At a minimum the report shall—

2 (1) briefly describe and evaluate the success of
3 all innovative strategy agreements in effect at the
4 time of the report's submission;

5 (2) list any innovative strategy agreements ter-
6 minated during the year prior to the report and the
7 reasons for those terminations;

8 (3) describe how the regulatory and monitoring
9 strategies being used in the innovative strategy
10 agreements are being incorporated into the Agency's
11 other programs;

12 (4) recommend any statutory changes that
13 would be needed to allow promising innovative strat-
14 egy agreements to be completed or would be needed
15 to incorporate or expand regulatory and monitoring
16 strategies being proved successful in existing agree-
17 ments; and

18 (5) assess the degree to which innovative strat-
19 egy agreements are improving the nation's environ-
20 mental performance and ability to monitor that per-
21 formance as measured by the environmental indica-
22 tors developed pursuant to section 102.

23 **SEC. 209. INCENTIVES.**

24 (a) EMPLOYEE INCENTIVE AWARDS FOR SUPPORT-
25 ING INNOVATION.—Within 120 days after the enactment

1 of this Act, the Administrator shall implement an em-
2 ployee incentive awards program that rewards employees
3 and organizational units that demonstrate leadership in
4 the planning, design, implementation, and evaluation of
5 innovative environmental strategies and other activities
6 that result in better environmental performance, greater
7 economic efficiency in the public and private sectors, and
8 expedited delivery and improved quality of public services.

9 (b) FUND FOR INNOVATIVE STRATEGIES.—(1) The
10 Administrator shall retain any permitting or other fees the
11 Agency collects from entities that have entered into inno-
12 vative strategy agreements and such retained amounts
13 shall be available to the Agency without further appropria-
14 tion for compliance assistance and enforcement.

15 (2) Fees received by the agency under this subsection
16 shall be deposited in a special fund in the United States
17 Treasury. Amounts in such fund shall remain available
18 until expended. The Administrator shall submit an annual
19 report to the Congress regarding the sums deposited in
20 the fund, the sources thereof, and the actual and proposed
21 uses thereof.

22 **SEC. 210. STAKEHOLDER PARTICIPATION.**

23 To promote a participatory process that will conform
24 to the guidelines issued pursuant to section 202(a)(3), the
25 Administrator is authorized to—

1 (1) provide travel stipends for nongovernmental
2 participants in stakeholder processes occurring out-
3 side their communities;

4 (2) provide technical support to nongovern-
5 mental participants in stakeholder processes; and

6 (3) provide grants to nongovernmental partici-
7 pants in stakeholder processes to enable them to
8 consult with technical experts.

9 **SEC. 211. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated such sums
11 as may be necessary in each fiscal year through fiscal year
12 2005 to carry out the activities in this title.

Bill Summary & Status for the 106th Congress

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S.547**SPONSOR:** Sen Chafee, John H. (introduced 03/04/99)

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TITLE(S):

- **OFFICIAL TITLE AS INTRODUCED:**
A bill to authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate potential environmental impacts from greenhouse gas emissions.
-

STATUS: Floor Actions***NONE***

STATUS: Detailed Legislative Status**Senate Actions****Mar 4, 99:**Read twice and referred to the Committee on Environment and Public Works.

STATUS: Congressional Record Page References***NONE***

COMMITTEE(S):

- **COMMITTEE(S) OF REFERRAL:**
Senate Environment and Public Works
-

AMENDMENT(S):***NONE***

COSPONSORS(11):Sen Mack, Connie - 03/04/99Sen Lieberman, Joseph I. - 03/04/99Sen Warner, John W. - 03/04/99Sen Moynihan, Daniel Patrick - 03/04/99Sen Reid, Harry M. - 03/04/99Sen Jeffords, James M. - 03/04/99Sen Wyden, Ron - 03/04/99Sen Biden, Joseph R., Jr. - 03/04/99Sen Collins, Susan M. - 03/04/99Sen Baucus, Max - 03/04/99Sen Voinovich, George V. - 03/04/99

SUMMARY:

NONE

S 547 IS

106th CONGRESS

1st Session

S. 547

To authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate potential environmental impacts from greenhouse gas emissions.

IN THE SENATE OF THE UNITED STATES

March 4, 1999

Mr. CHAFEE (for himself, Mr. MACK, Mr. LIEBERMAN, Mr. WARNER, Mr. MOYNIHAN, Mr. REID, Mr. JEFFORDS, Mr. WYDEN, Mr. BIDEN, Ms. COLLINS, Mr. BAUCUS, and Mr. VOINOVICH) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate potential environmental impacts from greenhouse gas emissions.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the 'Credit for Voluntary Reductions Act'.

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

Sec. 1. Short title; table of contents.

Sec. 2. Purpose.

Sec. 3. Definitions.

Sec. 4. Authority for early action agreements.

Sec. 5. Entitlement to greenhouse gas reduction credit for early action.

Sec. 6. Baseline and base period.

Sec. 7. Sources and carbon reservoirs covered by early action agreements.

Sec. 8. Measurement and verification.

Sec. 9. Authority to enter into agreements that achieve comparable reductions.

Sec. 10. Trading and pooling.

Sec. 11. Relationship to future domestic greenhouse gas regulatory statute.

SEC. 2. PURPOSE.

The purpose of this Act is to encourage voluntary actions to mitigate potential environmental impacts of greenhouse gas emissions by authorizing the President to enter into binding agreements under which entities operating in the United States will receive credit, usable in any future domestic program that requires mitigation of greenhouse gas emissions, for voluntary mitigation actions taken before the end of the credit period.

SEC. 3. DEFINITIONS.

In this Act:

- (1) CARBON RESERVOIR- The term 'carbon reservoir' means quantifiable nonfossil storage of carbon in a natural or managed ecosystem or other reservoir.
- (2) COMPLIANCE PERIOD- The term 'compliance period' means any period during which a domestic greenhouse gas regulatory statute is in effect.
- (3) CREDIT PERIOD- The term 'credit period' means--
 - (A) the period of January 1, 1999, through the earlier of--
 - (i) the day before the beginning of the compliance period; or
 - (ii) the end of the ninth calendar year that begins after the date of enactment of this Act; or
 - (B) if a different period is determined for a participant under section 5(e) or 6(c)(4), the period so determined.
- (4) DOMESTIC- The term 'domestic' means within the territorial jurisdiction of the United States.
- (5) DOMESTIC GREENHOUSE GAS REGULATORY STATUTE- The term 'domestic greenhouse gas regulatory statute' means a Federal statute, enacted after the date of enactment of this Act, that imposes a quantitative limitation on domestic greenhouse gas emissions, or taxes such emissions.
- (6) EARLY ACTION AGREEMENT- The term 'early action agreement' means an agreement with the United States entered into under section 4(a).
- (7) EXISTING SOURCE- The term 'existing source' means a source that emitted greenhouse gases during the participant's base period determined under section 6.
- (8) GREENHOUSE GAS- The term 'greenhouse gas' means--
 - (A) carbon dioxide; and
 - (B) to the extent provided by an early action agreement--
 - (i) methane;
 - (ii) nitrous oxide;
 - (iii) hydrofluorocarbons;

(iv) perfluorocarbons; and

(v) sulfur hexafluoride.

(9) GREENHOUSE GAS REDUCTION CREDIT- The term 'greenhouse gas reduction credit' means an authorization under a domestic greenhouse gas regulatory statute to emit 1 metric ton of greenhouse gas (expressed in terms of carbon dioxide equivalent) that is provided because of greenhouse gas emission reductions or carbon sequestration carried out before the compliance period.

(10) NEW SOURCE- The term 'new source' means--

(A) a source other than an existing source; and

(B) a facility that would be a source but for the facility's use of renewable energy.

(11) OWN- The term 'own' means to have direct or indirect ownership of an undivided interest in an asset.

(12) PARTICIPANT- The term 'participant' means a person that enters into an early action agreement with the United States under this Act.

(13) PERSON- The term 'person' includes a governmental entity.

(14) SOURCE- The term 'source' means a source of greenhouse gas emissions.

SEC. 4. AUTHORITY FOR EARLY ACTION AGREEMENTS.

(a) AUTHORITY-

(1) IN GENERAL- The President may enter into a legally binding early action agreement with any person under which the United States agrees to provide greenhouse gas reduction credit usable beginning in the compliance period, if the person takes an action described in section 5 that reduces greenhouse gas emissions or sequesters carbon before the end of the credit period.

(2) REQUIREMENTS- An early action agreement entered into under paragraph (1) shall meet either--

(A) the requirements for early action agreements under sections 5 through 8; or

(B) in the case of a participant described in section 9, the requirements of that section.

(b) DELEGATION- The President may delegate any authority under this Act to any Federal department or agency.

(c) REGULATIONS- The President may promulgate such regulations (including guidelines) as are appropriate to carry out this Act.

SEC. 5. ENTITLEMENT TO GREENHOUSE GAS REDUCTION CREDIT FOR EARLY ACTION.

(a) INTERNATIONALLY CREDITABLE ACTIONS- A participant shall receive greenhouse gas reduction credit under an early action agreement if the participant takes an action that--

(1) reduces greenhouse gas emissions or sequesters carbon before the end of the credit

period; and

(2) under any applicable international agreement, will result in an addition to the United States quantified emission limitation for the compliance period.

(b) UNITED STATES INITIATIVE FOR JOINT IMPLEMENTATION-

(1) IN GENERAL- Subject to paragraph (2), an early action agreement may provide that a participant shall be entitled to receive greenhouse gas reduction credit for a greenhouse gas emission reduction or carbon sequestration that--

(A) is not creditable under subsection (a); and

(B) is for a project--

(i) accepted before December 31, 2000, under the United States Initiative for Joint Implementation; and

(ii) financing for which was provided or construction of which was commenced before that date.

(2) LIMITATION ON PERIOD DURING WHICH CREDIT MAY BE EARNED- No greenhouse gas reduction credit may be earned under this subsection after the earlier of--

(A) the earliest date on which credit may be earned for a greenhouse gas emission reduction, carbon sequestration, or comparable project under an applicable international agreement; or

(B) the end of the credit period.

(c) PROSPECTIVE DOMESTIC ACTIONS-

(1) EMISSION REDUCTIONS- A participant shall receive greenhouse gas reduction credit under an early action agreement if, during the credit period--

(A) the participant's aggregate greenhouse gas emissions from domestic sources that are covered by the early action agreement; are less than

(B) the sum of the participant's annual source baselines during that period (as determined under section 6 and adjusted under subsections (a)(2), (c)(1), and (c)(2) of section 7).

(2) SEQUESTRATION- For the purpose of receiving greenhouse gas reduction credit under paragraph (1), the amount by which aggregate net carbon sequestration for the credit period in a participant's domestic carbon reservoirs covered by an early action agreement exceeds the sum of the participant's annual reservoir baselines for the credit period (as determined under section 6 and adjusted under section 7(c)(1)(B)) shall be treated as a greenhouse gas emission reduction.

(d) DOMESTIC SECTION 1605 ACTIONS-

(1) CREDIT- An early action agreement may provide that a participant shall be entitled to receive

1 ton of greenhouse gas reduction credit for each ton of greenhouse gas emission reductions or carbon sequestration for the 1991 through 1998 period from domestic actions that are--

(A) reported before January 1, 1999, under section 1605 of the Energy Policy Act of

1992 (42 U.S.C. 13385); or

(B) carried out and reported before January 1, 1999, under a Federal agency program to implement the Climate Change Action Plan.

(2) VERIFICATION- The participant shall provide information sufficient to verify to the satisfaction of the President (in accordance with section 8 and the regulations promulgated under section 4(c)) that actions reported under paragraph (1)--

(A) have been accurately reported;

(B) are not double-counted; and

(C) represent actual reductions in greenhouse gas emissions or actual increases in net carbon sequestration.

(e) EXTENSION- The parties to an early action agreement may extend the credit period during which greenhouse gas reduction credit may be earned under the early action agreement, if Congress permits such an extension by law enacted after the date of enactment of this Act.

(f) AWARD OF GREENHOUSE GAS REDUCTION CREDIT-

(1) ANNUAL NOTIFICATION OF CUMULATIVE BALANCES- After the end of each calendar year, the President shall notify each participant of the cumulative balance (if any) of greenhouse gas reduction credit earned under an early action agreement as of the end of the calendar year.

(2) AWARD OF FINAL CREDIT- Effective at the end of the credit period, a participant shall have a contractual entitlement, to the extent provided in the participant's early action agreement, to receive 1 ton of greenhouse gas reduction credit for each 1 ton that is creditable under subsections (a) through (d).

SEC. 6. BASELINE AND BASE PERIOD.

(a) SOURCE BASELINE- A participant's annual source baseline for each of the calendar years in the credit period shall be equal to the participant's average annual greenhouse gas emissions from domestic sources covered by the participant's early action agreement during the participant's base period, adjusted for the calendar year as provided in subsections (a)(2), (c)(1), and (c)(2) of section 7.

(b) RESERVOIR BASELINE- A participant's annual reservoir baseline for each of the calendar years in the credit period shall be equal to the average level of carbon stocks in carbon reservoirs covered by the participant's early action agreement for the participant's base period, adjusted for the calendar year as provided in section 7(c)(1).

(c) BASE PERIOD-

(1) IN GENERAL- Except as provided in paragraphs (2) and (3), a participant's base period shall be 1996 through 1998.

(2) DATA UNAVAILABLE OR UNREPRESENTATIVE- The regulations promulgated under section 4(c) may specify a base period other than 1996 through 1998 that will be applicable if adequate data are not available to determine a 1996 through 1998 baseline or if such data are unrepresentative.

(3) ELECTIONS- The regulations promulgated under section 4(c) may permit a participant to elect a base period earlier than 1996 (not to include any year earlier than 1990) to reflect

voluntary reductions made before January 1, 1996.

(4) ADJUSTMENT OF PERIOD DURING WHICH CREDIT MAY BE EARNED-

Notwithstanding subsections (c) and (d) of section 5, except as otherwise provided by the regulations promulgated under section 4(c), if an election is made for a base period earlier than 1996--

(A) greenhouse gas reduction credit shall be available under section 5(c) for the calendar year that begins after the end of the base period and any calendar year thereafter through the end of the credit period; and

(B) greenhouse gas reduction credit shall be available under section 5(d) only through the end of the base period.

SEC. 7. SOURCES AND CARBON RESERVOIRS COVERED BY EARLY ACTION AGREEMENTS.

(a) SOURCES-

(1) IN GENERAL-

(A) **COVERED SOURCES-** Except as otherwise provided in this subsection, a participant's early action agreement shall cover all domestic greenhouse gas sources that the participant owns as of the date on which the early action agreement is entered into.

(B) **EXCLUSIONS-** The regulations promulgated under section 4(c) (or the terms of an early action agreement) may exclude from coverage under an early action agreement--

(i) small or diverse sources owned by the participant; and

(ii) sources owned by more than 1 person.

(2) NEW SOURCES-

(A) **IN GENERAL-** The regulations promulgated under section 4(c) may provide that an early action agreement may provide for an annual addition to a participant's source baseline to account for new sources owned by the participant.

(B) **AMOUNT OF ADDITION-** The amount of an addition under subparagraph (A) shall reflect the emission performance of the most efficient commercially available technology for sources that produce the same or similar output as the new source (determined as of the date on which the early action agreement is entered into).

(b) OPT-IN PROVISIONS-

(1) **OPT-IN FOR OTHER OWNED SOURCES-** Domestic sources owned by a participant that are not required to be covered under subsection (a) may be covered under an early action agreement at the election of the participant.

(2) OPT-IN FOR CARBON RESERVOIRS-

(A) **IN GENERAL-** An early action agreement may provide that domestic carbon reservoirs owned by a participant may be covered under the early action agreement at the election of the participant.

(B) **COVERAGE-** Except in the case of small or diverse carbon reservoirs owned by the participant (as provided in the regulations promulgated under section 4(c)), if a participant elects to have domestic carbon reservoirs covered under the early action agreement, all of the participant's domestic carbon reservoirs shall be covered under the early action agreement.

(3) **OPT-IN FOR SOURCES AND CARBON RESERVOIRS NOT OWNED BY PARTICIPANT-** Any source or carbon reservoir not owned by the participant, or any project that decreases greenhouse gas emissions from or sequesters carbon in such a source or carbon reservoir, may be covered by an early action agreement--

(A) in the case of a source or carbon reservoir that is covered by another early action agreement, if each owner of the source or carbon reservoir agrees to exclude the source or reservoir from coverage by the owner's early action agreement; and

(B) in accordance with the regulations promulgated under section 4(c).

(c) ACCOUNTING RULES-

(1) **TRANSFERS-** If ownership of a source or carbon reservoir covered by an early action agreement is transferred to or from the participant--

(A) in the case of a source, the source's emissions shall be adjusted to reflect the transfer for the base period and each year for which greenhouse gas reduction credit is claimed; and

(B) in the case of a carbon reservoir--

(i) the carbon reservoir's carbon stocks shall be adjusted to reflect the transfer for the participant's base period; and

(ii) the carbon reservoir's net carbon sequestration shall be adjusted to reflect the transfer for each year for which greenhouse gas reduction credit is claimed.

(2) **DISPLACEMENT OF EMISSIONS-** An early action agreement shall contain effective and workable provisions that ensure that only net emission reductions will be credited under section 5 in circumstances in which emissions are displaced from sources covered by an early action agreement to sources not covered by an early action agreement.

(3) **PERIOD OF COVERAGE-** Emissions from sources and net carbon sequestration in carbon reservoirs shall be covered by an early action agreement for the credit period, except as provided under paragraph (1) or by the regulations promulgated under section 4(c).

(4) **PARTIAL YEARS-** An early action agreement shall contain appropriate provisions for any partial year of coverage of a source or carbon reservoir.

SEC. 8. MEASUREMENT AND VERIFICATION.

(a) **IN GENERAL-** In accordance with the regulations promulgated under section 4(c), an early action agreement shall--

(1) provide that, for each calendar year during which the early action agreement is in effect, the participant shall report to the United States, as applicable--

(A) the participant's annual source baseline and greenhouse gas emissions for the calendar year; and

(B) the participant's annual reservoir baseline and net carbon sequestration for the calendar year;

(2) establish procedures under which the participant will measure, track, and report the information required by paragraph (1);

(3) establish requirements for maintenance of records by the participant and provisions for inspection of the records by representatives of the United States; and

(4) permit qualified independent third party entities to measure, track, and report the information required by paragraph (1) on behalf of the participant.

(b) AVAILABILITY OF REPORTS TO THE PUBLIC- Reports required to be made under subsection (a)(1) shall be available to the public.

(c) CONFIDENTIALITY- The regulations promulgated under section 4(c) shall make appropriate provision for protection of confidential commercial and financial information.

SEC. 9. AUTHORITY TO ENTER INTO AGREEMENTS THAT ACHIEVE COMPARABLE REDUCTIONS.

In the case of a participant that manufactures or constructs for sale to end-users equipment or facilities that

emit greenhouse gases, the President may enter into an early action agreement that does not meet the requirements of sections 5 through 7, if the President determines that--

(1) an early action agreement that meets the requirements of those sections is infeasible;

(2) an alternative form of agreement would better carry out this Act; and

(3) an agreement under this section would achieve tonnage reductions of greenhouse gas emissions that are comparable to reductions that would be achieved under an agreement that meets the requirements of those sections.

SEC. 10. TRADING AND POOLING.

(a) TRADING- A participant may--

(1) purchase earned greenhouse gas reduction credit from and sell the credit to any other participant; and

(2) sell the credit to any person that is not a participant.

(b) POOLING- The regulations promulgated under section 4(c) may permit pooling arrangements under which a group of participants agrees to act as a single participant for the purpose of entering into an early action agreement.

SEC. 11. RELATIONSHIP TO FUTURE DOMESTIC GREENHOUSE GAS REGULATORY STATUTE.

(a) IN GENERAL- An early action agreement shall not bind the United States to adopt (or not to adopt) any particular form of domestic greenhouse gas regulatory statute, except that an early action agreement shall provide that--

(1) greenhouse gas reduction credit earned by a participant under an early action agreement shall be provided to the participant in addition to any otherwise available authorizations of

the participant to emit greenhouse gases during the compliance period under a domestic greenhouse gas regulatory statute; and

(2) if the allocation of authorizations under a domestic greenhouse gas regulatory statute to emit greenhouse gases during the compliance period is based on the level of a participant's emissions during a historic period that is later than the participant's base period under the participant's early action agreement, any greenhouse gas reduction credit to which the participant was entitled under the early action agreement for domestic greenhouse gas reductions during that historic period shall, for the purpose of that allocation, be added back to the participant's greenhouse gas emissions level for the historic period.

(b) LIMITATION- Nothing in this Act authorizes aggregate greenhouse gas emissions from domestic sources in an amount that exceeds any greenhouse gas emission limitation applicable to the United States under an international agreement that has been ratified by the United States and has entered into force.

END

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THE NEW MILLENNIUM CLASSROOMS ACT (Senate - March 04, 1999)

CREDIT FOR VOLUNTARY REDUCTIONS ACT

Mr. CHAFEE. Mr. President, I am proud to join with Senators **Mack, Lieberman, Warner, Moynihan**, and a host of others to introduce the Credit for Voluntary Reductions Act of 1999.

This bipartisan legislation addresses a major disincentive that is preventing voluntary, cost-effective, and near-term actions by U.S. entities to reduce the threat of global climate change. In a word, this disincentive is uncertainty. Let me explain.

There is growing certainty in the international scientific community, and indeed within our own business community, that human actions may eventually cause harmful disturbances to our global climate system. Unfortunately, no one in the business world or the Congress knows for sure what, if anything, might be done in the future to stabilize atmospheric concentrations of carbon dioxide and other greenhouse gases.

Will the 1997 Kyoto Protocol ever be ratified and implemented in the United States? Many, particularly here on Capitol Hill, believe not. If the Kyoto Protocol is never implemented, will something else replace it? More persons than not think this is a real possibility.

Will the United States ever reach the point where greenhouse gas mitigation is legally required? Observers on all sides of this debate, irrespective of their preference, will concede that there is a reasonable probability of future government regulation in one form or another. Or, at least there is no guarantee that mandatory action will never be imposed.

But when might such government requirements take effect? How would they be designed? Finally, who will be subjected to them? What emission sources might be exempted? No one can answer these questions definitively. And such inquiries will likely go unanswered for a considerable amount of time into the future.

While the Credit for Voluntary Reductions legislation does not introduce, encourage, or suggest in any way the need for a regulatory program--the fact remains that none of us can predict what will happen scientifically or politically on the climate change issue over the next several years or decades.

In the face of this policy uncertainty, it is easy to understand why many corporate leaders and small businessmen alike are reluctant to take big steps--even if certain voluntary actions improve their bottom line. Business leaders, with history as their guide, are worried that their own government will discount or not credit these good, but voluntary deeds under some potential, future regulatory regime.

They fear that, after all is said and done, they will have been forced to spend twice as much to control pollutants as their laggard competitors. In the face of this uncertainty, business may be inclined to wait to reduce emissions until after the diplomatic, political, and regulatory dust has cleared. Meanwhile, billions more tons of greenhouse gases are released by man into the atmosphere every year--and important, cost-effective opportunities to reduce emissions may be lost.

It is this uncertainty, this regulatory and financial risk, that our legislation is intended to diminish.

The proposal clears the way for voluntary projects that otherwise might not go forward. It is designed to reduce the current uncertainty and risk faced by potentially regulated entities to the government. This legislation gets the government out of the way so that the marketplace may determine new and cost-effective ways to do business while emitting less.

How does the legislation work? We authorize the President to enter into greenhouse gas reduction agreements with entities operating in the United States.

Once executed, these agreements will provide credits for voluntary greenhouse gas reductions and sequestration achieved by domestic entities over the voluntary period. Because we do not know when, if ever, the U.S. will impose emission reductions, we do not know the duration of the actual voluntary period. The bill does, however, establish a 10-year sunset on the voluntary crediting period.

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An entity earns one-for-one credit if it reduces its aggregate emissions from U.S. sources below the applicable baseline for the duration of the voluntary period. On the sequestration side, the entity could offset emissions, and potentially earn credits thereby, if it increases its net sequestration above the applicable sequestration baseline during the voluntary period.

While I expect a great deal of debate on the establishment of baselines, and likely some significant changes, we wanted to initiate the debate by establishing a baseline that uses recent historical emissions data. In the bill as introduced, we suggest an averaged baseline made up by actual emission levels from 1996 through 1998.

Mr. President, while I have an open mind on how we establish baselines or other performance measurements in this measure, I want to be clear that I will insist on a benchmark that

is fair for business and that is environmentally sound. Clearly, we will be required to deal with continued business growth in this bill. That is, how to achieve clear environmental gains under this voluntary approach while still crediting the good deeds of growing and changing industries.

There are other key issues, important details, that we will need to pin down in the coming weeks. To ensure the economic and environmental integrity of this program, it is incumbent upon us to require that the government credits are issued for verifiable and legitimate actions that contribute to climate stabilization. If a credit represents a ton of greenhouse gases in some future marketplace, or as an offset to some future regulatory obligation, than it must be a ton reduced or sequestered, not a phantom thereof.

We will also be careful to establish a system that recognizes past activities, that is, climate mitigation projects that have occurred since the early 1990's, that clearly can be shown to be measurable emission reduction or sequestration actions.

The recognition of both overseas and sequestration activities also present some unique challenges if we are to maintain a true environmental program that happens to be voluntary. But the development of carbon sinks and overseas emission reduction projects also provide tremendous opportunities to address potential climate change in a cost-effective and whole way. If we are going to meet the challenges before us on global change, we will do so with all of the tools that science tells us are available.

Mr. President, I could not be more pleased that we have been able to establish both business and environmental allies for this cause. Leading companies from the electric utility sector, a number of petroleum and natural gas companies, important automakers, agriculture, the cement makers, aluminum, chemicals, forestry, and other energy intensive industries recognize what is at stake here and are working with us to represent their interests. Many of them are also making great strides to benefit the global environment and they should be appropriately recognized.

One important area that we will need to spend some time on is the product manufacturing sector. I recognize that appliance, air conditioning, and many product manufacturers believe that credits must be available for their voluntary improvements in energy efficiency and other actions which directly and indirectly reduce or mitigate greenhouse gas emissions. The legislation is perhaps not as clear as it needs to be on this important issue and I intend to work closely with these growing industries and other

interested parties to address it.

Our environmental allies recognize that there is an important opportunity here to achieve constructive, cost-effective, and voluntary strategies to address the threat of global climate change. Many of them recognize that our legislation is designed to offer a platform to diverse interests, including those with clashing objectives, for moving forward to support an initiative through which businesses can serve their own economic self-interest while bringing about environmental improvement.

Mr. President, the legislation we are offering today includes very few revisions from the voluntary credits bill (S. 2617) that we introduced last October. This is not because we think we have the perfect document--not at all. We need to go through the process--hold hearings, continue to meet with industry and the environmental community, have discussions with Senate colleagues--before we make any significant revisions. But we will continue to do those things, and we will make improvements to this important legislation.

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THE NEW MILLENNIUM CLASSROOMS ACT (Senate - March 04, 1999)

While I have strong beliefs on the science of climate change and find some significant merits in the Kyoto Protocol--this legislation is completely agnostic on both. The fact is, this bill creates an 'escrow account' for any U.S. entity that has made up its own mind to do things to earn emission credits--nothing more and nothing less with respect to ratification and implementation of the Kyoto Protocol or any other international or domestic regulatory program.

The issue of global climate change is serious business. While the international and domestic processes play out over the next period of years, let us move forward with sensible, cost-effective, voluntary incentives. What is the alternative?

Mr. President, I ask unanimous consent that the bill be printed in the **Record**. Finally, I encourage my colleagues to take a hard look at this initiative, to talk with their constituents, and to consider working with us to improve and advance good, bipartisan, and voluntary legislation.

There being no objection, the bill was ordered to be printed in the **Record**, as follows.

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S . 547

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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THE NEW MILLENNIUM CLASSROOMS ACT (Senate - March 04, 1999)

Mr. MACK. Mr. President, I rise today to join with my distinguished colleagues, Senators **Chafee**, **Lieberman**, and others, in introducing the Credit for Voluntary Early Action Act. This measure is an important first step towards reducing the regulatory uncertainty surrounding any possible regulation of greenhouse gas emissions. This bill will provided us a valuable platform for a thorough discussion of this important issue and I encourage all my colleagues to join us in our efforts.

In my state of Florida, we learned long ago that a healthy environment is fundamentally necessary for a healthy economy. This is evidenced by our congressional delegation's historic bipartisan consensus on such important national issues as the protection of the Florida Everglades and our efforts to stop oil and gas exploration off our beaches. The citizens of my state know full well how necessary it is we keep our environment clean and pristine.

I'm proud to stand with my colleagues here today and take Florida's common sense, market-based attitude on the environment to the national level. The legislation we're sponsoring today would encourage and reward voluntary actions businesses take to reduce the emission of potentially harmful greenhouse gases like carbon dioxide.

Under our bill, the President would be authorized to provide regulatory credit to companies who take early voluntary action to reduce greenhouse gas emissions. This credit could be used to comply with future regulatory requirements and--in a market-based approach--traded or sold to other companies as they work to meet their own environmental obligations.

Participants in this innovative program would agree to annually measure, track and publicly report greenhouse gas emissions. Credit given would be one-for-one, based on actual reductions below an agreed-upon baseline. Credits issued under the program would be subtracted from total emissions allowed under future regulatory emissions requirements.

I believe this approach makes sense for many reasons. For one, there are many uncertainties surrounding the issue of greenhouse gas emissions and their relation to global warming. The complexities and uncertainties associated with understanding the interactions of our climate, our atmosphere and the impact of human behavior are enormous. I have my own concerns about the science behind this issue, and have tremendous concerns about the regulatory approach outlined in last year's Kyoto agreement. It is not my intent--in cosponsoring this bill--to validate Kyoto or the underlying science. Those issues are best left to the scientists and future congresses. Today, we are simply trying to clear the way for voluntary emissions-reductions projects that would otherwise be delayed for years. And we accomplish this in a way that is not costly to the taxpayers.

It makes sense to provide appropriate encouragement to businesses who want to invest in improved efficiency--those who want to find ways to make cars, factories and power production cleaner. Under our bill, these companies are encouraged--not based on government fiat or handout--to get credit for their own initiative and problem solving skills.

Another reason I believe this legislation would be beneficial is because today's businesses have no control over the regulations that could be required of them down the road. Although today's Congress has no desire to legislate requirements on greenhouse gases such as carbon dioxide, it is extremely

difficult to predict where the scientific and economic data will carry future policymakers. In my view, it makes sense to encourage businesses to be proactive in protecting themselves from any future restrictions enacted by a more regulatory-minded Congress and administration.

Mr. President, all of us agree that a healthy environment is important to our future. It's time to put partisanship aside and solve our environmental problem in a way that will allow business to be in control of their own future while doing their part to address global warming. By allowing companies to earn credit for actions they take now, businesses can be prepared for any regulations in the future.

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I look forward to beginning an earnest debate about this issue with my colleagues in the United States Senate. I believe we have an innovative approach to confronting an issue fraught with uncertainties. We should be looking to solve more of our problems by using our free market philosophy rather than by costly Washington mandates that may not work. The Credit for Voluntary Early Reductions Act is a responsible effort to validate on the national level what we've always known in Florida: a healthy environment is key to a healthy economy.

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Mr. LIEBERMAN. Mr. President, I am delighted to join today with my colleagues Senator **Chafee**, the chairman of the Environment and Public Works Committee, and Senators **Mack, Warner, Moynihan, Reid, Wyden, Jeffords, Biden, Baucus, and Collins** in introducing this important legislation. The point of this bi-partisan legislation is simple. It will provide credit, under any future greenhouse gas reduction systems we choose to adopt, to companies who act now to reduce their emissions. This is a voluntary, market-based approach that is a win-win situation for both American businesses and the environment.

Many companies want to move forward now to reduce their greenhouse gas emissions. They don't want to wait until legislation requires them to make these reductions. For some companies reducing greenhouse gases makes good economic sense because adopting cost-effective solutions can actually save them money by improving the efficiency of their operations. Companies recognize that if they reduce their greenhouse gas emissions now they will be able to add years to any potential compliance schedule, allowing them to spread their investment costs over a longer span of time. Under this legislation, businesses will have the flexibility to innovate and develop expertise regarding the most cost-effective ways in which their particular company can become part of the solution to the problem of greenhouse gas emissions.

This bill ensures that companies will be credited in future reduction proposals for actions taken now, thereby removing impediments preventing some voluntary efforts that would provide large environmental benefits. Focusing American ingenuity on early reductions will also help stimulate the search for and use of new, innovative strategies and technologies that are needed to enable companies both in this country and worldwide meet their reduction requirements in a cost-effective manner. Development of such strategies and technologies will improve American competitiveness in the more than \$300 billion global environmental marketplace.

Early action by U.S. companies will begin creating very important environmental benefits now. By providing the certainty necessary to encourage companies to move forward with emission reductions, this legislation will lead to immediate reductions in greenhouse gas pollution. Once emitted, many greenhouse gases continue to trap heat in the atmosphere for a century or more. Early reductions can begin to slow the rate of buildup of greenhouse gases in the atmosphere, helping to minimize the environmental risks of continued global warming. It just makes sense to encourage practical action now.

The bill will help us deal with the serious threat posed by global climate change. Emissions of greenhouse gases that result from human activity, particularly the combustion of fossil fuels, are causing greenhouse gases to accumulate in the atmosphere above natural levels. More than 2,500 of the world's best scientific and technical experts have concluded that this increase threatens to change the balance of

temperature and precipitation that we rely on for a host of economic and societal activities. The American Geophysical Union, a professional society comprised 35,000 geoscientists, recently stated that 'present understanding of the Earth climate system provides a compelling basis for legitimate public concern over future global- and regional-scale changes resulting from increased concentrations of greenhouse gases.'

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We recently learned from scientists that 1998 was the hottest year on record and that nine of the hottest ten years occurred in the past decade. Scientists believe that a rise in global temperature may in turn result in sea level rise and changes in weather patterns, food and fiber production, human health, and ecosystems. Beyond the science that we know, our common sense tells us that the risks associated with climate change are serious. Weather-related disasters already cost our economy billions of dollars every year.

The climate agreement reached in Kyoto, Japan in 1997 was an historic agreement that provided the foundation for an international solution to climate change. The protocol included important provisions, fought for by American negotiators, aimed at establishing real targets and timetables for achieving emissions reductions and providing flexibility and market mechanisms for reducing compliance costs as we work to limit our emissions of greenhouse gases. In Buenos Aires last year, the international community began developing the details of the protocol. I had the privilege of participating as a Senate observer at both the Kyoto and Buenos Aires climate change conventions. I was particularly encouraged that developing countries, including Argentina and Kazakstan, indicated their willingness in Buenos Aires to limit the growth of their greenhouse gas emissions. Nations of the world are all coming to recognize that climate change is an issue of grave international concern and that all members of the global community must participate in solving the problem.

Unfortunately, the current atmosphere in Congress is such that some would block any steps related to climate change until the Kyoto protocol is ratified by the Senate. President Clinton has said he will not submit the Kyoto protocol for ratification until developing countries demonstrate meaningful participation. I am encouraged by the progress made in Buenos Aires and am proud that the United States, by signing the protocol, is committed to a leadership role in the global effort to protect our Earth's irreplaceable natural environment. But to defer debate and action on any proposal that might reduce greenhouse gases until after Senate consideration of the protocol is to deny the United States the ability to act in its own economic and environmental self-interest. The issue at stake is how to develop an insurance policy to protect us against the danger of climate change. Regardless of our individual views on the Kyoto protocol, we in Congress must focus our debate on the issue of climate change and work to forge agreement on how we can move forward. Unfortunately, we have done too little to attack the escalating emissions of greenhouse gases which threaten our health, our safety and our homes.

I'm particularly pleased that the legislation grows out of principles developed in a dialogue between the Environmental Defense Fund and a number of major industries. I am encouraged that since the introduction of a similar version of this bill last year, we have received many constructive comments from those in the business and environmental communities. Many good suggestions are on the table now and we expect that many are yet to come; we welcome broad participation as we move forward on this legislation. I am committed to working through some of the important issues that have been raised. Indeed, I believe that it will be through the ongoing constructive participation of the widest spectrum of stakeholders that we will enact a law that catalyzes American action on climate change and delivers on the promise of crediting voluntary early actions.

I hope that my colleagues and their constituents will take an honest and hard look at this initiative and consider working with us to improve and advance good legislation that begins to address the profound threat of global climate change. This legislation alone will not protect us from the consequences of

climate change, but it is a constructive and necessary step in the right direction. I believe that it is crucial that we begin to address the important issue of climate change now because we have a moral obligation to leave our children and grandchildren a vibrant, healthy, and productive planet and thriving global economy.

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Mr. President, the debate about climate change is too often vested--and I believe wrongly so--in false choices between scientific findings, common sense, business investments and environmental awareness. The approach of this bill again demonstrates that these are not mutually exclusive choices, but highly compatible goals.

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Mr. WARNER. Mr. President, I am pleased to join in cosponsoring legislation introduced today by Senator **Chafee** and my other colleagues to establish a voluntary incentive-based program to reduce the emissions of greenhouse gases.

This is an innovative concept that is in its formative stages. I am pleased to join in support of the concept of providing binding credits for industries who can verify reductions in greenhouse gas emissions. While there are significant issues that must be resolved in the final version of this legislation, I believe this voluntary approach has significant potential to encourage real reductions in greenhouse gas emissions. I look forward, as a member of the Committee on Environment and Public Works, to actively participating in the further development of this legislation.

Mr President, I also want to make clear that my support for this legislation does not indicate a change in my position on the Protocol on Global Climate Change--the Kyoto Protocol. I continue to strongly feel that the protocol is fatally flawed, and in its current form, should not be ratified by the Senate. My objections to this international agreement have been stated many times before. The agreement does not include appropriate involvement by key developing nations and it sets unachievable timetables for emissions reductions by developed nations. I am concerned that the end result would be unrealistic emission reduction requirements imposed on the United States without appropriate reductions assigned to other countries, and that in the end the United States economy would be severely impacted.

The legislation I am supporting today does not endorse the Kyoto protocol or call for a regulatory program to reduce greenhouse gas emissions. This legislation simply ensures that if the private sector takes important steps today to achieve reductions in their emissions, then these actions will be credited to them if there is a mandatory reduction program in the future.

Now, Mr. President, how we devise a legislative package that provides these credits and verifies if emissions are reduced will require significant discussions through the Committee's hearing process. For my part, I am enthusiastic about a successful resolution of these many issues. I look forward to particularly working to ensure that appropriate credit is provided for substantial carbon storage. Any legislative effort must recognize the important role of carbon sequestration in determining emission reduction strategies.

This bill is about protecting United States companies that have or are interested in taking voluntary steps to lower their output of carbon dioxide and other greenhouse gases. These companies have requested the protection this bill provides and I intend to work closely with Senator **Chafee** and others to deliver it.

Mr. MOYNIHAN. Mr. President, I rise to join my colleagues today in introducing the Credit for Voluntary Reductions Act of 1999. I am pleased to be an original cosponsor of this legislation.

The bill represents a far sighted effort to encourage early reductions of greenhouse gases. Under our program, companies in a wide range of industries may participate in a voluntary, market-based system of credit by making measurable reductions in greenhouse gases.

We have learned from our experience with implementing the 1990 Clean Air Act Amendments that the use of market-based incentives is the most cost-efficient, effective way to encourage corporate responsibility with respect to air emissions. Credit based systems have proven to effect emissions reductions which are larger than anticipated, at significantly lesser cost. The program laid out in our bill will remove market disincentives to taking action on greenhouse gas emissions and reward the initiative and innovation in the corporate sector.

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My good friend Senator **Chafee** has highlighted today what is perhaps the most important issue facing any climate change legislation. While there is growing scientific certainty that human actions may eventually cause harmful disturbances to our climate system, no one is sure what may be done in the future to mitigate the effects of any atmospheric disruptions. The legislative and diplomatic proposals are myriad. Uncertainty over how climate change will be addressed, if at all, is a formidable hurdle to corporate actions which may begin to mitigate the problem. By simply establishing a system of credits which may be used at a later time to document emissions reductions, our bill begins to address this issue of uncertainty and provide incentives for positive action on emissions reductions.

I am proud to be an original cosponsor of this innovative legislation, and I encourage my colleagues to support our efforts.

Mr. JEFFORDS. Mr. President, climate change poses potential real threats to Vermont, the Nation, and the World. While we cannot yet predict the exact timing, magnitude, or nature of these threats, we must not let our uncertainty lead to inaction.

Preventing climate change is a daunting challenge. It will not be solved by a single bill or a single action. As we do not know the extent of the threat, we also do not know the extent of the solution. But we cannot let our lack of knowledge lead to lack of action. We must start today. Our first steps will be hesitant and imperfect, but they will be a beginning.

Today I am joining Senator **Chafee**, Senator **Mack**, Senator **Lieberman** and a host of others in cosponsoring the Credit for Early Action Act in the United States Senate.

Credit for Early Action gives incentives to American businesses to voluntarily reduce their emissions of greenhouse gases. Properly constructed, Credit for Early Action will increase energy efficiency, promote renewable energy, provide cleaner air, and help reduce the threat of possible global climatic disruptions. It will help industry plan for the future and save money on energy. It rewards companies for doing the right thing--conserving energy and promoting renewable energy. Without Credit for Early Action, industries which do the right thing run the risk of being penalized for having done so. We introduce this bill as a signal to industry: you will not be penalized for increasing energy efficiency and investing in renewable energy, you will be rewarded.

In writing this bill, Senators **Chafee**, **Mack**, and **Lieberman** have done an excellent job with a difficult subject. I am cosponsoring the Credit for Early Action legislation as an endorsement for taking a first step in the right direction. I will be working with my colleagues throughout this Congress to strengthen this legislation to ensure that it strongly addresses the challenges that lie ahead. The bill must be changed to guarantee that our emissions will decrease to acceptable levels, and guarantee that credits will be given out equitably. These modifications can be summarized in a single sentence: credits awarded must be proportional to benefits gained. This goal can be achieved through two additions: a rate-based performance standard and a cap on total emissions credits.

The rate-based performance standard is the most important item. A rate-based standard gives credits to those companies which are the most efficient in their class--not those that are the biggest and dirtiest to begin with. Companies are rewarded for producing the most product for the least amount of emissions.

Small and growing companies would have the same opportunities to earn credits as large companies. This system would create a just and equitable means of awarding emissions credits to companies which voluntarily increase their energy efficiency and renewable energy use.

The second item is an adjustable annual cap on total emissions credits. An adjustable annual cap allows Congress to weigh the number of credits given out against the actual reduction in total emissions. Since the ultimate goal is to reduce U.S. emissions, this provision would allow a means to ensure that we do not give all of our credits away without ensuring that our emissions levels are actually decreasing.

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With these two additions, Credit for Early Action will bring great rewards to our country, our economy, and our environment. It will save money, give industry the certainty to plan for the future, and promote energy efficiency and renewable energy, all while reducing our risk from climate change. This legislation sends the right message: companies will be rewarded for doing the right thing--increasing energy efficiency and renewable energy use.

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Mr. BIDEN. Mr. President, I am happy to join my colleagues in introducing this important legislation. In particular, I want to thank Senator **Chafee** for his foresight and leadership on this most difficult issue. The science, politics, and economics of climate change all present major issues, and only someone as dedicated and tenacious as Senator **Chafee** could provide the leadership to get us to this point today. My good friend, **Joe Lieberman**, who has been another leader in the Senate on this tough issue, and **Connie Mack**, deserve our thanks for bringing us together around this first step in the long path toward managing the problem of climate change.

The science of climate change is sufficiently advanced that we know we face a threat to our health and economy; but we are only beginning to come to grips with how we can manage that threat most effectively, and--this is the key--most efficiently. Climate change presents us with a classic problem in public policy--it is a long-term threat, not completely understood, to the widest possible public. And it is an issue whose resolution will require taking steps now with real costs to private individuals and businesses, costs that have a payoff that may only be fully apparent a generation or more in the future.

Mr. President, we have learned a lot in the years that we have been making federal environmental policy here in the United States. We have much more to learn, but we have made real advances since the early days, when we did not always find the solutions that got us the most environmental quality for the buck. The bill we are introducing today reflects one important lesson: businesses can be a creative and responsible part of the solution to environmental problems. In fact, it is fair to say that we would not be here today if it were not for the leadership of groups like the International Climate Change Partnership and the Pew Center on Global Climate Change, both of which have provided a forum for responsible businesses to reach consensus on this issue. Significantly, it was a leading environmental group, the Environmental Defense Fund, that has provided indispensable technical expertise to turn good intentions into the bill we have here today.

Drawing on our experience with tradable sulphur dioxide credits, this bill looks to the day when we have reached the kind of agreement--whether based on our evolving commitments under the United Nations Framework Convention on Climate Change or some other authority--that establishes an emissions credit trading regime for greenhouse gases. The best science--and political reality--tells us that current rates of greenhouse gas emissions are likely to result not only in measurable change in global temperatures, but also in a public demand to do something about it. That in turn will change the cost of doing business as usual for the industries that are major sources of those gases.

But right now, if responsible firms--like DuPont and General Motors, if I can mention just two that operate in Delaware--want to do something to reduce greenhouse gas emissions, they not only get no credit in any future trading system--they actually lose out to firms that decide to delay reductions until

such a system is in place. Those who procrastinate, under current law, not only avoid the cost today of cleaning up their emissions, but they would be in a position to receive credits for the kinds of cheaper, easier steps that more responsible companies have already taken. This is certainly not the way to encourage actions now that help air quality in the short term. And every action we take now, by reducing the long-term concentrations of greenhouse gases that would otherwise occur, lowers the overall economic impact of complying with any future climate change policy.

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One way out of this problem, Mr. President, is the bill we are introducing today--to assure firms who act responsibly today that their investments in a better future for all of us will be eligible for credit. At the same time, we will thereby raise the cost of delay.

As with so much in the issue of climate change, this bill is a work in progress. Different kinds of firms, with different products, processes, and histories, face significantly different problems in complying with the demands of an early credit system. We must be sure that we provide the flexibility to encourage the widest variety of reductions. And while we want to encourage the greatest reductions as soon as possible, we must be sure that we have the best information--and credible verification--on the effects of various kinds of early action. Without accurate verification and reporting, we cheapen the value of actions taken by the most responsible firms.

This bill marks a real change in our approach to climate change: we have moved beyond the days of heated, irreconcilable arguments between those who see climate change as a real threat and those who don't. Now, cooler heads can discuss the best way to face the future that we are building for our children.

Mr. BAUCUS. Mr. President, I am pleased to be an original cosponsor of this important legislation.

This bill is a good beginning for a discussion in the Senate on how we can begin to develop constructive solutions to the problem of global climate change.

Climate change is real. Over the last 130 years, since the beginning of the Industrial Revolution, global average surface temperatures have increased by one degree. Scientists project that this trend will continue and most of them believe the trend is due to increases in carbon dioxide and other greenhouse gas emissions from human activity. The temperature increase may not sound like much, but the consequences of even such a small global change could be enormous. This warming trend could have many effects, including even more unpredictable weather patterns, and major shifts in agricultural soils and productivity and wildlife habitat. To me, that drives home the need to deal with the problem.

As I have mentioned to some of my colleagues, there is a vivid example of the warming in my home state of Montana. The Grinnell Glacier in Glacier National Park has retreated over 3,100 feet over the past century. If this continues, Park Service scientists predict this 10,000 year old glacier will be entirely gone within 30 years. This glacier is a symbol and treasure to Montanans and its disappearance would be a hard thing to explain to our children and their children.

This and other potential consequences of climate change are serious enough to warrant some action to reduce the threat it poses. The bill we are introducing today will hopefully be an incentive for people to take steps toward reducing the threat. This bill, the Credit for Voluntary Early Action Act, would allow those who voluntarily choose to reduce emissions of greenhouse gases or to 'sequester' them (meaning to keep them out of the atmosphere and in the soil or locked up in trees or plants) to get credit for those efforts. At some point in the near future, these credits are expected to have monetary value and could be sold in a domestic or global trading system.

As my cosponsors acknowledge, this is not a perfect bill, but a complicated work in progress. As the Senate considers this matter, I am particularly interested in seeing how agriculture and forestry might

benefit by participating in a credit system. These credits could be a financial reward for the good stewardship already taking place on America's farmland. Agriculture needs every opportunity to pursue markets, even if we're talking about unconventional products like carbon credits, to help with the bottom line.

We already know that crop residue management and conservation tillage vastly improve carbon storage in soils and have side benefits, such as reducing erosion. Soils have an immense potential for locking up carbon so that it enters the atmosphere more gradually. Returning highly erodible cropland to perennial grasses could prove to be similarly effective. Many of these practices are already an important part of precision agriculture, so would be obvious low-cost ways for farmers and ranchers to earn credits. It is important that the rules of any trading system be written right, so they can work for agriculture. We can't let our international competitors, like Canada or Australia, be the only ones writing the rules in this developing market.

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Besides rewarding those who are willing to take early actions and move beyond normal business practices to address climate change, let's start to think outside the box about what else we can do. The U.S. has the most advanced environmental technology sector in the world. From new uses for agricultural waste and products to state-of-the-art pollution controls, we are leaders in improving efficiency and reducing waste. We need to jump start our public and private research and development structure so that it really focuses on new cost-effective products and systems that produce less greenhouse gas to meet a global demand.

The Administration's Climate Change Technology Initiative is a reasonable first step. But, so far, Congress has approached this issue with a business as usual attitude. It's time to get serious and creative about developing more advanced technologies. We should be reviewing all the tools at our disposal, from research and development programs to taxes.

We need to make this investment in our environmental future for the same reasons that we make investments in our economic future. People prepare for retirement because they want to reduce risks and reduce the cost of responding to future problems. For similar reasons, we need to make prudent investments like providing credit for early action, to reduce risks and reduce the cost of responding to future climate change problems. The more time we let go by, and the longer we let greenhouse gas concentrations rise unchecked, the more expensive the future's repair bills could be.

There is still a long way to go with any climate change treaty. There must be real participation by the developing countries, like China, India, Brazil, etc. Carbon trading rules and the role of agriculture in sequestering carbon must be more clearly defined. In the meantime, however, the bill we're introducing will allow us to see what works and to get a leg up on the rest of the world.

Mr. President, this bill starts an important dialogue about our country's contribution to world greenhouse gas concentrations. Make no mistake, there is still a lot of work ahead for all of us to make this bill a reality. But this country cannot afford to play the part of the ostrich with its head in the sand. We must seriously engage this matter. We owe it to our children.

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Ms. SNOWE. Mr. President, I rise today to applaud the efforts of my colleague Senator **Chafee** for the Credit for Voluntary Early Action Act he has introduced that will encourage the reduction of greenhouse gases into the atmosphere. The concept of this bill is a creative step toward awarding those industries who take early actions to reduce their overall emissions of greenhouse gases, particularly carbon dioxide, which are thought to be causing changes in climate around the globe.

The bill would set up a domestic program that gives companies certain credits for the voluntary actions they take for reducing the amount of greenhouse gases they emit into the air. These credits could then be used in meeting future reductions, or could be sold to other companies to help with their own reductions. Strong incentives would also be provided for those companies developing innovative technologies that will help reduce the buildup of atmospheric greenhouse gases.

The Chafee bill clearly puts us at the starting line in the 106th Congress for addressing the continuous

domestic buildup of greenhouse gases. I do feel the bill needs to take a further step in the race to make our planet more environmentally and economically friendly, however. We need to establish domestic credits for carbon sequestration that will help reduce the amount of carbon in the atmosphere, and thereby help to address the complex issue of climate change. I plan to continue to work with Senator Chafee to take that next step.

Maine is one of the country's most heavily forested states, with much of its land devoted to forests, and so has much to offer towards the reduction of carbon in our atmosphere. The State's forestlands have been a large key to our quality of life and economic prosperity. These forests absorb and store carbon from the atmosphere, allowing the significant sequestration of carbon, serving as carbon 'sinks'.

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THE NEW MILLENNIUM CLASSROOMS ACT (Senate - March 04, 1999)

Because of continuous improvements made in forest management practices and through extensive tree replanting programs, forests all over the country continue to sequester significant amounts of carbon. Through active forest management and reforestation, through both natural and artificial regeneration, the private forests, both industrial and non-industrial, are helping to decrease carbon dioxide emissions that are occurring both from natural processes and human activities into the atmosphere.

The addition of credits for greenhouse gas reductions for forestry-related carbon sequestration activities should be a part of the voluntary credits system the bill proposes so as to allow the owners of the forests of today--and tomorrow--to voluntarily participate and receive credits for carbon sequestration. This should not be difficult to do since the U.S. Forest Service already follows a carbon stock methodology that is used by the Environmental Protection Agency to document the nation's carbon dioxide emissions and inventories for carbon storage.

I realize that the Intergovernmental Panel on Climate Change (IPCC) has been tasked to prepare a special report that is expected out next year that may help define appropriate definitions and accounting rules for carbon sinks. In the meantime, I do not believe it will be helpful to leave the issue of carbon sequestration unacknowledged in any domestic program--and to cause losers along with winners in the process. We are all in a race against an uncertainty that no one can afford to lose.

As I mentioned, I believe that the goals of the Chafee bill are admirable and will allow for a dialogue to begin, hopefully on the science as opposed to the politics, for what can be done domestically within the global climate change debate. I hope to be included as a part of that dialogue and urge that those who speak to carbon sequestration credits be heard through the public hearings process or by amending the bill in a way that will not only encourage sustainable forest management, but also stimulate incentives for maintaining healthy forests. The discussion on the importance of carbon sequestration within our terrestrial ecosystems--long a large component of the climate change debate--must continue.

[Page: S2331]

By Mr. DeWINE:

S. 548. A bill to establish the Fallen Timbers Battlefield and Fort Miamis National Historical Site in the State of Ohio; to the Committee on Energy and Natural Resources.

FALLEN TIMBERS ACT

Mr. DeWINE. Mr. President, today I am introducing legislation that would designate the Fallen Timbers Battlefield and Fort Miamis as National Historic Sites.

Mr. President, the Battle of Fallen Timbers is an early and important chapter in the settlement of what was then known as the Northwest Territory. This important battle occurred between the U.S. army, led by General 'Mad' Anthony Wayne, and a confederation of Native American tribes led by Tecumseh, in 1794. More than 1,000 Indians ambushed General Wayne's troops as they progressed along the Maumee

River. Despite an unorganized defense, U.S. troops forced the tribes to retreat. The Treaty of Greenville was signed in 1795, and it granted the city of Detroit to the United States as well as secured the safe passage along the Ohio River for frontier settlers.

The Battle of Fallen Timbers began Ohio's rich history in the formation of our country. And the citizens of Northwest Ohio are committed to preserving that heritage. The National Register of Historic Places already lists Fort Miamis. In 1959, the Battle of Fallen Timbers was included in the National Survey of Historic Sites and Buildings and was designated as a National Historic Landmark in 1960. In 1998, the National Park Service completed a Special Resource Study examining the proposed designation and suitability of the site and determined that the Battle of Fallen Timbers Battlefield site meets the criteria for affiliated area status. So it remains only for Congress to officially recognize the national significance of these sites.

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February 9, 1999

**Discussion on Early Credit with
The Business Roundtable**

DATE: February 10, 1999

LOCATION: Room 472, Old Executive Office Bldg.

TIME: 10:00 AM - 12:00 PM

FROM: Beth Arner

I. PURPOSE

Bob Burt, Chairman of FMC Corporation and the Chair of the Environmental Task Force of The Business Roundtable, has organized a discussion with CEOs from BRT's Environmental Task Force to discuss their views on proposed legislation for credit for voluntary reductions of greenhouse gas emissions.

II. BACKGROUND

The Business Roundtable

The Business Roundtable, established in 1972, is an association of chief executive officers of U.S. corporations with a combined workforce of more than 10 million employees in the United States. The chief executives are committed to advocating public policies that foster vigorous economic growth; a dynamic global economy; and a well-trained and productive U.S. workforce essential for future competitiveness.

Their public statement on climate change indicates they "acknowledge the findings of the Second Assessment Report of the Intergovernmental Panel on Climate Change that the concentrations of greenhouse gases in the earth's atmosphere are increasing and that this may contribute to climate change." However, they note that "considerable uncertainty remains within the scientific community, with respect to the nature, pace, and potential impacts of climate change and, importantly, the extent to which climate change can be attributed to human activities as opposed to natural variability."

Credit for Early Action

One of the results of consultations with companies in various industrial sectors is that companies need more clarification on the potential value for greenhouse gas reductions credits in order to make significant investments in carbon reduction technologies and practices. Many companies believe that if the U.S. Government develops a system to award credit for greenhouse gas emissions reductions before

any legally binding agreement takes effect, it will provide a better incentive to modify investments.

The Administration has drafted a paper (attached) outlining the major issues surrounding the development of a system to provide credit. The BRT members have received this paper for their review.

Congress also asked the General Accounting Office to evaluate proposals to establish an early credit system. GAO noted that:

- It identified four basic issues that will have to be addressed to develop a credit for early action program to reduce greenhouse gas emissions: a) how emissions reductions should be estimated; b) how emissions reduction ownership should be determined; c) whether emissions reduction claims should be reported at the organization, project, or some other level; and d) how emissions reduction claims should be verified.
- On the surface, these issues appear straightforward; in fact, they are complicated and will require difficult choices.
- The resolution of these issues will likely influence the design of a credit for early action program.
- The amount of flexibility such a program would provide on each of these issues would ultimately help to determine the extent of participation and the credit awarded.
- Many of the claims for reducing greenhouse gas emissions that have been submitted to the Voluntary Reporting Program would probably be ineligible for credit under a new program having more restrictive reporting criteria.
- Because the voluntary program was designed to encourage wide participation by allowing companies to submit emissions reduction claims under flexible reporting criteria, it was not designed to automatically provide credit to participants for emissions reductions.
- For example, the voluntary program, among other things, allowed companies discretion in determining the basis from which their emissions reductions were estimated and allowed companies to self-certify that their claims were accurate.
- According to DOE's Energy Information Administration and other organizations, such as the Edison Electric Institute and the Environmental Defense Fund, a credit for early action program could require more restrictive reporting criteria than the Voluntary Reporting Program to help ensure that emissions reduction claims are real, appropriately reviewed, and verified.

Additional Background Attached

- Draft paper outlining the Administration's design issues for an early credit mechanism
- Overview of legislation introduced by Senators Chafee, Lieberman, and Mack
- BRT Statements on Climate Change and Kyoto Protocol

- Energy Information Administration's Voluntary Reporting Program

III. PARTICIPANTS

Administration:

Todd Stern, Assistant to the President, The White House
Carol Browner, Administrator, Environmental Protection Agency
George Frampton, Acting Chair, Council on Environmental Quality
Roger Ballentine, Special Assistant to the President Legislative Affairs, The White House
Bob Cumby, Department of the Treasury
Dirk Forrister, White House Climate Change Task Force
David Sandalow, National Security Council

The Business Roundtable:

Bob Burt, Chairman & Chief Executive Officer, FMC Corporation
Jim Henderson, Chairman & Chief Executive Officer, Cummins Engine Co.
Paul Chellgren, Chairman and Chief Executive Officer, Ashland, Inc.
Chad Holliday, Chairman and Chief Executive Officer, DuPont Company
Nancy Johnson, Vice President, DuPont Company
Samuel Maury, President, The Business Roundtable
Hal Russell, Vice President, FMC Corporation

Robert (Bob) Burt, Chairman & Chief Executive Officer, FMC Corporation

In 1997, FMC Corporation revenues were \$4.3 billion, with income of \$156 million and is based in Chicago, IL. FMC produces chemicals and machinery for industry and agriculture in over 100 manufacturing facilities, primarily in three major segments: Performance Chemicals, Industrial Chemicals, and Machinery, and Equipment for energy, transportation and food processing. Mr. Burt assumed leadership of FMC in 1991 and has been with the company since 1973, primarily in the Agriculture Chemical and Defense Systems groups. He is a member of the board of Phelps Dodge and Warner Lambert, the World Resources Institute, the Rehabilitation Institute of Chicago, and Evanston Hospital. He is also chairman of the Environmental Task Force of the Business Roundtable.

James (Jim) Henderson, Chairman & Chief Executive Officer, Cummins Engine Co.

Cummins Engine Company, based in Columbus, IN, posted revenues of \$6.3 billion and income of \$140 million in 1998. Cummins is a worldwide designer and manufacturer of diesel and alternative fuel engines and also produces natural gas engines and engine components and subsystems. They recently announced certification of four ISB diesel engine ratings to the 1999 EPA Clean Fuel Fleet Vehicle (CFFV) Low Emissions Vehicle (LEV) standard. Mr. Henderson, joined Cummins in 1964 and was elected Chief Executive Officer in 1994 and Chairman in 1995. He is a member of the board of directors of Ameritech Corp., Inland Steel

Industries, Landmark Communications, Inc., and Rohm & Haas, and is president of the board of trustees of The Culver Educational Foundation, and was chairman of the executive committee of the Princeton University board of trustees from 1986 to 1992.

Paul Chellgren, Chairman and Chief Executive Officer, Ashland, Inc.

With headquarters in Russell, Ky., Ashland Inc. posted revenues of \$1.6 billion and income of \$16 million in 1998. The company has operations in specialty chemical production and distribution, motor oil and car care products (Valvoline), highway construction, petroleum refiner and gasoline marketer through Marathon Ashland Petroleum Co. LLC, and is a low-sulfur coal producer with 55% ownership of Arch Coal, Inc. Mr. Chellgren joined Ashland in 1974, assuming leadership of the company in 1996. He is a member of BRT's Policy Committee and holds directorships in the American Petroleum Institute, Arch Coal, PNC Bank Corp., Medtronic Inc, and the University of Kentucky. He is also a member of the National Petroleum Council, the National Petroleum Refiners Association, and the Society of the Chemical Industry. Prior to joining Ashland, Mr. Chellgren served in various positions in McKinsey & Company, the Office of Secretary of Defense; Boise Cascade, Universal Capital Corp.

Charles (Chad) Holliday, Chairman and Chief Executive Officer, DuPont Company

In 1997, DuPont had revenues of \$45 billion and net income of \$2.4 billion, with about 165 manufacturing and processing facilities that include 135 chemicals and specialties plants, five petroleum refineries and 25 natural gas processing plants. Conoco, DuPont's energy subsidiary, is involved in the exploration and production of crude oil, natural gas and gas liquids, and the processing, refining, transportation and marketing of natural gas, gas products and a wide variety of petroleum products. It also provides electric power management services and operates power generation facilities. Mr. Holliday assumed leadership of the company in 1998 and his diverse assignments have spanned nearly all key functional areas: manufacturing, marketing, finance, planning and business management. He serves on the board of directors of Pioneer Hi-Bred International, Inc. and Analog Devices, Inc. He is on the Chancellor's Advisory Council for Enhancement at the University of Tennessee at Knoxville, and is a senior member of the Institute of Industrial Engineers. He has an honorary doctor of science degree from Washington College.

IV. AGENDA

Welcome and Introductions

- Todd Stern
- Administrator Carol Browner
- George Frampton
- Bob Burt

Overview of Proposals for Early Credit
--Todd Stern

Overview of Legislative Situation
--Roger Ballentine

Open Discussion of Design Issues

**Meeting with Business Roundtable
Credit for Early Action
February 10, 1999
10 am**

- Welcome and overview
- Review of activity and positions of interested groups
- Review of situation in Congress
- Discussion of key issues in early credit legislation

**Testimony of Robert N. Burt Chairman, The Business Roundtable Environment Task
Force Chairman and CEO, FMC Corporation
Before the House International Relations Committee, May 13, 1998**

Thank you Chairman Gilman and distinguished members of the House International Relations Committee. I am Bob Burt, the chief executive officer of FMC Corporation. I am appearing today on behalf of The Business Roundtable, an association of more than 200 chief executives of leading U.S. corporations who examine public issues that affect the U.S. economy. As chairman of the BRT's Environment Task Force, I will explain our efforts to help shed some light on the very complex and important problem of global climate change.

The approach taken by the United States to address this vexing issue is key: If we overreact and attempt to undertake too much too soon, we will compromise our robust economy.

That is why The Business Roundtable today is calling on Congress to join us in our efforts to define parameters for the Clinton Administration as it prepares negotiating positions for international talks later this year in Buenos Aires. The Protocol as it now stands is a first step toward a comprehensive effort to reduce emissions, but the agreement is incomplete. As such, we urge the Clinton Administration not to sign the Kyoto Protocol until it fills major "gaps" identified by the BRT in an extensive analysis of the document.

These gaps, which I'll talk more about in a moment, must be addressed by the Administration before we can accurately assess the impact of the Protocol on the world's environment and the U.S. economy.

The Business Roundtable has launched a series of efforts to take a thoughtful, independent view of the climate change problem and work toward resolution of the problems in the Kyoto Protocol. In addition to our Gap Analysis, our four-tiered program focuses on evaluating the body of scientific information which underlies the Kyoto Protocol. As part of this effort, scientists from Roundtable member companies and scientific experts from independent organizations are examining the status of technology that's foreseeable and reasonable to count on for reducing emissions.

Third, the Roundtable is analyzing the economic impact of the Kyoto Protocol. As you know, the Kyoto Protocol calls for the U.S. to make an unprecedented 41% reduction in projected levels of emissions. Make no mistake: the task is not simple and it won't be easy. To place the magnitude of the U.S. commitments in perspective, it is the equivalent of having to eliminate all current emissions from either the U.S. transportation sector, or the utilities sector, both residential and commercial sources, or the industrial sector.

Numerous studies have been conducted by well-respected economists and all the data shows varying degrees of significant losses to jobs and adverse impacts on the U.S. economy. With the aid of highly credible, independent economists, The Business Roundtable's effort aims to objectively critique the Administration's economic assumptions and the body of economic work in the public domain, evaluate what would be necessary to make the emissions trading mechanism in the Kyoto Protocol workable, and hold a public forum to review and discuss the findings.

Finally, The Business Roundtable is in the process of developing a program to educate member company employees and the public at large about the findings of our combined efforts to examine the Kyoto Protocol, its underlying science and implications for our economy.

Now, I'd like to provide the committee with a few more details about the findings in our Gap Analysis of the Kyoto Protocol. The purpose of our analysis was to examine what the Protocol would require the United States to do and what gaps exist in the agreement.

In short, The Business Roundtable's conclusion is that an international agreement won't work without the full participation of Developing Countries. Continued growth in energy demand by Developing Countries will more than offset the emission reductions made by Developed Countries. Even if all the Developed Countries were able to honor their emission-reduction commitments, the level of carbon dioxide in the atmosphere in 2010 is projected to increase 8% over 1990 baseline levels.

Moreover, regulating the emissions of a limited number of countries could lead to the migration of energy-intensive production - including the chemicals, steel, petroleum refining, aluminum and mining industries - to the Developing Countries. We need the help of your committee, Mr. Chairman, and the entire Congress to eliminate this competitive gap in the Protocol and protect the U.S. economy.

There are some positive aspects of the agreement, such as emissions trading and so-called carbon sinks, that could be helpful in implementing the Protocol. But we were unable to fully analyze these and other aspects because the agreement is incomplete.

For example, the Administration has suggested that the U.S. will need to rely heavily on market-based mechanisms to find the most efficient and cost-effective ways to reduce emissions. But until the rules and regulations are established we have no idea if these mechanisms will work or whether they will contribute to solving the problem.

What's needed now is a game plan from the Administration that details how we'll meet the reduction commitments. The commitments in the Protocol seem to suggest the need for a fundamentally new energy policy, but these policy options have been ignored in this policy debate. We need something more than a scenario based on a chain of perfect outcomes. We need a realistic assessment from the Administration of how the U.S. intends to maintain a robust economy while meeting the commitments we would propose to undertake, so that we don't come to 2008 and find ourselves asking the question, "What can we do to achieve the reduction target?"

Let's begin now, before it's too late, by holding a public dialogue on the means to be used to meet our goals and identify who will bear the pain. These issues must be openly and honestly discussed because we disagree with the Administration that this can be done painlessly and easily.

While the Business Roundtable must oppose the Kyoto Protocol in its current form, we are committed to remaining an active participant in this critical debate. We pledge to work in cooperation with the U.S. Government and other parties to ensure future generations will enjoy a healthy environment and an ever-increasing standard of living.

Thank you. I'll be happy to answer any questions.

May 13, 1998

The Business Roundtable The Kyoto Protocol: A Gap Analysis

EXECUTIVE SUMMARY

In an in-depth analysis of an international agreement to curb greenhouse gas emissions, The Business Roundtable finds that the accord, known as the Kyoto Protocol, contains major gaps that must be filled before its impact on the world's environment and economy can be evaluated. The Business Roundtable recognizes that the Protocol is only a first step toward a comprehensive agreement to reduce emissions, but urges the Clinton Administration not to sign the Kyoto Protocol until these gaps have been addressed.

Background

On December 11, 1997, in Kyoto, Japan, the Parties to the United Nations Framework Convention on Climate Change reached an agreement, known as the Kyoto Protocol, that sets legally binding limits on the man-made emissions of greenhouse gases from 38 industrialized countries. Global carbon emissions would continue to increase under the agreement because it exempts Developing Countries—including China, India, Mexico, Brazil, and 130 others—from any commitments to limit their rapidly growing emissions. Continued growth in energy demand, and thus greenhouse gas emissions, by Developing Countries will more than offset the reductions made by Developed Countries. President Clinton is expected to sign the Kyoto Protocol later this year, but he does not intend to submit the agreement to the Senate for its constitutional role of advice and consent until "key" Developing Countries agree to "participate meaningfully" in the effort.

Key Issues of Concern

The targets and timetables would require the U.S. to make significant and immediate cuts in energy use. The Protocol would require the U.S. to reduce emissions 7% below 1990 levels by 2008-2012, an unprecedented 41% reduction in projected emission levels. The process of Senate ratification and the subsequent lengthy domestic implementation process post-ratification would leave the U.S. very little time to make the painful choices regarding energy use that will be necessary to achieve these reductions. In addition, because the Protocol sets different targets for each industrialized country and the target is based on what is now an eight-year-old baseline, the U.S. in effect will shoulder a disproportionate level of reduction and may be placed at a competitive disadvantage.

Unless the Developing Countries also commit to emission reductions, the Protocol is incomplete and will not work. The Byrd-Hagel Resolution, unanimously adopted

by the U.S. Senate in July 1997, states that the U.S. should not be a signatory to any protocol unless it mandates "new specific scheduled commitments to limit or reduce greenhouse gas emissions for the Developing Country Parties within the same compliance period." Many Developing Countries are rapidly growing their economies and will become the largest emitters of greenhouse gases in the next 15-20 years. Greenhouse gases know no boundaries, and stabilization of greenhouse gas concentrations cannot be achieved without global participation in a limitation-reduction effort. Moreover, regulating the emissions of only a handful of countries could lead to the migration of energy-intensive production—such as the chemicals, steel, petroleum refining, aluminum and mining industries—from the industrialized countries to the growing Developing Countries.

Certain carbon "sinks" may be used to offset emission reductions, but the Protocol does not establish how sinks will be calculated. Carbon sinks, a natural system that absorbs carbon dioxide, have tremendous potential as a means of reducing emissions, but too much is currently unknown to make a fair determination. It is unclear how sinks might help the U.S. reach its emission-reduction commitment. It is understood that the rules for sinks will be addressed at the Fourth Conference of the Parties (COP4) in Buenos Aires, but until they are fully fleshed out their potential impact cannot be evaluated.

The Protocol contains no mechanisms for compliance and enforcement. Simply put, it would be inappropriate for any country to ratify a legally binding international agreement that lacks compliance guidelines and enforcement mechanisms. The Protocol outlines a system of domestic monitoring with oversight by international review teams, but what constitutes compliance and who judges it will not be determined until after the Protocol enters into force. The means of enforcement—also unknown—is equally critical, since a country's noncompliance could give it a competitive advantage over the U.S. and eviscerate the agreement's environmental goals.

The Protocol includes flexible, market-based mechanisms to achieve emission reductions, but it does not establish how these mechanisms would work and to what extent they could be used. The U.S. intends to rely heavily on market-based mechanisms to find the most efficient and cost-effective ways to reduce emissions. But until the rules and regulations are established it is uncertain how effective these mechanisms will be and to what extent they can be used by companies. Many countries are resisting these market-based mechanisms and their reluctance may hinder the development of adequate free-market guidelines. The absence of many countries from the marketplace, and the possible limitations and restrictions on the marketplace, could render these mechanisms useless or of little value.

The Protocol leaves the door open for the imposition of mandatory policies and measures to meet commitments. Just as the U.S. favors flexible market

mechanisms, the European Union and many Developing Countries favor harmonized, mandatory "command-and-control" policies and measures—such as carbon taxes and CAFÉ standards—to meet commitments, and they will have numerous opportunities to seek adoption of these policies.

Finally, the procedures for ratification of, and amendment to, the Kyoto Protocol make it difficult to remedy before it enters into force. The Protocol may not be amended, nor can rules and guidelines be adopted, until after the Protocol enters into force. The Clinton Administration is now considering the negotiation of a separate or supplemental protocol to attain necessary additional commitments, but this approach would open all issues to further negotiation.

The Business Roundtable believes that the Congress and the American people cannot evaluate the Kyoto Protocol until the Administration sets out a plan as to how it intends to meet the targets of the Protocol. To place the magnitude of the U.S. reduction commitments in perspective, it is the equivalent of having to eliminate all current emissions from either the U.S. transportation sector, or the utilities sector (residential and commercial sources), or industry. The Administration needs to detail how targets in the Protocol will be met, and how the burden will be distributed among the various sectors of the economy.

The Business Roundtable feels it is imperative that a public dialogue take place on the major issues highlighted in our Gap Analysis before The Protocol becomes the law of the land and government agencies begin to write regulations.

June 22, 1998

Background on the Energy Information Administration's Voluntary Reporting Program Established under the 1992 Energy Policy Act, Section 1605

I. SUMMARY OF 1605(b) PROGRAM

Guidance

Companies may report under this program if they initiate, control, or in some other way participate in activities that (1) contribute to greenhouse gas emissions, (2) result in reducing greenhouse gas emissions, or (3) sequester carbon. The activities may be part of regular operations, pilot studies, prototype projects, or demonstration projects. They may take place in the community, in the workplace, at a location controlled by a third party, or at a foreign location. Companies must be legal U.S. entities. DOE encourages companies to submit as comprehensive a report as possible. Elements of a comprehensive report include information about both the company's emissions levels and emissions reduction projects. Emissions information could include data on the entire organization and all its greenhouse gas activities, including historic baseline emissions data for 1987 through 1990, and annual emissions for subsequent years. Comprehensive information about emissions reduction projects could include both emissions reductions and carbon sequestration projects, emissions factors used to determine reductions, assumptions about the project, and data sources.

Reporting

Reporting forms were developed through a public process in cooperation with potential reporters, trade associations, DOE's Policy Office, and EPA. Participants in DOE and EPA voluntary programs use the 1605(b) reporting form to submit data. Companies report to obtain credit under voluntary programs, establish a public record of actions, position themselves as environmentally responsible organizations, learn how to estimate and reduce greenhouse gas emissions, and establish the company's potential environmental liabilities and assets. In 1998, 156 entities (primarily from the utility industry) submitted reports detailing 1,233 projects. Projects included electricity projects, end-use improvement projects, and sequestration.

GAO reports that several efforts have been taken to help ensure the accuracy and the quality of the data reported. These efforts include developing and implementing program guidelines and procedures to assemble and present emissions data in standardized reports, establishing a report review and assistance process to check the arithmetic accuracy of emissions data and the internal consistency of all data reported, requiring each reporter to provide certification of the accuracy of the data submitted to the program, and asking each reporter to provide a self-assessment of the accuracy of the data. There are also criminal penalties for falsifying data on a federal form.

Because the Voluntary Reporting Program was not designed to provide credit for reductions reported, some environmental and industry groups, believe that the economic value of future credits may be an incentive to overstate emissions reductions. To prevent this, they believe a more rigid review process may be needed.

II. LEGISLATIVE LANGUAGE

The following language is from the 1992 Energy Policy Act, Section 1605, which established a Voluntary Reporting Program for greenhouse gases.

ISSUANCE OF GUIDELINES FOR VOLUNTARY REPORTING. Not later than 18 months after the date of the enactment of this Act, the Secretary shall, after opportunity for public comment, issue guidelines for the voluntary collection and reporting of information on sources of greenhouse gases. Such guidelines shall establish procedures for the accurate voluntary reporting of information on:

A) greenhouse gas emissions: (i) for the baseline period of 1987 through 1990; and (ii) for subsequent calendar years on an annual basis;

B) annual reductions of greenhouse gas emissions and carbon fixation achieved through any measures, including fuel switching, forest management practices, tree planting, use of renewable energy, manufacture or use of vehicles with reduced greenhouse gas emissions, appliance efficiency, methane recovery, cogeneration, chlorofluorocarbon capture and replacement, and power plant heat rate improvement;

C) reductions in greenhouse gas emissions achieved as a result of: (i) voluntary reductions; (ii) plant or facility closings; and (iii) State or Federal requirements; and

(D) an aggregate calculation of greenhouse gas emissions by each reporting entity.

Such guidelines shall also establish procedures for taking into account the differential radiative activity and atmospheric lifetimes of each greenhouse gas.

(2) REPORTING PROCEDURES.-The Administrator of the Energy Information Administration shall develop forms for voluntary reporting under the guidelines established under paragraph (1), and shall make such forms available to entities wishing to report such information. Persons reporting under this subsection shall certify the accuracy of the information reported.

From: Dirk Forrister on 02/09/99 03:14:42 PM

Record Type: Record

To: Todd Stern/WHO/EOP

cc: David B Sandalow/CEQ/EOP, Roger S. Ballentine/WHO/EOP

Subject: BRT-- for Podesta's book

Here's what we've got to prep John Podesta for his speech to BRT tomorrow. Kevin asks for an email copy after you've reviewed. He will then drop it into John's briefing memo.

Background for Podesta meeting with Business Round Table

The Climate Change Task Force is coordinating outreach activities with a number of companies that are part of the BRT. When the President met with industry CEOs prior to Kyoto, several influential BRT members attended, including Bob Burt, CEO of FMC Corp, who also heads up the BRT Environment Subcommittee. Those CEOs told the President that harnessing the creativity of industry through voluntary actions would go a long way to address climate change, provided they were assured of credit for their actions in any future regime. On Wednesday, Burt is bringing a small group of CEO's from the BRT to the White House to meet with Todd Stern, Carol Browner, George Frampton and others to discuss "credit for early action" -- an idea the President supported in the State of the Union address. Senators Chafee, Lieberman, and Mack are poised to reintroduce legislation in the next several weeks.

In addition, a number of BRT companies are engaged with the White House in industry consultations (steel, aluminum, natural gas pipelines, electric utilities, cement, forest products) on voluntary agreements to reduce greenhouse gases.

Q: What do you see happening on the climate change front in the U.S. this year?

A: The Administration's approach to climate change is to pursue win-win efforts to spur the development and deployment of new technologies that will save energy, make us more competitive, and strengthen our economy. In last year's budget, we secured over \$1 billion in funding for these programs -- a 25% increase -- and another \$1.8 billion for basic climate change research.

This approach is reflected in the President's FY 2000 budget. The President is proposing: a 5 year package of tax incentives spur clean energy technologies; a 34% increase in R&D in energy-efficient technologies and renewable energy; a new Clean Air Partnership Fund to boost state and local efforts to reduce greenhouse gases and air pollution; substantial new funding to focus on the ways farms and forests can reduce and offset greenhouse gas emissions; and \$1.8 billion for scientific research on global change.

All told, the FY 2000 budget requests just over \$4 billion for climate change-related investments.

Q: Can you elaborate on the President's State of the Union remarks favoring credit for early

action legislation?

A: The President and Vice President have long committed to the concept of credit for early action to encourage firms to act early voluntarily. This issue was first brought to the President by the business community that wanted to move forward to address emissions without risking the possibility of being penalized later. Senators Chafee, Mack, and Lieberman offered an initial proposal last Congress -- and we're interested in working closely with them to get a bill adopted this year. We want to work with them on a workable bill. In principle, it needs to be well crafted -- fair, open to all sectors, environmentally sound, and with workable economic incentives.

Q: Isn't it fair to say that with time running out on the Administration, Congressional opposition, and resistance from developing countries, that the Kyoto Protocol is dead at this point?

A: Absolutely not. As you know, the President has made clear that he will not submit the Kyoto Protocol to the Senate for its approval until there is meaningful participation on the part of key developing countries in combating global warming. There are also important details of the Protocol that need to be worked out -- devising an international emissions trading system, for example. Last November's climate change summit in Buenos Aires saw real progress on both of these fronts. Argentina and Kazakstan became the first developing countries to announce their intention to take on binding emissions targets. The conference also agreed to a two year action plan for filling in the key details of Kyoto. The United States signaled its commitment to this process by signing the Protocol during the Buenos Aires conference. We believe that Protocol was an historic breakthrough in addressing one of the greatest environmental challenges of the 21st century. We want to see its promise turned into a working reality.

In short, climate change remains a high priority for the Administration because more than ever science tells us that is a high priority for the planet. And the President remains committed to Kyoto and looks forward to the day when it is ready to be submitted to the Senate.



INTERNATIONAL CLIMATE CHANGE PARTNERSHIP

February 9, 1999

The Honorable George Voinovich
United States Senate
Washington, DC 20510

Dear Senator Voinovich:

You recently received a "Dear Colleague" letter from Senators Chafee, Mack, and Lieberman regarding legislation to provide credit for early action in reducing greenhouse gas emissions. The International Climate Change Partnership (ICCP), one of the largest international industry coalitions focused exclusively on climate change policy, urges you to co-sponsor this important legislation. A list of ICCP members is enclosed.

ICCP has consistently stressed the need to provide legally binding assurances that voluntary actions to reduce greenhouse gas emissions will be credited in any future mandatory scheme adopted by the government. Such "credits" should be granted to those companies that achieve verified reductions between 1990 and the commencement of any mandatory program. Enclosed is a copy of ICCP's position paper on credit for early action that provides more details on our views.

The Credit for Voluntary Early Action Act (S 2617) was introduced at the end of the 105th Congress by Senators Chafee, Mack, and Lieberman. ICCP members believe this bill was a credible start in addressing the issue and its reintroduction will provide a useful basis for consideration by the 106th Congress.

It has been suggested that supporting such legislation may unwittingly create support for the Kyoto Protocol. We do not agree. Many companies have already taken action based on the Framework Convention on Climate Change, which was ratified by the U.S. Senate in 1993. This agreement called for the US to attempt to stabilize its greenhouse gas emissions at their 1990 level by the year 2000. Those who have acted in good faith or who take action prior to any mandatory program should receive legally binding assurances that their verified reductions will be credited, regardless of the underlying basis for some future regulatory mandate.

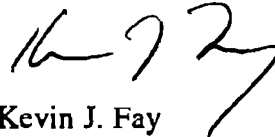
In meetings with Senate Environment Committee staff we have outlined the need for potential changes to the bill prior to its reintroduction and identified several issues that will require additional discussion and debate resolution. Two such matters include how to address products that use or emit greenhouse gases, and the method for dealing with companies and industries with very different growth characteristics. While support for any final bill will depend on acceptable resolution of these and other key issues, ICCP has pledged its active and constructive participation in this debate.

The Honorable George Voinovich
February 9, 1999
Page 2

As an important first step, we urge your co-sponsorship of the Chafee, Mack, and Lieberman legislation so that you can be engaged in the dialogue. ICCP member representatives will be contacting you in the near future to discuss this matter. Please do not hesitate to have your staff contact ICCP if you have additional questions.

Thank you in advance for your support.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin J. Fay", written over the printed name.

Kevin J. Fay
Executive Director

Enclosures



INTERNATIONAL CLIMATE CHANGE PARTNERSHIP

ICCP 1999 MEMBERSHIP LIST

- 3M Company
- Aerospace Industries Association
- Air Conditioning and Refrigeration Institute
- Alliance for Responsible Atmospheric Policy
- Alliance for Responsible Environmental Alternatives - Canada
- AlliedSignal
- Association of Home Appliance Manufacturers
- Association of International Automobile Manufacturers
- AT&T
- Boeing
- BP Amoco
- Carrier
- Dow Chemical
- Dresser Industries
- Dupont
- Eastman Kodak
- Elf Atochem
- European Chemical Industry Council (CEFIC) - European Fluorocarbon Technical Committee (EFCTC) Sector
- General Electric
- General Motors
- Honeywell
- ICI Klea
- Intel Corporation
- Intercontinental Energy Corporation
- Japan Fluorocarbon Manufacturers Association
- Japan Industrial Conference for Ozone Layer Protection
- National Electrical Manufacturers Association (NEMA)
- Polyisocyanurate Insulation Manufacturers Association
- Sun Company
- Trane
- Trigen Energy Corporation
- United Technologies
- Vulcan Chemicals
- Whirlpool Corporation
- York International



International Climate Change Partnership

Position Paper on Credit for Early Action

Overview

Voluntary efforts to reduce emissions of greenhouse gases prior to the commencement of a mandatory commitment period can slow the rate of growth of emissions and contribute to the longer-term goal of achieving appropriate greenhouse gas concentration levels. In circumstances where there is marginal value in an emission reduction investment, granting credit may provide the incentive for such investments.

Companies that have already taken action or are contemplating doing so want to ensure that these contributions are not ignored when a mandatory phase of emission reductions begins. Failure to recognize these contributions could unfairly force companies to make reductions through increasingly more costly options. This would have the perverse effect of penalizing those companies who act early, while potentially benefiting competitors who save their least costly reductions to respond to regulatory mandates.

Industry's aim is to ensure that these early investments that result in emission reductions are recognized and "credited." Such credit could be used to offset future obligations that may arise from any domestic allocation, cap, tax or permit program or sold to parties unable to meet their obligations in a cost-effective manner.

It should be noted that credit for early action programs could have important linkages to potential domestic or international emissions trading systems and international flexibility mechanisms such as Joint Implementation and the Clean Development Mechanism. For example, a company might earn credits through the Clean Development Mechanism prior to 2008 and want to apply them against domestic obligations. Or a "downstream" company may accrue early credits and not be allocated a budget. It would therefore want the right to trade such credits either domestically or internationally.

ICCP Credit for Early Action Principles

Credit for early action programs will require new statutory authority. Failure to enact a credit program at the Federal level may stop companies from making commitments now and encourages a patchwork of inconsistent Federal, state, and local initiatives.

No limit should be placed on the amount of emissions reductions or enhancement of sinks for which early action credit can be earned.

Credit should be granted for actions resulting in verified emissions reductions or enhancement of sinks that occur between 1990 and the beginning of any official budget commitment period, whether or not such actions were part of a government-sponsored voluntary initiative.

A process should be established to determine and "lock-in" appropriate baselines for emission reduction activities including facility operations, product-based initiatives, and enhancement of sinks. Such a process should be flexible enough to reflect special circumstances, including unique considerations related to reductions already achieved.

Credits granted prior to a first budget commitment period should be available without discount as offsets against any greenhouse gas emission allocation, cap, tax, permit, or other requirement to limit or reduce greenhouse gas emissions that subsequently may be imposed.

Credits granted prior to a first budget commitment period should be usable in any national emission budget that may be subsequently imposed. Credits should remain with the earning entity for use at their discretion.

Emissions reductions or enhancement of sinks produced from participation in the Clean Development Mechanism, Joint Implementation, or a domestic emissions trading program should be eligible for early action credit if they occur prior to a first budget commitment period.

Credits generated from credit for early action programs should be eligible for emissions trading.

Credit accounts should be updated on an annual basis.

Credit programs should be integrated to ensure consistency and to avoid "double counting".

The International Climate Change Partnership (ICCP), organized in 1991, is a global coalition of companies and trade associations from diverse industries committed to constructive and responsible participation in the international policy process concerning global climate change. The ICCP recognizes that the continued growth in emissions of greenhouse gases is an important concern for all nations and that efforts are underway internationally and in national governments to develop policies that address this concern. ICCP also understands the importance of working within the process to achieve important environmental objectives while fostering continued economic development and improvement in living conditions for all.

October, 1998

For more information, please contact: ICCP, 2111 Wilson Blvd., Ste. 850; Arlington, VA 22201; Telephone: 703-841-0626; FAX: 703-243-2874; e-mail: iccp@alcalde-fay.com

Overview of Proposals for Early Credit
--Todd Stern

Overview of Legislative Situation
--Roger Ballentine

Open Discussion of Design Issues

- SOTU
- Kyoto overall ~~Budget~~
- Budget
- Chafee, Lieb, Mack

↳ ex of momentum; recognition of win-win

↳ juris battle

↳ hard core opposition / Kyoto momentum

- Energy Committee alternative in works?

- Other issues: sinks, for ex.

- will succeed w/ industry support will succeed b/c it is a sensible, win-win, not Kyoto-dependent undertaking.

**Meeting with Business Roundtable
Credit for Early Action
February 10, 1999
10 am**

- Welcome and overview
- Review of activity and positions of interested groups
- Review of situation in Congress
- Discussion of key issues in early credit legislation

October 14, 1998

TO: TODD STERN

FROM: Bob Cumby

Subject: Credit for Early Action Legislation Submitted by Sen. Chaffee

The bill submitted by Sen. Chaffee appears to be derived from the proposal that the Environmental Defense Fund has put together. The bill's key features are that it:

- offers ton-for-ton credit for emission reductions from a baseline determined by average emissions in 1996-1998,
- provides the Executive with broad discretion in reaching agreements with participants,
- does not cap the total quantity of credit that can be given,
- provides credit for any future program that requires mitigation of greenhouse gasses so is not tied to Kyoto,
- covers reductions through 2007.

A more detailed description of the bill follows.

1. The bill give the Executive broad discretion. More precisely, it authorizes the President to enter into agreements and to "promulgate such regulations as are appropriate."
2. The bill covers all six gasses and sinks, but leaves the definition sinks to be supplied.
3. The bill is not Kyoto specific—the credits will be valid for any future greenhouse gas mitigation program—but does cover only the period through 2007 and mentions "the first compliance period" at several points. It seems to be written in a way that would allow credits to be used in a future cap-and-trade or carbon tax system. I am not sure that it would apply to other possible future programs such as mandated efficiency standards.
4. The bill allows for credits to be given for CDM projects although it doesn't call them by name. It specifies that participants can receive credit for actions that "...will result in an addition to the United States quantified emissions limitation for the first compliance period."
5. Credit (ton-for-ton) may be given for Section 1605 activities for the 1991 through 1988 period provided they are "verified" as "being accurately reported, not being double counted, and representing actual reductions in greenhouse gas emissions or actual net carob sequestration." Verification is to be done, both in general and for the 1605 activities, by "qualified, independent, third party entities."

6. There is no limit to the quantity of ton that can be allocated either overall or for previous (1605) activities.
7. The baseline is to be average emissions during 1996 - 1998 and credit is to be given for reductions from that baseline. No assumed rate of efficiency gain is used to determine the baseline.
8. The bill allows the regulations to specify a baseline different from that if data are not available to determine a 1996-1998 baseline or if such data are unrepresentative. It also allows participants to elect a base period earlier than this (but not before 1990) to reflect reduction prior to 1996.
9. All sources that the participant owns as of the date on which the agreement is entered into will be covered by the agreement. Exceptions are for "small or diverse" sources and for sources owned by more than one person.
10. If the participant adds sources, an addition will be made to the baseline that will be determined by the emission performance of the most efficient commercially available technology for the same type of sources (as of the date in which the agreement is entered into).
11. The bill states that agreements should have provisions that ensure that only net emission reductions should be credited when emissions are displaced from sources covered by the agreement to sources not covered by the agreement. It is not clear what this means given that it also states that all sources owned by the participant at the time of the agreement are to be covered. This may mean that adjustments have to be made for divestitures.
12. Verification of reductions is to be by independent third parties. More precisely, participants are required annually to "measure, track, and publicly report greenhouse gas emissions for the term of the early action agreement" and establish procedures for "measurement and reporting of emissions, emission reductions, and carbon sequestration by qualified independent third party entities."
13. The bill has a vaguely worded section that gives the President wide scope to agreements with manufacturers of "equipment and facilities that emit greenhouse gasses." The agreements do not need to meet the requirements of the bill if the President determines that an agreement meeting the requirements of the bill are infeasible and an alternative form of agreement would better carry it out. It allows double counting for actions not covered by 1605.
14. The final provision in the bill gives baseline protection only to those who participate in the early credit program.

Principles and Design Issues for an Early Credit Mechanism

President Clinton promised in his October 1997 speech that companies that "showed the way" in reducing emissions early would receive appropriate credit for their efforts. The Administration is committed to assuring that firms will not be penalized for acting early and is exploring ways to provide positive incentives to reduce emissions through voluntary, cost-effective measures. An early credit mechanism, while complementing efforts to reduce emissions through a cap and trade program during the commitment period, should not restrict or prejudice the design of the cap and trade program or other aspects of implementation of greenhouse gas policies.

Why Early Credit?

To reduce the costs to the U.S. economy of compliance with the Kyoto Protocol. Economic costs are minimized when firms adjust to their required changes in production patterns over time, rather than suddenly in 2008. By acting early, firms can incorporate carbon considerations into their natural pattern of capital turnover. New technologies can help lower compliance costs. An early credit program can reward pioneers and risk takers who develop, implement, and disseminate these new technologies.

To provide the environmental benefit of earlier emissions reductions. The ultimate concentration of greenhouse gasses in the atmosphere determines global warming, so there are benefits to reducing the flow of emissions in years prior to the commitment period. To the extent that an early credit mechanism reduces pre-2008 emissions below what they would otherwise have been, we reap these benefits (and any ancillary, e.g., air quality and health-related benefits).

Guiding Principles for Early Action Mechanisms

Any mechanism for providing credit for early action should:

- be comprehensive, covering any gas, source, sector, and sink
- be predictable, understandable, and not impose undue administrative burden
- provide fair reward for real environmental gain
- have broad appeal to both historic and future emitters
- minimize free riders
- be transparent to the public
- avoid prejudging the design of a future domestic cap-and-trade system

No Penalty for Early Action in the Design of the Ultimate Climate Change Program

When the domestic cap-and-trade program is eventually implemented, it must be designed in a way that does not penalize those who acted early to reduce emissions. Regardless of whether an early action program is adopted, designing a climate change program that does not penalize early action is imperative in order to avoid perverse incentives.

There are at least three ways to make sure that those acting early to reduce greenhouse gas emissions will not be penalized. It would not be necessary to specify what means would be chosen, but only to provide assurances that the approach ultimately adopted will not penalize early action.

- *Baseline protection.* If emissions allowances were allocated according to a formula based on firms' past emissions, two mechanisms could be used to avoid penalizing firms that acted early.
 - The first would be to choose a reference year for the allocation formula (the baseline) that is early enough not to penalize early action. The exact year is subject to discussion, but years before 1999 could lead to potentially large data difficulties.
 - The second would be to use a future year to determine the allocation (for example, a year between 1999 and 2007), and add back into each firm's baseline any emissions reductions that were achieved through certified early actions. This approach would avoid the data problems inherent in using past baseline years, and would build instead on the monitoring and verification requirements of the early credit system.
- *Performance standards.* If emissions allowances were allocated according to some performance-based benchmark, the standard could be set without reference to historical performance or the reference year for the standard could be set early enough so as not to penalize early action.
- *Auction.* If emissions allowances were allocated by auction, there would be no penalty for early action. Firms would only need to purchase enough permits to cover their emissions. Acting early will reduce the amount that they would need to purchase.

Credits for Early Action

Even if the ultimate climate change program does not penalize reductions prior to the first budget period, positive rewards could be given to those who take early action to reduce emissions.

- *Credits for early actions.* Explicit credits could be allocated for actions taken before

2008. These credits could be redeemed in some fashion for permits in 2008.

- The total quantity of permits that are given away through an early credit mechanism would be subtracted from the amount of permits allocated in the first budget period through other mechanisms. But it is important to recognize that an early credit mechanism would not affect our assigned amount for the first commitment period. It would only affect the distribution of the assigned amount by shifting some permits from those who would otherwise have been allocated permits in the first budget period to those who took early actions.
- Credit for early action and an allocation mechanism that does not penalize early action could be combined in some way.

A Two Part Early Credit System

We could implement a two-part early action system.

- In the first part, we could give credit for actions taken before the system is announced. If there is a limit to the quantity of credits available in an early action program, there could be a separate cap for this period. This part would rely on the best available data from firms for the past, and could involve auditing firm-specific reports on emissions.
- In the second part, we could give credit for actions taken after the mechanism has been announced but before 2008. If caps are adopted, this part could have its own cap, but the value of that cap may depend on the level of early credits claimed for the first period. Before the beginning of the second part, we could establish a consistent data reporting system to ease the monitoring and measurement of early credit.

Issues with an Early Credit System

Our goal should be to adopt baselines and other participation rules which assure that the early credit program will leverage real change in the country's emissions path. To accomplish this, we will have to find a balance between the goals of maximizing the change from "business as usual" (BAU) emissions and maximizing the number of participants in the program. Overly lax criteria could result in large early credit awards for small real gains (the "anyway tons" problem). Overly stringent criteria could choke off participation; while each qualifying action would be a clear change from BAU, they would be too few overall to make a difference.

Several of the design issues (especially determining the appropriate measure for early credit and the baseline) raise the question of whether baselines refer to a firm or to some other unit (such as a plant). In addition they raise the corresponding questions (discussed below) of how to define an entity in a consistent way over time and deals with divestitures, mergers and acquisitions and how to deal with new entities.

Caps vs. an open-ended System

We could limit how many tons of early action credits are allocated (to reflect a given percentage of our five-year assigned amount), or we could place no upper limit on that number. This issue has significant interactions with other issues discussed below (e.g., baselines and criteria for eligible actions) and involves potential trade-offs:

- A limit would avoid the risk that the early credit system might over mortgage the allocation available for the first budget period. A limit would also impose discipline on pressures to adopt overly loose criteria, reducing the risk of allocating anyway tons: firms planning genuine actions would have an interest in disciplining efforts by others to get credit for actions that produce no benefit. In the worst case, a limit would “limit the damage” if the early credit rules turn out too lax and do not require real change from BAU. Finally, a capped system would reduce the risk that the early credit system would prejudice the ultimate allocation mechanism. Finally, a capped system would reduce the risk that the early credit system would prejudice the ultimate allocation mechanism.
- On the other hand, a cap -- especially a very small one -- could discourage genuine participation and real changes from BAU if it created the impression that there would not be enough credit available to reward all those who make reduce emissions.

First Come First Served, "Truing Up" at End of Period, and Competitive Allocation

If caps are adopted, there could be at least three alternatives for allocating credits, the first of which is preferred to the second.

- One alternative would provide credits that have a set, predetermined value (such as one credit equals one ton of emissions) and would allocate the credits on a first-come-first-served basis. This approach provides firms certainty over the value of their actions. It also addresses the greatest need of an early action system: to provide incentive for action when the policy/price signal is weakest. Under this system, businesses will earn credits in the near term years when future policy is most uncertain and the price signal is weakest.
- An alternative would "true up" the quantity of credits at the end of the period, by comparing the number of credits claimed with the level of the cap. The credits could, for example, be worth up to one ton each, and perhaps less if there are more credits claimed than the size of the cap. This creates uncertainty over the value of early action credits but does not run the risk that some might be excluded from the program because of binding caps.
- A third possibility is that a fixed quantity of credits could be available for allocation by competitive proposals. Potential participants could offer proposals that could be evaluated on the basis of their potential environmental gain.

What is the Appropriate Measure for Early Credit?

Emissions Levels: This is the ultimate metric for meeting our Kyoto targets. But this approach could reward firms for shrinking and penalize firms for growing, potentially creating difficulties with mergers or divestitures, and firm definition.

Emissions Rates (e.g., carbon per unit of output): This approach could appropriately adjust for changes in scale of business to reward firm efforts to reduce carbon intensity. But it doesn't solve problems with firm definition and could create additional difficulties with aspects of measurement (e.g., what is a unit of output?).

Project-by-Project Evaluation (akin to JI): This approach could limit problems with defining the firm, since it doesn't require firm-wide baseline measurement and emissions tracking (as project is evaluated assuming no change in other firms' behavior). But it could be administratively burdensome and non-comprehensive (if, for example, firms are able to claim credits for their activities that reduce emissions without claiming debits for activities that increase emissions).

Options for Defining the Baseline

Changes from Starting Point (reductions in emissions levels or rates from some base year credited for early action): This approach could provide relatively easy administration of the early action system, and it may make it relatively easy for firms to qualify because, for example, there is a naturally occurring level of emissions rate reductions over time.

Changes from Projected Reduction Schedule (e.g., firms only rewarded for early action if they reduce emissions rates by more than 1% per year): This remains relatively straightforward to administer, and could more tightly reward those firms that are truly increasing efficiency. But it may, for steep reduction schedules, limit the breadth of participation in an early action system and therefore potentially limit the economic and environmental gains.

Changes from Business As Usual (project business as usual trajectories for emissions levels or rates, and reward only improvements from those business as usual projections): This approach could account for changes in firm size and other developments over time that naturally affect emissions levels or rates. But it would likely introduce substantial administrative complexities.

Predefined set of eligible actions or technologies (set up a menu of actions that would be eligible to receive credit, e.g., improving the carbon efficiency of a boiler by a prespecified amount): This approach may be the easiest to administer, particularly for early action credits given for past actions. But it could run into potential administrative difficulties with "picking winners" (eligible actions or technologies), and may exclude legitimate but harder to define activities.

The Scope of Emissions Measurement

Direct and Indirect Emissions from Production: Direct and Indirect Emissions from Production: Firms could be given credit for reducing both direct emissions (those coming out of their stacks) and indirect emissions (those emissions occurring beyond the boundary of the firm as a result of the firm's activity). These indirect emissions reductions might be related to either upstream or downstream activities. Downstream, firms may want credits for reducing the carbon intensity of their products (for example, if an automobile manufacturer improves the mileage of its fleet sales). Upstream, firms that reduce electricity consumption may want credit for electric utility emission reductions. The question of whether to include these indirect emissions raises a tradeoff between comprehensiveness (including only direct emissions may preclude cost-effective indirect reduction opportunities) and administrative tractability (reporting indirect emissions could be very burdensome). It also raises difficult issues of double-counting across firms.

Universal vs. Industry-Specific Programs

An early credit mechanism could allow for industry-specific programs with potentially different measures, choices of baseline, and scope of emissions measurement or it could adopt a common set of choices on these design issues.

Data and Measurement Issues

Defining a Firm: Firm level, rather than plant level, measurement could provide a more comprehensive system of accounting for early action. If, for example, the full range of a firm's activities are not taken into account, early credit might be granted to units that are performing well on emissions or efficiency but not subtracted for units that are not. But environmental regulation is traditionally focused at the plant level, and firm-level measurement raises a host of new issues such as joint ownership of plants and mergers and divestitures.

Measuring Carbon Efficiency: The basic concept of carbon efficiency is to compare carbon utilization to production. If production is measured by dollars of sales, this is fairly straightforward; but dollars of sales has a number of problems, such as the fact that changes in market prices which have nothing to do with energy or carbon efficiency will change the measured efficiency. For example, how would we account for the fact that auto prices are rising over time while computer prices are falling. If production is measured by units of sales or production, we face a new issue of how to measure units when a company's product mix may be changing.

Measuring Emissions: Measuring emissions becomes more problematic looking back than looking forward. Emissions data looking back are not comprehensive and comparable data do not exist on emissions for all entities to whom permits may be allocated.

105th CONGRESS

2d Session

S. 2617

To amend the Clean Air Act to authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate greenhouse gas emissions.

IN THE SENATE OF THE UNITED STATES

October 10 (legislative day, OCTOBER 2), 1998

Mr. CHAFEE (for himself, Mr. MACK, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate greenhouse gas emissions.

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 ‘Credit for Voluntary Early Action Act’.

SEC. 2. PURPOSE.

The purpose of this Act is to encourage voluntary greenhouse gas emission mitigation actions by authorizing the President to enter into binding agreements under which entities operating in the United States will receive credit, usable in any future domestic program that requires mitigation of greenhouse gas emissions, for voluntary mitigation actions before 2008.

SEC. 3. CREDIT FOR VOLUNTARY GREENHOUSE GAS EMISSION MITIGATION ACTIONS.

The Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

‘TITLE VII--CREDIT FOR VOLUNTARY GREENHOUSE GAS EMISSION MITIGATION ACTIONS

‘SEC. 701. DEFINITIONS.

'In this title:

'(1) CARBON RESERVOIR- The term 'carbon reservoir' means quantifiable nonfossil storage of carbon in a natural or managed ecosystem or other reservoir.

'(2) DOMESTIC- The term 'domestic' means within the territorial jurisdiction of the United States.

'(3) DOMESTIC GREENHOUSE GAS REGULATORY STATUTE- The term 'domestic greenhouse gas regulatory statute' means a Federal statute, enacted after the date of enactment of this title, that imposes a quantitative limitation on domestic greenhouse gas emissions, or taxes such emissions.

'(4) EARLY ACTION AGREEMENT- The term 'early action agreement' means an agreement with the United States entered into under section 702(a).

'(5) EXISTING SOURCE- The term 'existing source' means a source that emitted greenhouse gases in the participant's base period determined under section 704.

'(6) FIRST COMPLIANCE PERIOD- The term 'first compliance period' means the first period during which a domestic greenhouse gas regulatory statute takes effect.

'(7) GREENHOUSE GAS- The term 'greenhouse gas' means--

'(A) carbon dioxide; and

'(B) to the extent provided by an early action agreement--

'(i) methane;

'(ii) nitrous oxide;

'(iii) hydrofluorocarbons;

'(iv) perfluorocarbons; and

'(v) sulfur hexafluoride.

'(8) GREENHOUSE GAS REDUCTION CREDIT- The term 'greenhouse gas reduction credit' means an authorization under a domestic greenhouse gas regulatory statute to emit 1 metric ton of greenhouse gas (expressed in terms of carbon dioxide equivalent) that is provided because of greenhouse gas emission reductions or carbon sequestration carried out before the first compliance period.

'(9) NEW SOURCE- The term 'new source' means a source other than an existing source.

'(10) OWN- The term 'own' means to have direct or indirect ownership of an undivided interest in an asset.

'(11) PARTICIPANT- The term 'participant' means a person that enters into an early action

agreement with the United States under this title.

‘(12) PERSON- The term ‘person’ includes a governmental entity.

‘(13) SOURCE- The term ‘source’ means a source of greenhouse gas emissions.

‘SEC. 702. AUTHORITY FOR EARLY ACTION AGREEMENTS.

‘(a) AUTHORITY-

‘(1) IN GENERAL- The President may enter into a legally binding early action agreement with any person under which the United States agrees to provide greenhouse gas reduction credit usable beginning in the first compliance period, if the person takes an action that reduces greenhouse gas emissions or sequesters carbon before January 1, 2008.

‘(2) REQUIREMENTS- An early action agreement entered into under paragraph (1) shall meet either--

‘(A) the requirements for early action agreements under sections 703 through 706; or

‘(B) in the case of a participant described in section 707, the requirements of that section.

‘(b) DELEGATION- The President may delegate any authority under this title to any Federal department or agency.

‘(c) REGULATIONS- The President may promulgate such regulations (including guidelines) as are appropriate to carry out this title.

‘SEC. 703. ENTITLEMENT TO GREENHOUSE GAS REDUCTION CREDIT FOR EARLY ACTION.

‘(a) IN GENERAL-

‘(1) INTERNATIONAL ACTIVITIES-

‘(A) INTERNATIONALLY CREDITABLE ACTIONS- A participant shall receive greenhouse gas reduction credit under an early action agreement if the participant takes an action that--

‘(i) reduces greenhouse gas emissions or sequesters carbon before January 1, 2008; and

‘(ii) under any applicable international agreement, will result in an addition to the United States quantified emission limitation for the first compliance period.

‘(B) UNITED STATES INITIATIVE FOR JOINT IMPLEMENTATION-

‘(i) IN GENERAL- Subject to clause (ii), an early action agreement may provide that a participant shall be entitled to receive greenhouse gas reduction credit for a greenhouse gas emission reduction or carbon sequestration that--

“(I) is not creditable under subparagraph (A); and

“(II) is for a project accepted before 2000 under the United States Initiative for Joint Implementation.

“(ii) LIMITATION ON PERIOD IN WHICH CREDIT MAY BE EARNED- No greenhouse gas reduction credit may be earned under this subparagraph after the earlier of--

“(I) the earliest date on which credit may be earned for a greenhouse gas emission reduction, carbon sequestration, or comparable project under an applicable international agreement; or

“(II) December 31, 2007.

“(2) DOMESTIC ACTIVITIES-

“(A) EMISSION REDUCTIONS- A participant shall receive greenhouse gas reduction credit under an early action agreement if, during the 1999 through 2007 period--

“(i) the participant’s aggregate greenhouse gas emissions from domestic sources that are covered by the early action agreement; are less than

“(ii) the sum of the participant’s annual source baselines during that period as determined under section 704.

“(B) SEQUESTRATION- For the purpose of receiving greenhouse gas reduction credit under subparagraph (A), the amount by which aggregate net carbon sequestration for the 1999 through 2007 period in a participant’s domestic carbon reservoirs covered by an early action agreement exceeds the sum of the participant’s annual reservoir baselines for calendar years 1999 through 2007 shall be treated as a greenhouse gas emission reduction.

“(C) SECTION 1605 ACTIVITY- An early action agreement may provide that a participant shall be entitled to receive 1 ton of greenhouse gas reduction credit for each ton of greenhouse gas emission reductions or carbon sequestration for the 1991 through 1998 period from domestic activities that--

“(i) are--

“(I) reported before January 1, 1999, under section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385); or

“(II) carried out and reported under a Federal agency program to implement the Climate Change Action Plan; and

“(ii) are verified (in accordance with section 706) as--

“(I) being accurately reported;

“(II) not being double-counted; and

‘(III) representing actual reductions in greenhouse gas emissions or in actual net carbon sequestration.

‘(3) EXTENSION- The parties to an early action agreement may extend the 1999 through 2007 period during which greenhouse gas reduction credit may be earned under the early action agreement, if Congress permits such an extension by law enacted after the date of enactment of this title.

‘(b) AWARD OF GREENHOUSE GAS REDUCTION CREDIT-

‘(1) NOTIFICATION OF PROVISIONAL CREDIT- The President shall annually notify each participant of the quantity of greenhouse gas reduction credit provisionally earned under an early action agreement.

‘(2) AWARD OF FINAL CREDIT- Effective on January 1, 2008, a participant shall be entitled to receive 1 ton of greenhouse gas reduction credit for each 1 ton that is creditable under subsection (a).

‘SEC. 704. BASELINE AND BASE PERIOD.

Not rate based

‘(a) SOURCE BASELINE- A participant’s annual source baseline for each of calendar years 1999 through

2007 shall be equal to the participant’s average annual greenhouse gas emissions from domestic sources covered by the participant’s early action agreement during a 1996 through 1998 base period, adjusted for the calendar year as provided in subsections (a)(2), (c)(1), and (c)(2) of section 705.

‘(b) RESERVOIR BASELINE- A participant’s annual reservoir baseline for each of calendar years 1999 through 2007 shall be equal to the average level of carbon stocks in carbon reservoirs covered by the participant’s early action agreement for a 1996 through 1998 base period, adjusted for the calendar year as provided in section 705(c)(1).

‘(c) ALTERNATIVE BASE PERIODS-

‘(1) DATA UNAVAILABLE OR UNREPRESENTATIVE- The regulations promulgated under section 702(c) may specify a base period other than 1996 through 1998 that will be applicable if adequate data are not available to determine a 1996 through 1998 baseline or if such data are unrepresentative.

‘(2) ELECTIONS- The regulations promulgated under section 702(c) may permit a participant to elect a base period earlier than 1996 through 1998 (not to include any year earlier than 1990) to reflect voluntary reductions made before January 1, 1996.

‘(3) SECTION 1605 ACTIVITY- Except as otherwise provided by the regulations promulgated under section 702(c), if an election is made for a base period earlier than 1996 through 1998, no greenhouse gas reduction credit shall be available under section 703(a)(2)(C).

‘SEC. 705. SOURCES AND CARBON RESERVOIRS COVERED BY EARLY ACTION AGREEMENTS.

‘(c) ACCOUNTING RULES-

‘(1) TRANSFERS- If ownership of a source or carbon reservoir covered by an early action agreement is transferred to or from the participant--

‘(A) in the case of a source, the source’s emissions shall be adjusted to reflect the transfer for the base period and each year for which greenhouse gas reduction credit is claimed; and

‘(B) in the case of a carbon reservoir--

‘(i) the carbon reservoir’s carbon stocks shall be adjusted to reflect the transfer for the base period; and

‘(ii) the carbon reservoir’s net carbon sequestration shall be adjusted to reflect the transfer for each year for which greenhouse gas reduction credit is claimed.

‘(2) DISPLACEMENT OF EMISSIONS- An early action agreement shall contain effective and workable provisions that ensure that only net emission reductions will be credited under section 703 in circumstances in which emissions are displaced from sources covered by an early action agreement to sources not covered by an early action agreement.

‘(3) PERIOD OF COVERAGE- Emissions from sources and net carbon sequestration in carbon reservoirs shall be covered by an early action agreement for the 1999 through 2007 period, except as provided under paragraph (1) or by the regulations promulgated under section 702(c).

‘(4) PARTIAL YEARS- An early action agreement shall contain appropriate provisions for any partial year of coverage of a source or carbon reservoir.

‘SEC. 706. MEASUREMENT AND VERIFICATION.

‘An early action agreement shall provide that the participant, in accordance with the regulations promulgated under section 702(c)--

‘(1) shall annually measure, track, and publicly report greenhouse gas emissions for the term of the early action agreement; and

‘(2) shall establish procedures for measurement and reporting of emissions, emission reductions, and carbon sequestration by qualified independent third party entities.

‘SEC. 707. AUTHORITY TO ENTER INTO AGREEMENTS THAT ACHIEVE COMPARABLE REDUCTIONS.

‘In the case of a participant that manufactures or constructs for sale to end-users equipment or facilities that emit greenhouse gases, the President may enter into an early action agreement that does not meet the requirements of sections 703 through 705, if the President determines that--

‘(1) an early action agreement that meets the requirements of those sections is infeasible;

‘(2) an alternative form of agreement would better carry out this title; and

“(3) an agreement under this section would achieve tonnage reductions of greenhouse gas emissions that are comparable to reductions that would be achieved under an agreement that meets the requirements of those sections.

‘SEC. 708. TRADING AND POOLING.

“(a) TRADING- A participant may--

“(1) purchase earned greenhouse gas reduction credit from and sell the credit to any other participant; and

“(2) sell the credit to any person that is not a participant.

“(b) POOLING- The regulations promulgated under section 702(c) may permit pooling arrangements under which a group of participants agree to act as a single participant for the purpose of entering into an early action agreement.

‘SEC. 709. RELATIONSHIP TO FUTURE DOMESTIC GREENHOUSE GAS REGULATORY STATUTE.

“(a) IN GENERAL- An early action agreement shall not bind the United States to adopt (or not to adopt) any particular form of domestic greenhouse gas regulatory statute, except that an early action agreement shall provide that--

“(1) greenhouse gas reduction credit earned by a participant under an early action agreement shall be provided to the participant in addition to any otherwise available authorizations of the participant to emit greenhouse gases in the first compliance period under a domestic greenhouse gas regulatory statute; and

“(2) if the allocation of authorizations under a domestic greenhouse gas regulatory statute to emit greenhouse gases in the first compliance period is based on the level of a participant’s emissions in a historic period that is later than the participant’s base period under the participant’s early action agreement, any greenhouse gas reduction credit to which the participant was entitled under the early action agreement for domestic greenhouse gas reductions during that historic period shall, for the purpose of that allocation, be added back to the participant’s greenhouse gas emissions level for the historic period.

“(b) LIMITATION- Nothing in this title authorizes aggregate greenhouse gas emissions from domestic sources in an amount that exceeds any greenhouse gas emission limitation applicable to the United States under an international agreement that has been ratified by the United States and has entered into force.’.

END

CEO CAST CLIMATE CHANGE EARLY ACTION CREDITING PROPOSAL

EXECUTIVE SUMMARY

The Coalition to Advance Sustainable Technology (CAST) is a new public policy organization of CEOs who share the view that environmental stewardship is compatible with sound and competitive business practices. CAST was founded on the belief that innovative environmental practices, driven by sound regulatory policies that encourage creativity and economic efficiency, can create economic growth, provide jobs, and build competitive advantage.

CEO CAST has now created a new, stand-alone coalition: the First Movers Coalition. The Coalition will provide business leadership to the policymaking process regarding greenhouse gas (GHG) emissions reduction targets. The First Movers Coalition is a group of CEOs committed to their environmental responsibilities and cognizant that this responsibility has important business consequences. Without business or political naiveté, the First Movers Coalition proposes to create a system that will reward businesses for making environmental progress in the climate change arena in ways that make sense to individual companies, individual business units, and even individual consumers. This approach will provide the Administration and Congress with one workable approach to achieving GHG emissions reductions in the near-term future. The First Movers' approach is not envisioned as the only early action program in which the Administration may wish to engage, but it does allow voluntary early actions to take place while a broad-ranging debate regarding climate change policy is carried out.

The CAST Early Action Crediting Proposal is based upon several underlying principles that give the proposal its appeal and strength:

- **A CEO Proposal:** It is developed by CEOs for CEOs. CEOs want a program that focuses on what they can control in their corporation and what they can influence as CEOs.

- **A Simple, Manageable Approach:** The CAST proposal is based upon a simple conceptual framework, with manageable complexity at the detail level. This works for CEOs, who need to be able to sell new ideas internally, and who delegate details to subordinates.
- **A Performance-Based Approach:** The CAST proposal uses a performance-based approach that allows growing companies to participate. It minimizes the inappropriate awarding of early action credits to companies whose absolute emissions are falling simply due to reduced economic activity.
- **A Point-of-Control Focus:** The CAST proposal uses a point-of-control focus that puts the opportunity to earn credits in the hands of the entity having the most effective control over the affected emissions.
- **A Whole Corporation Approach:** The CAST proposal uses a whole corporation approach that avoids the inappropriate awarding of early action credits to companies selecting only facilities with falling emissions for program participation.
- **Mitigation Flexibility:** The CAST proposal provides companies with flexibility to reduce emissions internally, through purchases of GHG offsets or through business arrangements with upstream suppliers or downstream customers.

This Executive Summary lays out the essence of the First Movers Coalition proposal. A larger CEO CAST document provides supplementary information and additional explanation. The proposal presented here incorporates changes to an earlier draft version circulated by CAST for review from March through September 1998. The current version reflects the evolving thinking of CAST members, responses to concerns and suggestions made by outside reviewers, and policy and technical improvements developed by CAST's Climate Change Subcommittee and work groups. CAST approved this proposal at its October 2, 1998, meeting.

Under the First Movers Coalition proposal, First Mover companies or organizations would earn early actions credits by increasing their GHG emissions efficiency beyond a business-as-

usual improvement rate. The proposal contains incentives to encourage greater increases in emissions efficiency. First Mover early action credits would be convertible starting in 2008 into U.S. allowances (if an allowance-based system is created either by allocation or auction), tax credits (if a carbon-equivalent tax system is created), or whatever other U.S. incentive program might be created. The mechanism for earning credits is based upon three factors:

- ▶ **An Emissions Efficiency-Based Formula For Earning Early Action Credits:** Emissions efficiency is measured by one of three ratios. Most companies would use pounds of CO₂-equivalent per dollar of sales (CO₂/\$). The public-sector CO₂/\$ ratio would use dollars of operating expense plus amortized capital outlays instead of sales. Electric utilities and power marketers would use pounds per kilowatthour (CO₂/kWh).
- ▶ **A Business-as-Usual Improvement Rate:** The proposal assumes a one percent per year business-as-usual improvement rate in emissions efficiency starting in 1995. CAST is proceeding with technical analysis that might modify this assumption, especially for the electricity sector.
- ▶ **A Crediting Multiplier:** The First Movers program uses a sliding scale that links the extent to which business-as-usual is exceeded to the percentage of tons of emissions reduction that is converted to early action credits earned in each year, as follows:

<u>Annual Rate Reduction Beyond "Business as Usual" Tons of Emissions Reductions Improvement Rate</u>	<u>Crediting Multiplier for Occurring During the Year</u>
0.0 - 0.5%	0%
0.5-1%	50%
1-2%	75%
2%+	100%

First Movers would also share knowledge gained through their efforts by sponsoring the following technology development and dissemination measures:

- ▶ **Technical and Quantification Group:** First Mover participants would create and fund a technical and quantification group similar to (or perhaps part of) ASTM to develop, peer review, publish, and establish methodologies for quantification of submitted efficiency benefits and offsets. Protocols would encompass quantification of companies' internal emissions, avoiding double counting, quantifying offsets, and monitoring and verifying compliance with First Movers commitments.
- ▶ **Web Site:** The First Mover effort would publish members' progress, protocols developed, and other benchmarking and technology-diffusion information through a web-based registry and information site.
- ▶ **Annual Conference:** First Mover participants would sponsor an annual conference to share worldwide examples of technology, information, policy, and success.

The First Movers Coalition early action crediting proposal is a first step toward addressing potential emissions reduction targets and will easily conform to the shape of any future targets. The use of a "rate-based" emissions reduction metric for the early action crediting program can easily transition into future emissions reduction mandates. Although the First Movers see a "rate-based" metric as vital to the ability of an early action program to encourage active participation of dynamic companies across the U.S. economy, it is not assumed that such a metric would form the basis for future policy regulatory decisionmaking in the climate change arena.

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Talking Points: CEO CAST Early Action Crediting Proposal

Coalition to Advance Sustainable Technology

Prepared by Trexler and Associates, Inc.

Mike Burnett, Vice President

January 14, 1999

1. *Why is the CEO CAST proposal attractive to CEOs?*

The CEO CAST proposal is a CEO proposal. It is developed by CEOs for CEOs. CEOs want a program that focuses on what they can control in their corporation and what they can influence as CEOs. The CEO CAST proposal is also a simple, manageable approach. The CEO CAST proposal is based upon a simple conceptual framework, with manageable complexity at the detail level. This works for CEOs, who need to be able to sell new ideas internally, and who delegate details to subordinates.

2. *Why did CEO CAST choose a rate-based approach?*

CEO CAST believes that an absolute prerequisite to a successful early action crediting system is that the program must be capable of attracting a broad array of company participants from a cross-section of the U.S. economy, including growing sectors of the economy. An early action program without participants, or one that attracts only companies with emissions that are already decreasing, does not advance U.S. objectives. CEO CAST believes that an emissions rate-based reduction metric is the only way to attract a cross-section of U.S. companies to participate in an early action program that both is voluntary and which results in real progress towards greenhouse gas emissions reductions.

CEO CAST chose a rate-based approach because it

- ▶ It allows growing companies to participate in emissions reduction efforts without being penalized for the fact that they are supplying desirable products or are more efficient than their competitors.
- ▶ It minimizes the inappropriate awarding of early action credits to companies whose absolute emissions are falling simply due to reduced economic activity.

CEO CAST believes that both of these are significant problems for a voluntary, tons-based early action program, which would discourage participation by growing companies and be subject to awarding credits for "anyway" tons. A rate-based approach encourages the widest possible participation among companies and will not be accused of unfairly awarding early credits.

3. *Why did CEO CAST choose a point-of-control focus over a point-of-emissions focus?*

The CEO CAST chose a point-of-control focus because it puts the opportunity to earn credits in the hands of the entity having the most effective control over the affected emissions. For

example, under a point-of-control focus, industry can earn credits by improving the efficiency with which they use electricity. Under a point-of-emissions focus, the industry's electricity provider would earn the credits. Since the industry, not the utility, has control over electricity is used, and since the benefits from the industry's investment in efficiency should accrue to the industry, not the utility, the CEO CAST chose a point-of-control focus.

4. *Why did CEO CAST choose a whole corporation approach over an individual facility approach?*

CEO CAST chose a whole corporation approach because it avoids the inappropriate awarding of credits to companies selecting only facilities with falling emissions for program participation.

5. *What types of mitigation flexibility are built into the CEO CAST proposal?*

The CEO CAST proposal provides companies with flexibility to reduce emissions internally through energy efficiency and resource substitution, through the use of renewable energy, through purchases of GHG offsets, or through business arrangements with upstream suppliers or downstream customers.

6. *What changes did CEO CAST make to the earlier draft of its proposal?*

CEO CAST approved this proposal at its October 2, 1998, meeting. The proposal incorporates changes to an earlier draft version circulated by CEO CAST for review from March through September 1998. The current version reflects the evolving thinking of CEO CAST members, responses to concerns and suggestions made by outside reviewers, and policy and technical improvements developed by CEO CAST's Climate Change Subcommittee and work groups. The proposal contains the following significant enhancements or modifications to the draft:

- ▶ **Private, Public, and Electric Metrics Included:** There are three metrics: CO₂/\$ metrics for the private sector and public sector, and a CO₂/kWh metric for the electric industry.
- ▶ **First Mover Entry Hurdle Reduced:** A company can participate as a First Mover simply by tracking and reporting emissions, but must beat certain efficiency thresholds to earn credits. Previously, a company had to meet the 3%/"Meet Kyoto" improvement rate in order to participate as a First Mover. A sliding scale is now proposed that links the percentage of tons of emissions reduction that is converted to early action credits to the extent to which anticipated business-as-usual efficiency gains are exceeded.
- ▶ **Vertical Integration Problems Avoided:** The proposal includes practical solutions to the potential problem of awarding undeserved credits due to changes in vertical integration (mergers, divestitures, out-sourcing) when in fact no reductions have occurred.

- ▶ **Electricity-Related Credits For Industry:** Electricity is included within the corporate emissions bubble, which encourages non-electric companies to earn credits by investing in efficiency improvements. An accounting approach is used which avoids a potential double counting problem. An industry can earn credits for increasing the efficiency with which it uses electricity, switching to a lower-carbon electricity supply, and purchasing "green" electricity, but not for decreases in emissions intensity achieved by its electricity supplier(s).
- ▶ **Renewable Energy Incentive:** The quantity of emissions reductions from renewable energy purchases and projects receive an additional 10 percent bonus.
- ▶ **Annual Earning of Credits:** Credits are earned annually. It is anticipated that a First Mover is making a long-term commitment, but companies are allowed to leave the program. Such a decision is final. Mechanisms are included that prevent inappropriate earning of credits by companies choosing to terminate participation early.

7. *How are credits calculated under the CEO CAST proposal?*

The mechanism for earning credits is based upon three factors:

- **Rate-Based Performance Metrics:** There are three metrics: CO₂/\$ metrics for the private sector and public sector, and a CO₂/kWh metric for the electric industry.
- **Business-as-Usual Improvement Rate:** A 1%/year business-as-usual improvement rate is assumed, but this might be modified (especially for the electricity sector) as a result of additional technical analysis.
- **A Crediting Multiplier:** The First Movers program uses a sliding scale that links the extent to which business-as-usual is exceeded to the percentage of tons of emissions reduction that is converted to early action credits earned in each year, as follows:

<u>Annual Rate Reduction Beyond "Business as Usual" Improvement Rate</u>	<u>Crediting Multiplier for Tons of Emissions Reductions Occurring During the Year</u>
0.0 - 0.5%	0%
0.5-1%	50%
1-2%	75%
2%+	100%

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DEPARTMENT OF THE TREASURY
WASHINGTON

5

December 1, 1998

MEMORANDUM FOR TODD STERN

From: Bob Cumby
Subject: Credit for Early Action

The group working on early credit has reached consensus on several issues concerning the design of an early credit mechanism. A copy of the latest draft of the memo is attached.

We did not, however, reach consensus on what we believe to be the single most important issue: should an early credit mechanism be capped or left open ended. Because of this issue's importance, we believe that it should be resolved at a higher level.

As with many of the design issues that we have considered, the tradeoff with caps is between maximizing the change from "business as usual" (BAU) emissions and maximizing the number of participants in the program. Overly lax criteria could result in large early credit awards for small real gains (the "anyway tons" problem). Overly stringent criteria could choke off participation; while each qualifying action would be a clear change from BAU, there would be too few participants overall to make a difference.

Our discussion of these substantive issues mirrored views about likely support for the program. While an unlimited early credit pool or easy qualifying criteria will broaden appeal to potential supporters, it will also stimulate stronger opposition from those who do not expect to qualify and see the early credit awards as diminishing their allocations. Potential supporters are also likely to have different interests. Some firms are seeking credit for actions that would satisfy relatively stringent criteria. Others will seek to condition their support on making the program's criteria easier to meet, with some advocating credit for actions that produce little or no benefit or are clearly happening anyway. We should look for ways to structure the program so that there will be some natural check on this pressure for overly lax criteria.

Here is where each of the agencies involved in the process stands:

- Climate Change Task Force: In favor of an open-ended system to encourage broad participation.
- Commerce: In favor of caps in the form of a series of tranches.
- Council of Economic Advisers: In favor of caps.
- EPA: In favor of caps.
- State/EB: In favor of caps.
- Treasury: In favor of caps.

The group's views on the other issues are:

1. A two-part system that treats backward-looking reductions separately is preferred.
2. *First Come First Served, "Truing Up" at End of Period, and Competitive Allocation*: If caps are adopted, all believe that giving credit on a first-come-first-served basis is far superior to an ex-post true up. There was some support for a possible a set-aside to be used for competitive allocations.
3. *What is the Appropriate Measure for Early Credit?*: There was no consensus regarding whether emissions levels, emissions rates, or project-by-project evaluation should be adopted. The general feeling was that flexibility is probably needed to accommodate differences across sectors but the group agreed that individual firms should not be allowed to choose the most advantageous option from a menu.
4. *Options for Defining the Baseline*: The consensus of the group is that either changes from a starting point or changes from a projected reduction schedule is the preferred option and that some scope be allowed for a predefined set of eligible actions or technologies. Changes from business as usual is agreed to be an unacceptable option because of problems in defining what emissions would have been under business as usual.
5. *The Scope of Emissions Measurement*: The group recognizes that allowing credit for both direct and indirect emissions is necessary for a variety of industries to participate. The consensus of the group is that care needs to be taken to insure that emission reductions are not double counted and that administrative burdens do not escalate.
6. *Universal vs. Industry-Specific Programs*: Again, the group recognizes that industry-specific programs are necessary if a variety of industries is to participate. The consensus of the group is that, while some variation in the design of the program across industries is necessary and desirable, individual firms should not have the opportunity to choose the most advantageous from a menu of options.

FACT SHEET
S. 2617
THE CREDIT FOR EARLY ACTION ACT OF 1998

Encourages reduction of greenhouse gases by authorizing the President to provide regulatory credit, (i.e., emissions reduction credit) for early voluntary action (pre-2008) to reduce greenhouse gas emissions.

- Credit would be one-for-one, based on actual reductions below an agreed upon baseline
- Credit could apply against participant's future domestic regulatory requirements, or be sold or traded to others.
- Credits issued under the program would be subtracted from total emissions allowed under future regulatory emissions requirements.
- Participants would agree to annually measure, track and publicly report greenhouse gas emissions.
- Participant would accept a baseline of current emissions (annual average of 1996-98 emissions, or earlier, through 1990) and would receive credit for voluntary reductions below that level, multiplied by the number of years in the program (e.g., If '96-'98 baseline = 100, and participant joins program in 2000, the baseline would be 100×8 , 8 being the number of years between 2000 and 2008.
- Subject to verification, accurate reporting and protections against double counting, credit could include reductions which have occurred since 1990 and reported under 1605 (b) of the Energy Policy Act.
- Credit could be earned through sequestration of carbon as well as through reductions.
- New sources of emissions coming on line after the base period could earn credit against a baseline equal to the most efficient commercially available technology for sources of the same type.
- The baseline would be adjusted up or down for acquisition or transfer of emitting assets.
- Any agreement must contain effective provisions to prevent displacement of emissions to sources outside of the program.

105TH CONGRESS
2D SESSION

S. 2617

To amend the Clean Air Act to authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate greenhouse gas emissions.

IN THE SENATE OF THE UNITED STATES

OCTOBER 10 (legislative day, OCTOBER 2), 1998

Mr. CHAFEE (for himself, Mr. MACK, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Clean Air Act to authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate greenhouse gas emissions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Credit for Voluntary
5 Early Action Act”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to encourage voluntary
8 greenhouse gas emission mitigation actions by authorizing

1 the President to enter into binding agreements under
 2 which entities operating in the United States will receive
 3 credit, usable in any future domestic program that re-
 4 quires mitigation of greenhouse gas emissions, for vol-
 5 untary mitigation actions before 2008.

6 **SEC. 3. CREDIT FOR VOLUNTARY GREENHOUSE GAS EMIS-**
 7 **SION MITIGATION ACTIONS.**

8 The Clean Air Act (42 U.S.C. 7401 et seq.) is amend-
 9 ed by adding at the end the following:

10 **“TITLE VII—CREDIT FOR VOL-**
 11 **UNTARY GREENHOUSE GAS**
 12 **EMISSION MITIGATION AC-**
 13 **TIONS**

14 **“SEC. 701. DEFINITIONS.**

15 “In this title:

16 “(1) CARBON RESERVOIR.—The term ‘carbon
 17 reservoir’ means quantifiable nonfossil storage of
 18 carbon in a natural or managed ecosystem or other
 19 reservoir.

20 “(2) DOMESTIC.—The term ‘domestic’ means
 21 within the territorial jurisdiction of the United
 22 States.

23 “(3) DOMESTIC GREENHOUSE GAS REGU-
 24 LATORY STATUTE.—The term ‘domestic greenhouse
 25 gas regulatory statute’ means a Federal statute, en-

1 acted after the date of enactment of this title, that
2 imposes a quantitative limitation on domestic green-
3 house gas emissions, or taxes such emissions.

4 “(4) EARLY ACTION AGREEMENT.—The term
5 ‘early action agreement’ means an agreement with
6 the United States entered into under section 702(a).

7 “(5) EXISTING SOURCE.—The term ‘existing
8 source’ means a source that emitted greenhouse
9 gases in the participant’s base period determined
10 under section 704.

11 “(6) FIRST COMPLIANCE PERIOD.—The term
12 ‘first compliance period’ means the first period dur-
13 ing which a domestic greenhouse gas regulatory stat-
14 ute takes effect.

15 “(7) GREENHOUSE GAS.—The term ‘greenhouse
16 gas’ means—

17 “(A) carbon dioxide; and

18 “(B) to the extent provided by an early ac-
19 tion agreement—

20 “(i) methane;

21 “(ii) nitrous oxide;

22 “(iii) hydrofluorocarbons;

23 “(iv) perfluorocarbons; and

24 “(v) sulfur hexafluoride.

1 “(8) GREENHOUSE GAS REDUCTION CREDIT.—

2 The term ‘greenhouse gas reduction credit’ means
3 an authorization under a domestic greenhouse gas
4 regulatory statute to emit 1 metric ton of green-
5 house gas (expressed in terms of carbon dioxide
6 equivalent) that is provided because of greenhouse
7 gas emission reductions or carbon sequestration car-
8 ried out before the first compliance period.

9 “(9) NEW SOURCE.—The term ‘new source’
10 means a source other than an existing source.

11 “(10) OWN.—The term ‘own’ means to have di-
12 rect or indirect ownership of an undivided interest in
13 an asset.

14 “(11) PARTICIPANT.—The term ‘participant’
15 means a person that enters into an early action
16 agreement with the United States under this title.

17 “(12) PERSON.—The term ‘person’ includes a
18 governmental entity.

19 “(13) SOURCE.—The term ‘source’ means a
20 source of greenhouse gas emissions.

21 **“SEC. 702. AUTHORITY FOR EARLY ACTION AGREEMENTS.**

22 “(a) AUTHORITY.—

23 “(1) IN GENERAL.—The President may enter
24 into a legally binding early action agreement with
25 any person under which the United States agrees to

1 provide greenhouse gas reduction credit usable be-
 2 ginning in the first compliance period, if the person
 3 takes an action that reduces greenhouse gas emis-
 4 sions or sequesters carbon before January 1, 2008.

5 “(2) REQUIREMENTS.—An early action agree-
 6 ment entered into under paragraph (1) shall meet
 7 either—

8 “(A) the requirements for early action
 9 agreements under sections 703 through 706; or

10 “(B) in the case of a participant described
 11 in section 707, the requirements of that section.

12 “(b) DELEGATION.—The President may delegate any
 13 authority under this title to any Federal department or
 14 agency.

15 “(c) REGULATIONS.—The President may promulgate
 16 such regulations (including guidelines) as are appropriate
 17 to carry out this title.

18 **“SEC. 703. ENTITLEMENT TO GREENHOUSE GAS REDUC-**
 19 **TION CREDIT FOR EARLY ACTION.**

20 “(a) IN GENERAL.—

21 “(1) INTERNATIONAL ACTIVITIES.—

22 “(A) INTERNATIONALLY CREDITABLE AC-
 23 TIONS.—A participant shall receive greenhouse
 24 gas reduction credit under an early action

1 agreement if the participant takes an action
2 that—

3 “(i) reduces greenhouse gas emissions
4 or sequesters carbon before January 1,
5 2008; and

6 “(ii) under any applicable inter-
7 national agreement, will result in an addi-
8 tion to the United States quantified emis-
9 sion limitation for the first compliance pe-
10 riod.

11 “(B) UNITED STATES INITIATIVE FOR
12 JOINT IMPLEMENTATION.—

13 “(i) IN GENERAL.—Subject to clause
14 (ii), an early action agreement may provide
15 that a participant shall be entitled to re-
16 ceive greenhouse gas reduction credit for a
17 greenhouse gas emission reduction or car-
18 bon sequestration that—

19 “(I) is not creditable under sub-
20 paragraph (A); and

21 “(II) is for a project accepted be-
22 fore 2000 under the United States
23 Initiative for Joint Implementation.

24 “(ii) LIMITATION ON PERIOD IN
25 WHICH CREDIT MAY BE EARNED.—No

1 greenhouse gas reduction credit may be
 2 earned under this subparagraph after the
 3 earlier of—

4 “(I) the earliest date on which
 5 credit may be earned for a greenhouse
 6 gas emission reduction, carbon seques-
 7 tration, or comparable project under
 8 an applicable international agreement;
 9 or

10 “(II) December 31, 2007.

11 “(2) DOMESTIC ACTIVITIES.—

12 “(A) EMISSION REDUCTIONS.—A partici-
 13 pant shall receive greenhouse gas reduction
 14 credit under an early action agreement if, dur-
 15 ing the 1999 through 2007 period—

16 “(i) the participant’s aggregate green-
 17 house gas emissions from domestic sources
 18 that are covered by the early action agree-
 19 ment; are less than

20 “(ii) the sum of the participant’s an-
 21 nual source baselines during that period as
 22 determined under section 704.

23 “(B) SEQUESTRATION.—For the purpose
 24 of receiving greenhouse gas reduction credit
 25 under subparagraph (A), the amount by which

1 aggregate net carbon sequestration for the
 2 1999 through 2007 period in a participant's do-
 3 mestic carbon reservoirs covered by an early ac-
 4 tion agreement exceeds the sum of the partici-
 5 pant's annual reservoir baselines for calendar
 6 years 1999 through 2007 shall be treated as a
 7 greenhouse gas emission reduction.

8 “(C) SECTION 1605 ACTIVITY.—An early
 9 action agreement may provide that a partici-
 10 pant shall be entitled to receive 1 ton of green-
 11 house gas reduction credit for each ton of
 12 greenhouse gas emission reductions or carbon
 13 sequestration for the 1991 through 1998 period
 14 from domestic activities that—

15 “(i) are—

16 “(I) reported before January 1,
 17 1999, under section 1605 of the En-
 18 ergy Policy Act of 1992 (42 U.S.C.
 19 13385); or

20 “(II) carried out and reported
 21 under a Federal agency program to
 22 implement the Climate Change Action
 23 Plan; and

24 “(ii) are verified (in accordance with
 25 section 706) as—

1 “(I) being accurately reported;
2 “(II) not being double-counted;
3 and
4 “(III) representing actual reduc-
5 tions in greenhouse gas emissions or
6 in actual net carbon sequestration.

7 “(3) EXTENSION.—The parties to an early ac-
8 tion agreement may extend the 1999 through 2007
9 period during which greenhouse gas reduction credit
10 may be earned under the early action agreement, if
11 Congress permits such an extension by law enacted
12 after the date of enactment of this title.

13 “(b) AWARD OF GREENHOUSE GAS REDUCTION
14 CREDIT.—

15 “(1) NOTIFICATION OF PROVISIONAL CREDIT.—
16 The President shall annually notify each participant
17 of the quantity of greenhouse gas reduction credit
18 provisionally earned under an early action agree-
19 ment.

20 “(2) AWARD OF FINAL CREDIT.—Effective on
21 January 1, 2008, a participant shall be entitled to
22 receive 1 ton of greenhouse gas reduction credit for
23 each 1 ton that is creditable under subsection (a).

1 **“SEC. 704. BASELINE AND BASE PERIOD.**

2 “(a) SOURCE BASELINE.—A participant’s annual
3 source baseline for each of calendar years 1999 through
4 2007 shall be equal to the participant’s average annual
5 greenhouse gas emissions from domestic sources covered
6 by the participant’s early action agreement during a 1996
7 through 1998 base period, adjusted for the calendar year
8 as provided in subsections (a)(2), (c)(1), and (c)(2) of sec-
9 tion 705.

10 “(b) RESERVOIR BASELINE.—A participant’s annual
11 reservoir baseline for each of calendar years 1999 through
12 2007 shall be equal to the average level of carbon stocks
13 in carbon reservoirs covered by the participant’s early ac-
14 tion agreement for a 1996 through 1998 base period, ad-
15 justed for the calendar year as provided in section
16 705(c)(1).

17 “(c) ALTERNATIVE BASE PERIODS.—

18 “(1) DATA UNAVAILABLE OR UNREPRESENTA-
19 TIVE.—The regulations promulgated under section
20 702(c) may specify a base period other than 1996
21 through 1998 that will be applicable if adequate
22 data are not available to determine a 1996 through
23 1998 baseline or if such data are unrepresentative.

24 “(2) ELECTIONS.—The regulations promul-
25 gated under section 702(c) may permit a participant
26 to elect a base period earlier than 1996 through

1 1998 (not to include any year earlier than 1990) to
 2 reflect voluntary reductions made before January 1,
 3 1996.

4 “(3) SECTION 1605 ACTIVITY.—Except as other-
 5 wise provided by the regulations promulgated under
 6 section 702(c), if an election is made for a base pe-
 7 riod earlier than 1996 through 1998, no greenhouse
 8 gas reduction credit shall be available under section
 9 703(a)(2)(C).

10 **“SEC. 705. SOURCES AND CARBON RESERVOIRS COVERED**
 11 **BY EARLY ACTION AGREEMENTS.**

12 “(a) SOURCES.—

13 “(1) IN GENERAL.—

14 “(A) COVERED SOURCES.—Except as oth-
 15 erwise provided in this subsection, a partici-
 16 pant’s early action agreement shall cover all do-
 17 mestic greenhouse gas sources that the partici-
 18 pant owns as of the date on which the early ac-
 19 tion agreement is entered into.

20 “(B) EXCLUSIONS.—The regulations pro-
 21 mulgated under section 702(c) (or the terms of
 22 an early action agreement) may exclude from
 23 coverage under an early action agreement—

24 “(i) small or diverse sources owned by
 25 the participant; and

1 “(ii) sources owned by more than 1
2 person.

3 “(2) NEW SOURCES.—

4 “(A) IN GENERAL.—The regulations pro-
5 mulgated under section 702(c) may provide that
6 an early action agreement may provide for an
7 annual addition to a participant’s source base-
8 line to account for new sources owned by the
9 participant.

10 “(B) AMOUNT OF ADDITION.—The amount
11 of an addition under subparagraph (A) shall re-
12 flect the emission performance of the most effi-
13 cient commercially available technology for
14 sources of the same type as a new source (de-
15 termined as of the date on which the early ac-
16 tion agreement is entered into).

17 “(b) OPT-IN PROVISIONS.—

18 “(1) OPT-IN FOR OTHER OWNED SOURCES.—
19 Domestic sources owned by a participant that are
20 not required to be covered under subsection (a) may
21 be covered under an early action agreement at the
22 election of the participant.

23 “(2) OPT-IN FOR CARBON RESERVOIRS.—

24 “(A) IN GENERAL.—An early action agree-
25 ment may provide that domestic carbon res-

1 ervoirs owned by a participant may be covered
2 under the early action agreement at the election
3 of the participant.

4 “(B) COVERAGE.—Except in the case of
5 small or diverse carbon reservoirs owned by the
6 participant (as provided in the regulations pro-
7 mulgated under section 702(c)), if a participant
8 elects to have domestic carbon reservoirs cov-
9 ered under the early action agreement, all of
10 the participant’s domestic carbon reservoirs
11 shall be covered under the early action agree-
12 ment.

13 “(3) OPT-IN FOR SOURCES AND CARBON RES-
14 ERVOIRS NOT OWNED BY PARTICIPANT.—Any source
15 or carbon reservoir not owned by the participant, or
16 any project that decreases greenhouse gas emissions
17 from or sequesters carbon in such a source or car-
18 bon reservoir, may be covered by an early action
19 agreement, with the consent of each owner of the
20 source or carbon reservoir and in accordance with
21 the regulations promulgated under section 702(c).

22 “(c) ACCOUNTING RULES.—

23 “(1) TRANSFERS.—If ownership of a source or
24 carbon reservoir covered by an early action agree-
25 ment is transferred to or from the participant—

1 “(A) in the case of a source, the source’s
2 emissions shall be adjusted to reflect the trans-
3 fer for the base period and each year for which
4 greenhouse gas reduction credit is claimed; and

5 “(B) in the case of a carbon reservoir—

6 “(i) the carbon reservoir’s carbon
7 stocks shall be adjusted to reflect the
8 transfer for the base period; and

9 “(ii) the carbon reservoir’s net carbon
10 sequestration shall be adjusted to reflect
11 the transfer for each year for which green-
12 house gas reduction credit is claimed.

13 “(2) DISPLACEMENT OF EMISSIONS.—An early
14 action agreement shall contain effective and work-
15 able provisions that ensure that only net emission
16 reductions will be credited under section 703 in cir-
17 cumstances in which emissions are displaced from
18 sources covered by an early action agreement to
19 sources not covered by an early action agreement.

20 “(3) PERIOD OF COVERAGE.—Emissions from
21 sources and net carbon sequestration in carbon res-
22 ervoirs shall be covered by an early action agreement
23 for the 1999 through 2007 period, except as pro-
24 vided under paragraph (1) or by the regulations pro-
25 mulgated under section 702(c).

1 “(4) PARTIAL YEARS.—An early action agree-
2 ment shall contain appropriate provisions for any
3 partial year of coverage of a source or carbon res-
4 ervoir.

5 **“SEC. 706. MEASUREMENT AND VERIFICATION.**

6 “An early action agreement shall provide that the
7 participant, in accordance with the regulations promul-
8 gated under section 702(c)—

9 “(1) shall annually measure, track, and publicly
10 report greenhouse gas emissions for the term of the
11 early action agreement; and

12 “(2) shall establish procedures for measurement
13 and reporting of emissions, emission reductions, and
14 carbon sequestration by qualified independent third
15 party entities.

16 **“SEC. 707. AUTHORITY TO ENTER INTO AGREEMENTS THAT**
17 **ACHIEVE COMPARABLE REDUCTIONS.**

18 “In the case of a participant that manufactures or
19 constructs for sale to end-users equipment or facilities
20 that emit greenhouse gases, the President may enter into
21 an early action agreement that does not meet the require-
22 ments of sections 703 through 705, if the President deter-
23 mines that—

24 “(1) an early action agreement that meets the
25 requirements of those sections is infeasible;

1 “(2) an alternative form of agreement would
2 better carry out this title; and

3 “(3) an agreement under this section would
4 achieve tonnage reductions of greenhouse gas emis-
5 sions that are comparable to reductions that would
6 be achieved under an agreement that meets the re-
7 quirements of those sections.

8 **“SEC. 708. TRADING AND POOLING.**

9 “(a) TRADING.—A participant may—

10 “(1) purchase earned greenhouse gas reduction
11 credit from and sell the credit to any other partici-
12 pant; and

13 “(2) sell the credit to any person that is not a
14 participant.

15 “(b) POOLING.—The regulations promulgated under
16 section 702(c) may permit pooling arrangements under
17 which a group of participants agree to act as a single par-
18 ticipant for the purpose of entering into an early action
19 agreement.

20 **“SEC. 709. RELATIONSHIP TO FUTURE DOMESTIC GREEN-**
21 **HOUSE GAS REGULATORY STATUTE.**

22 “(a) IN GENERAL.—An early action agreement shall
23 not bind the United States to adopt (or not to adopt) any
24 particular form of domestic greenhouse gas regulatory

1 statute, except that an early action agreement shall pro-
2 vide that—

3 “(1) greenhouse gas reduction credit earned by
4 a participant under an early action agreement shall
5 be provided to the participant in addition to any oth-
6 erwise available authorizations of the participant to
7 emit greenhouse gases in the first compliance period
8 under a domestic greenhouse gas regulatory statute;
9 and

10 “(2) if the allocation of authorizations under a
11 domestic greenhouse gas regulatory statute to emit
12 greenhouse gases in the first compliance period is
13 based on the level of a participant’s emissions in a
14 historic period that is later than the participant’s
15 base period under the participant’s early action
16 agreement, any greenhouse gas reduction credit to
17 which the participant was entitled under the early
18 action agreement for domestic greenhouse gas reduc-
19 tions during that historic period shall, for the pur-
20 pose of that allocation, be added back to the partici-
21 pant’s greenhouse gas emissions level for the historic
22 period.

23 “(b) LIMITATION.—Nothing in this title authorizes
24 aggregate greenhouse gas emissions from domestic sources
25 in an amount that exceeds any greenhouse gas emission

1 limitation applicable to the United States under an inter-
2 national agreement that has been ratified by the United
3 States and has entered into force.”.

○

in negotiations on any treaty containing an arms control provision, United States negotiators should not agree to any provision that would have the effect of inhibiting the United States from withdrawing from the arms control provisions of that treaty in a timely fashion in the event that the supreme national interests of the United States have been jeopardized.

(7) PROHIBITION ON DE FACTO IMPLEMENTATION OF THE OTTAWA CONVENTION.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that—

(A) the President will not limit the consideration of alternatives to United States anti-personnel mines or mixed anti-tank systems solely to those that comply with the Ottawa Convention; and

(B) in pursuit of alternatives to United States anti-personnel mines, or mixed anti-tank systems, the United States shall seek to identify, adapt, modify, or otherwise develop only those technologies that—

(i) are intended to provide military effectiveness equivalent to that provided by the relevant anti-personnel mine, or mixed anti-tank system; and

(ii) would be affordable.

(8) CERTIFICATION WITH REGARD TO INTERNATIONAL TRIBUNALS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that with respect to the Amended Mines Protocol, the Convention on Conventional Weapons, or any future protocol or amendment thereto, that the United States shall not recognize the jurisdiction of any international tribunal over the United States or any of its citizens.

(9) TACTICS AND OPERATIONAL CONCEPTS.—It is the sense of the Senate that development, adaptation, or modification of an existing or new tactic or operational concept, in and of itself, is unlikely to constitute an acceptable alternative to anti-personnel mines or mixed anti-tank systems.

(10) FINDING REGARDING THE INTERNATIONAL HUMANITARIAN CRISIS.—The Senate finds that—

(A) the grave international humanitarian crisis associated with anti-personnel mines has been created by the indiscriminate use of mines that do not meet or exceed the specifications on detectability, self-destruction, and self-deactivation contained in the Technical Annex to the Amended Mines Protocol; and

(B) United States mines that do meet such specifications have not contributed to this problem.

(11) APPROVAL OF MODIFICATIONS.—The Senate reaffirms the principle that any amendment or modification to the Amended Mines Protocol other than an amendment or modification solely of a minor technical or administrative nature shall enter into force with respect to the United States only pursuant to the treaty-making power of the President, by and with the advice and consent of the Senate, as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(12) FURTHER ARMS REDUCTIONS OBLIGATIONS.—The Senate declares its intention to consider for approval an international agreement that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty-making power as set forth in Article II, section 2, clause 2 of the Constitution of the United States.

(13) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally-based principles of treaty interpretation set forth in condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27,

1988, and condition (8) of the resolution of ratification of the CFE Flank Document, approved by the Senate on May 14, 1997.

(14) PRIMACY OF THE UNITED STATES CONSTITUTION.—Nothing in the Amended Mines Protocol requires or authorizes the enactment of legislation, or the taking of any other action, by the United States that is prohibited by the Constitution of the United States, as interpreted by the United States.

SEC. 5. DEFINITIONS.

As used in this resolution:

(1) AMENDED MINES PROTOCOL OR PROTOCOL.—The terms "Amended Mines Protocol" and "Protocol" mean the Amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, together with its Technical Annex, as adopted at Geneva on May 3, 1996 (contained in Senate Treaty Document 105-1).

(2) CFE FLANK DOCUMENT.—The term "CFE Flank Document" means the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990, done at Vienna on May 31, 1996 (Treaty Document 105-5).

(3) CONVENTION ON CONVENTIONAL WEAPONS.—The term "Convention on Conventional Weapons" means the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, done at Geneva on October 10, 1980 (Senate Treaty Document 103-25).

(4) OTTAWA CONVENTION.—The term "Ottawa Convention" means the Convention on the Prohibition of the Use, Production, Stockpiling, and Transfer of Anti-Personnel Mines and on Their Destruction, opened for signature at Ottawa December 3-4, 1997 and at the United Nations Headquarters beginning December 5, 1997.

(5) UNITED STATES INSTRUMENT OF RATIFICATION.—The term "United States instrument of ratification" means the instrument of ratification of the United States of the Amended Mines Protocol.

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. CHAFEE (for himself, Mr. MACK, and Mr. LIEBERMAN):

S. 2617. A bill to amend the Clean Air Act to authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate greenhouse gas emissions; to the Committee on Environment and Public Works.

By Mr. MCCAIN:

S. 2618. A bill to require certain multilateral development banks and other lending institutions to implement independent third-party procurement monitoring, and for other purposes; to the Committee on Foreign Relations.

By Mr. DASCHLE:

S. 2619. A bill to amend title 38, United States Code, to improve access of veterans to emergency medical care in non-Department of Veterans Affairs medical facilities; to the Committee on Veterans Affairs.

By Mr. ROBB:

S. 2620. A bill to amend the Federal Water Pollution Control Act to establish a National Clean Water Trust Fund and to authorize the Administrator of the Environmental Protection Agency to use amounts in the Fund to carry out projects to promote the recovery of waters of the United States

from damage resulting from violations of that Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2621. A bill to authorize the acquisition of the Valles Caldera currently managed by the Baca Land and Cattle Company, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture through the private sector, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. BAUCUS, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. BREAUX, Mr. D'AMATO, Mr. CONRAD, Mr. MURKOWSKI, Mr. GRAHAM, Mr. JEFFORDS, Ms. MOSELEY-BRAUN, Mr. MACK, Mr. BRYAN, and Mr. KERRY):

S. 2622. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; to the Committee on Finance.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. BROWNBACK, Mr. ROTH, and Mr. STEVENS):

S. 2623. A bill to increase the efficiency and effectiveness of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DOMENICI:

S. 2624. A bill to establish a program for training residents of low-income rural areas for, and employing the residents in, new telecommunications industry jobs located in the rural areas, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself, Mr. MACK, and Mr. LIEBERMAN):

S. 2617. A bill to amend the Clean Air Act to authorize the President to enter into agreements to provide regulatory credit for voluntary early action to mitigate greenhouse gas emissions; to the Committee on Environment and Public Works.

CREDIT FOR EARLY ACTION ACT OF 1998

Mr. CHAFEE. Mr. President, I am proud to join with Senators MACK and LIEBERMAN today to introduce the Credit for Early Action Act of 1998. This bipartisan legislation is designed to encourage voluntary, meaningful, and early efforts by industry to reduce their emissions of greenhouse gases. This is a bill to address the threat of global climate change.

Before I get into the details of this legislative proposal, let me spend a few moments discussing the science of climate change.

Human influence on the global climate in an extraordinarily complex matter that has undergone more than a century of research. Indeed, in an 1896 lecture delivered to the Stockholm Physics Society by the Nobel Prize-winning chemist, Svante Arrhenius, it was predicted that large increases in carbon dioxide (CO₂) would result in a corresponding warming of the globe.

Professor Arrhenius was the first to predict that large increases in CO₂ would result in a warming of the globe. What have the world's scientists told

us at different intervals over the last one hundred years, since Mr. Arrhenius identified the warming effects of CO₂?

In 1924, a U.S. physicist speculated that industrial activity would double atmospheric CO₂ in five hundred years, around the year 2424. Current projections, however, call for a doubling sometime before 2050—some four hundred years earlier than predicted just seventy years ago!

In 1957, scientists from the Scripps Institute of Oceanography reported for the first time that much of the CO₂ emitted into the atmosphere is not absorbed by the oceans as some had argued, leaving significant amounts in the atmosphere. They are said to have called carbon dioxide emissions "a large-scale geophysical experiment" with the Earth's climate.

In 1967, the first reliable computer simulation calculated that global average temperatures may increase by more than four degrees Fahrenheit when atmospheric CO₂ levels are double that of preindustrial times. In 1985, a conference sponsored by the United Nations Environment Program (UNEP), the World Meteorological Organization (WMO), and the International Council of Scientific Unions forged a consensus of the international scientific community on the issue of climate change. The conference report warned that some future warming appears inevitable due to past emissions, regardless of future actions, and recommended consideration of a global treaty to address climate change.

In 1987, an ice core from Antarctica, analyzed by French and Russian scientists, revealed an extremely close correlation between CO₂ and temperature going back more than one hundred thousand years. In 1990, an appeal signed by forty-nine Nobel prize winners and seven hundred members of the National Academy of Science stated, "There is broad agreement within the scientific community that amplification of the Earth's natural greenhouse effect by the buildup of various gases introduced by human activity has the potential to produce dramatic changes in climate . . . only by taking action now can be ensure that future generations will not be put at risk."

Also in 1990, seven hundred and forty-seven participants from one hundred sixteen countries took part in the Second world Climate Conference. The conference statement reported that, "... if the increase of greenhouse gas concentrations is not limited, the predicted climate change would place stresses on natural and social systems unprecedented in the past ten thousand years."

Finally, Mr. President, in 1995, the Intergovernmental Panel on Climate Change, representing the consensus of climate scientists worldwide, concluded that "... the balance of evidence suggests that there is a discernible human influence on global climate."

This last development is significant, because the overwhelming majority of

climate scientists concluded, for the first time, that man is influencing the global climate system. That conclusion, while controversial in some quarters, was endorsed unanimously by the governments of the ninety-six countries involved in the panel's efforts.

Are these forecasted outcomes a certainty? They are not. The predictions of climate change are indeed based on numerous variables. Although scientists are improving the state of their knowledge at a rapid pace, we still have a lot to learn about the role of the sun, clouds and oceans, for example.

The question is, will we ever have absolute certainty? Will we ever be able to eliminate all of the variables? The overwhelming majority of independent, peer-reviewed scientific studies indicate that we do not have such a luxury. By the time we finally attain absolute certainty, it would likely take centuries to reverse atmospheric damage and oceanic warming.

Mr. President, I am not alone in this thinking. There are an increasing number of business leaders in our country who have arrived at the same conclusion that we need to act swiftly.

In a "dear colleague" letter sent out this week under my signature, I repeated a remarkable statement issued by an impressive group of companies that have joined with the newly established Pew Center on Climate Change. American Electric Power, Boeing, BP America, Enron, Lockheed Martin, 3M, Sun, United Technologies, Toyota, Weyerhaeuser, and several others said that, "we accept the views of most scientists that enough is known about the science and environmental impacts of climate change for us to take actions to address its consequences."

The legislation to be introduced today by Senator MACK, Senator LIEBERMAN and I proposes an exciting framework that would appropriately recognize real and immediate action to combat climate change. While the climate debate will indeed continue over the next few years, we strongly believe that there is a voluntary, incentive-based approach which can be implemented now. Congressional approval of this approach, which the three of us and others will work for early next year, will provide the certainty necessary to encourage companies to move forward with practical, near-term emission reductions.

Specifically, this legislation would provide a mechanism by which the President can enter into binding greenhouse gas reduction agreements with entities operating in the United States. Once executed, these agreements will provide credits for voluntary greenhouse gas reductions effected by those entities before 2008, or whenever we might have an imposition of any domestic or international emission reduction requirements.

Importantly, this program is designed to work within the framework of whatever greenhouse gas control requirement may eventually become ap-

plicable within the United States. The credits would be usable beginning in the first five-year budget period (2008-2012) under the Kyoto Protocol, if the Kyoto Protocol is ratified. If the Protocol is not ratified, and we end up with a domestic program to regulate or otherwise control greenhouse gas emissions, the credits would be usable in that program.

This sort of approach makes sense for a wide variety of reasons. Encouraging early reductions can begin to slow the rate of buildup of greenhouse gases in the atmosphere, helping to minimize the potential environmental risks of continued warming. Given the longevity of many climate gases, which continue to trap heat in the atmosphere for a century or more, it just makes sense to encourage practical actions now.

By guaranteeing companies credit for voluntary early reductions, the bill would allow companies to protect themselves against the potential for steep reduction requirements or excessive costs in the future. For companies that want to reduce their greenhouse gas emissions, providing credit for action now adds years to any potential compliance schedule, allowing companies to spread costs over broader time periods. A focus on early reductions can help stimulate the American search for strategies and technologies that are needed worldwide. Development of such strategies and technologies can improve American competitiveness in the \$300 billion dollar global environmental marketplace.

This "credit" program may also make the greenhouse gas reductions achieved before regulations are in place financially valuable to the companies who make such reductions. Given the likely inclusion of market based approaches to any eventual domestic regulatory requirements, similar to the successful acid rain program of the 1990 Clean Air Act, credit earned could be traded or sold to help other companies manage their own reduction efforts.

Under a "no credit" approach, the status quo, it is more likely that early reduction companies will be penalized if greenhouse gas reductions are ultimately required, because their competitors who wait to reduce will get credit for later reductions. Such a "no credit" approach could even create perverse incentives to delay investments until emissions reductions would be credited.

In anticipation of a potential global emissions market, decisions re being made now by entrepreneurial companies and countries. For example, Russia and Japan have already concluded a trade of greenhouse gas emission credits. Private companies such as Niagara-Mohawk and Canada-based Suncor are moving forward with cross-boundary trades. Aggressive global energy companies, such as British Petroleum, AEP, and PacifiCorp are already implementing agreements in Central and

South America—sequestering carbon and developing credits against emissions—by protecting rain forests.

Mr. President, America can and should reward companies that take such positive steps to position themselves, and the US, for the environmental and economic future.

On the international side, passage by the U.S. Congress of a program to help stimulate early action will be clear example of American leadership and responsibility. Developing countries currently argue that nations such as the United States, with huge advantages in quality of life and dramatically higher per capita emissions of greenhouse gases, should take a leadership role in the reduction of greenhouse gas emissions. And they argue that developing countries should not be asked to take steps until the U.S. begins to move forward. This bill can work directly to change that situation, therefore removing a barrier to essential developing country progress.

There it is, Mr. President. We are here today because we believe that climate change presents a serious threat. We believe it makes sense to get started now. And, as many leading American companies do, we believe that there are sensible, fair and voluntary methods to get on the right track.

We encourage our colleagues to use the time between now and next January to review this legislation carefully. We are open to suggestions. Most importantly, we are looking for others to join us in this effort.

• **Ms. MACK.** Mr. President, as an original cosponsor of the Credit for Early Action Act, I rise to congratulate Senator CHAFEE on its introduction, as well as the other original cosponsor, Senator LIEBERMAN, and to make several points about the bill.

The purpose of the act is simple. It is to encourage and reward voluntary actions which businesses may take to reduce emissions of "greenhouse gases" such as carbon dioxide. It would not require actions, but it would provide encouragement in the form of credit, credit that could be used by companies to manage future regulatory requirements, or in a market-based approach, traded or sold to other companies as they worked to meet their own obligations.

Given the uncertainty that surrounds the discussion of greenhouse gases and global warming, I can understand why some may question the need for such a bill. As one who is not convinced that we understand this issue well enough, I can understand that question. In fact, it is precisely because of the uncertainty that I think such a bill makes sense.

Of course there is a great deal of uncertainty surrounding such possible results, and frankly, as I said, I am not convinced that we know enough yet. The complexities and uncertainties associated with trying to understand the vast interactions of our climate, our atmosphere and our human impact on

both, are enormous. And the consequences of actions targeted at changing our patterns of energy use can be dramatic.

But uncertainty cuts two ways, and the possibility always exists that some of these projections about impacts could be more right than wrong. Perhaps then it makes sense to provide some appropriate encouragement, so that those who want to invest in improved efficiency, those who want to find ways to make cars and factories and power production cleaner, those companies can receive some encouragement, not based on government fiat or handout, but based on getting credit for their own initiative and actions. The environmental result will likely be some lessening of the potential problems associated with possible global warming, and that just makes sense.

There is, of course, another uncertainty that gives me pause as well, and that serves as another strong reason for my interest in this bill. It is clear to me today that there is no desire on the part of this Congress to legislate requirements on carbon dioxide or any of the other "greenhouse gases." I think that is the correct position.

But we cannot know today what some future Congress, perhaps a decade away, might decide to do. Perhaps the science will become more compelling. Perhaps the majority will shift back to a more regulatory minded party. Perhaps a future Senate will decide to ratify the Kyoto Protocol. Perhaps a future administration and a future majority will combine to put a regulatory structure in place that will require substantial reductions of these gases. And while we may oppose such action today, we cannot know the outcome of this future debate.

Given this regulatory uncertainty, I think a compelling argument can be made to provide protection for companies today, so that they are protected against the possibility of future requirements. What this bill will do is just that. By allowing companies to earn credit for actions that they take over the next few years, the bill will make sure that if a regulator comes to see them in the future, they can say, "I already did my part." Companies can make decisions based on their own best interest, they can work to improve efficiency and reduce waste. And if this bill becomes law, they can get credit for those actions against any future regulatory controls on greenhouse gases. That seems like a good idea to me.

In closing Mr. President, I again want to congratulate Senator CHAFEE, along with our other original cosponsor Senator LIEBERMAN, for this thoughtful, balanced approach to the uncertainty presented by the climate change issue. I am proud to be an original cosponsor of this bill, and I want to urge my colleagues to take a good look at this approach so that we can begin to move forward in earnest in the next Congress. •

• **Mr. LIEBERMAN.** Mr. President, I am delighted to join today with my colleagues Senator CHAFEE, the chairman of the Environment and Public Works Committee, and Senator MACK in introducing this legislation. It will provide credit, under any future greenhouse gas reduction systems we may adopt, to companies who act now to reduce their emissions of greenhouse gases. This is a voluntary, market-based approach which is a win-win situation for both American businesses and the environment. Enactment of this legislation will provide the certainty necessary to encourage companies to move forward with emission reductions now. I'm particularly pleased that the legislation grows out of principles developed in a dialog between the Environmental Defense Fund and a number of major industries.

The point of this legislation is simple. Many companies want to move forward now to reduce their greenhouse gas emissions. They don't want to wait until legislation requires them to make these reductions. For some companies reducing greenhouse gases makes good economic sense because adopting cost-effective solutions can actually save them money by improving the efficiency of their operations. Companies recognize if they reduce their greenhouse gas emissions now they will be able to add years to any potential compliance schedule, allowing companies to spread their costs over broader time periods. Acting now can help U.S. companies protect themselves against the potential for significant reductions that may be required in the future. This bill ensures they will be credited in future reduction proposals for action now.

Early action by U.S. companies will also have an enormous benefit for the environment. Early reductions can begin to slow the rate of buildup of greenhouse gases in the atmosphere, helping to minimize the environmental risks of continued global warming. Given that once emitted, many climate change gases continue to trap heat for a century or more in the atmosphere, it just makes sense to encourage practical action now.

Climate change is neither an abstraction nor the object of a science fiction writer's imagination. It is real and affects us all. More than 2,500 of the world's best scientific and technical experts have linked the increase of greenhouse gases to at least some of the increase in sea level, temperature and rainfall experienced worldwide in this century. Last year was the warmest year on record, and 9 of the last 11 years were among the warmest ever recorded.

The point of this legislation is to provide an incentive for companies that want to make voluntary early reduction in emissions of greenhouse gases by guaranteeing that these companies will receive credit, once binding requirements begin, for voluntary reductions they have made before 2008. These

credits will enable US companies to add years to any potential compliance schedule for reductions, allowing them to spread costs over broader time periods. These credits may also be financially valuable to companies who make the reductions. Credits earned likely could be traded or sold to help other companies manage their own reduction requirements. A focus on early reductions can also help stimulate the search for and use of new, innovative strategies and technologies that are needed to help companies both in this country and worldwide meet their reduction requirements in a cost-effective manner. Development of such strategies and technologies can improve American competitiveness in the more than \$300 billion global environmental marketplace.

I'm pleased that this legislation builds on section 1605(b) of the Energy Policy Act which allowed companies to voluntarily record their emissions in greenhouse gas emissions, which I worked hard to include in the Energy Policy Act.

Mr. President, the debate about climate change is too often vested—and I believe wrongly so—in false choices between scientific findings, common sense, business investments and environmental awareness. The approach of this bill again demonstrates that these are not mutually exclusive choices, but highly compatible goals.

By Mr. MCCAIN.

S. 2618, a bill to require certain multilateral development banks and other leading institutions to implement independent third party procurement monitoring, and for other purposes; to the Committee on Foreign Relations.

THE FAIR COMPETITION IN FOREIGN COMMERCE ACT OF 1998

• Mr. MCCAIN. Mr. President, I am proud to introduce the Fair Competition in Foreign Commerce Act of 1998, to address the serious problem of waste, fraud and abuse, resulting from bribery and corruption in international development projects. This legislation will set conditions for U.S. funding through multilateral development banks. These conditions will require the country receiving aid to adopt substantive procurement reforms, and independent third-party procurement monitoring of their international development projects.

During the cold war, banks and governments often looked the other way as pro-western leaders in developing countries treated national treasuries as their personal treasure troves. Information technologies and the resulting global economy have transformed the world in which we live into a smaller and smaller community. For example, economic turmoil in Indonesia hits home on Wall Street. Allegations of misconduct in the White House negatively impact Wall Street, which causes capital flight to other nation's stock exchanges. In today's increasingly interdependent global economy,

nations are ill-advised to ignore corruption and wrongdoing in neighboring countries.

The U.S. is a vital part of the global economy. We cannot afford to look the other way when we see bribery and corruption running rampant in other countries. Bribery and corruption abroad undermine the U.S. goals of promoting democracy and accountability, fostering economic development and trade liberalization, and achieving a level playing field throughout the world for American businesses. Developing nations desperately need foreign economic assistance to break the devastating cycle of poverty and dependence.

The United States is increasingly called upon to lead multilateral assistance efforts through its participation in various lending institutions. However, it is critical that we take steps to ensure that the American taxpayer dollars are being used appropriately. The Fair Competition in Foreign Commerce Act of 1998 is designed to decrease the stifling effects of bribery and corruption in international development contracts. The Act will achieve this objective by mandating that multilateral lending institutions require that nations receiving U.S. economic assistance subject their international development projects to independent third-party procurement monitoring, and other substantive procurement reforms.

By decreasing bribery and corruption in international development procurements, this legislation will (1) enable U.S. businesses to become more competitive when bidding against foreign firms which secure government contracts through bribery and corruption; (2) encourage additional direct investment to developing nations, thus increasing their economic growth, and (3) increase opportunities for U.S. businesses to export to these nations as their economies expand and mature.

Multilateral lending efforts are only effective in spurring economic development if the funds are used to further the intended development projects. The American taxpayers make substantial contributions to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Fund. These contributions provide significant funding for major international development projects. Unfortunately, these international development projects are often plagued by fraud and corruption, waste and inefficiency, and other misuse of funding.

This inefficient use of valuable taxpayer dollars is bad for the U.S. and the nation receiving the economic assistance. When used for its intended

purpose, foreign economic aid yields short and long term benefits to U.S. businesses. Direct foreign aid assists developing nations to develop their infrastructure. A developed infrastructure is vital to creating and sustaining a modern dynamic economy. Robust new economies create new markets for U.S. businesses to export their goods and services. Exports are key to the U.S. role in the constantly expanding and increasingly competitive global economy. Emerging economies of today become our trading partners of tomorrow. However, foreign economic assistance will only promote economic development if it is used for its intended purpose, and not to line the pockets of foreign bureaucrats and their well-connected political allies.

The current laws and procedures designed to detect and deter corruption after the fact are inadequate and meaningless. This bill seeks to ensure that U.S. taxpayers' hard-earned dollars contributed to international projects are used appropriately, by detecting and eliminating bribery and corruption before they can taint the integrity of these vital international projects. Past experience illustrates that it is ineffective to attempt to reverse waste, fraud, and abuse in large scale foreign infrastructure projects, once the abuse has already begun. Therefore, it is vital to detect the abuses before they occur.

The Fair Competition in Foreign Commerce Act of 1998 requires the United States Government, through its participation in the multilateral lending institutions and in its disbursement of non-humanitarian foreign assistance funds, to: (1) require the recipient international financial institution to adopt an anti-corruption plan that requires the aid recipient to use independent third-party procurement monitoring services, at each stage of the procurement process, to ensure openness and transparency in government procurements, and (2) to require the recipient nation to institute specific strategies for minimizing corruption and maximizing transparency in procurements at each stage of the procurement process.

If these criteria are not met, the legislation directs the Secretary of the Treasury to instruct the United States Executive Directors of the various International Development Banks to use the voice and vote of the United States to oppose the lending institution from providing the funds to the nations requesting economic aid which do not satisfy the procurement reforms criteria. This Act has two important exceptions. First, it does not apply to assistance to meet urgent humanitarian needs such as providing food, medicine, disaster, and refugee relief. Second, it also permits the President to waive the funding restrictions with respect to a particular country if making such funds available is important to the national security interest of the United States.

President's Council on Sustainable Development
Climate Task Force
Principles for Early Action
October 27, 1998

In November 1997, PCSD's Climate Task Force released a set of Climate Change Principles that stated, "the risk of climate change . . . is of sufficient concern that timely and effective actions should be taken" and "policies to reduce emissions of greenhouse gases or other measures to protect the climate should include incentives for early action."

The term "early action" refers to a suite of voluntary steps that could be taken before any domestic or international binding requirements are in place. Voluntary efforts by businesses and consumers to protect the climate could be facilitated by a systematic legislative approach to stimulate early action. The following principles should be considered in designing a flexible program that broadly encourages measures to protect the climate. Members of the Task Force envision that the award of formal credit is but one part of the whole early action program. In addition, members believe that an early action strategy must evolve over time in response to advances in scientific knowledge and technology. These principles do not presume a decision as to whether the United States should become a party to the Kyoto Protocol. The potential benefits of early action justify the program on its own merits.

1. *Appropriate incentives for early action to protect the climate*

An early action strategy should aim to reduce greenhouse gas emissions. Any program should ensure that those that take or have taken voluntary steps to protect the climate are rewarded and not inadvertently penalized for their efforts. Market-based incentives, fiscal policies, federal funding, procurement policies, regulations, and public recognition should be combined into a coherent effort that effectively stimulates early action.

2. *Broadly-based participation*

Incentives for early action should encourage activities that protect the climate with the broadest possible level of participation by business, communities, government agencies, academia, non-governmental organizations, and individuals. These incentives should facilitate the formation of partnerships and the leveraging of resources among participants.

3. *Learning, innovation, flexibility, and experimentation*

The program should accommodate economic growth while contributing to the achievement of significant emissions reductions by encouraging flexibility, innovation, and experimentation to facilitate learning about cost-effective ways to protect the climate. Policy should allow a broad menu of options that can also result in environmental and societal benefits for all segments of the population.

4. *Formal credit for greenhouse gas emissions reduction efforts*

As part of the overall early action strategy, formal credit should be granted to early actors for legitimate and verifiable measures that reduce overall greenhouse gas emissions relative to defined benchmarks. Those undertaking these efforts should receive assurances that earned credits can be applied towards future reduction obligations. The program ultimately needs to be codified to provide certainty to these actors. Formal credit for domestic actions should be issued with the understanding that these credits are allocated from any future limit on U.S. emissions.

5. *Accountability for emissions*

Dependable measurement techniques and credible reporting methods should be used to account for claimed emissions reductions. Policies to grant formal credit should aim to keep transaction costs and risks low while ensuring the integrity of awarded credits.

6. *Compatibility with other climate protection strategies and environmental goals*

The design of an early action program should be compatible with other domestic or international strategies to protect the climate and with other environmental goals.

7. *Government leadership*

Governments should demonstrate leadership in an early action program by achieving significant greenhouse gas emissions reductions from their activities, relative to their defined benchmarks.

Climate Task Force Membership

John Adams
Natural Resources Defense
Council

The Honorable Aida Alvarez
U.S. Small Business
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Council Co-Chair
Interface, Inc.

The Honorable D. James Baker
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National Oceanic and
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Richard Clarke (retired)
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Fact Sheet -- Principles for Early Action October 27, 1998

Why do we need an early action program?

The PCSD Climate Task Force accepts that the risk of human-induced climate change and the potential for serious impacts is of sufficient concern that timely and effective actions should be taken to reduce those risks. Greenhouse gases have atmospheric lifetimes of decades to centuries, and both the concentration of greenhouse gases in the atmosphere and the rate at which those concentrations increase are important factors in determining the risk of climate change. Incentives for early action can encourage steps to reduce emissions and other measures to protect the climate now.

Are these Principles for Early Action conceptually different from the Climate Change Action Plan and the Climate Change Technology Initiative?

The 1993 Climate Change Action Plan (CCAP) includes over 40 federal programs that are working in partnership with small and large businesses, state and local governments, and other organizations to reduce U.S. greenhouse gas emissions. The proposed 5-year Climate Change Technology Initiative would expand these programs and target additional opportunities to reduce emissions. These two programs will significantly reduce the rate of growth of U.S. greenhouse gas emissions compared to forecasted levels. Members of the PCSD Climate Task Force envisioned an incentives program that will further encourage everyone to take seriously the need for action. The Task Force recommends an early action program that includes broadly-based participation; encourages learning, innovation, flexibility, and experimentation; grants formal credit for legitimate and verifiable actions that reduce overall emissions; ensures accountability; is compatible with other climate protection strategies and environmental goals; and includes government leadership.

What is the relationship between “credit for early action” and the Kyoto Protocol?

The Principles state that “Formal credit for domestic actions should be issued with the understanding that these credits are allocated from any future limit on U.S. emissions.” These principles do not presume a decision as to whether the United States should become a party to the Protocol. But they do allow for the possibility that the U.S. could agree to limit its greenhouse gas emissions in the future.

Why should an early action program offer formal credit?

Although only part of an overall early action strategy, credits for early action are an important insurance policy for those who want to take voluntary steps to protect the climate, but are concerned they could be penalized in the future for having taken proactive steps today. An early action program that grants credits against potential future obligations would facilitate achievement of any binding agreement because it would create a powerful incentive for many emitters to get on a gradual “glide path” for emissions reductions.

If we give credits away now, will that increase future compliance costs?

Taking cost-effective action to reduce overall emissions now is a down payment on any future limit on emissions. By acting now, we will reduce the total amount of emissions we have to reduce later. By creating a more gradual glide path for emissions reductions, this incremental approach could save money compared to a wait-and-see strategy that could require significant emissions reductions sometime in the future.

Why should governments take the lead in a voluntary program?

Members of the the Task Force believe that voluntary efforts by businesses and consumers to protect the climate could be facilitated by a systematic legislative approach to stimulate early action. In addition, local, state, and federal governments are large energy consumers and, therefore, are significant emitters of greenhouse gases. Governments can save taxpayers money by taking cost-effective steps to reduce emissions.

Why is broadly-based participation important?

Greenhouse gas emissions come from a variety of stationary, mobile, small, and large sources. By encouraging everyone to take action, more businesses and consumers have the opportunity to reduce emissions cost-effectively and realize the environmental and other economic benefits of voluntary climate protection.

President's Council on Sustainable Development
Climate Task Force *
Principles for Early Action
October 21, 1998

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John Adams

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Michele Perrault
Sierra Club

The Honorable Susan Savage
City of Tulsa, Office of the Mayor

John C. Sawhill
The Nature Conservancy

Theodore Strong
Columbia Inter-Tribal Fish Commission

*Federal Cabinet officials, who are members of the President's Council, participated in our discussions but were not asked to sign on to these principles because the Administration